



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

**STANDING COMMITTEE ON EDUCATION, TRAINING AND
YOUNG PEOPLE**

(Reference: Restorative justice)

Members:

**MS M PORTER (The Chair)
MR M GENTLEMAN (The Deputy Chair)
MRS V DUNNE**

TRANSCRIPT OF EVIDENCE

CANBERRA

FRIDAY, 24 FEBRUARY 2006

**Secretary to the committee:
Ms S Lilburn (Ph: 6205 0490)**

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents relevant to this inquiry which have been authorised for publication by the committee may be obtained from the committee office of the Legislative Assembly (Ph: 6205 0127).

The committee met at 9.35 am.

JANE ELIZABETH GORRIE and

SUSAN LOUISE ROCKLIFF

were called.

THE CHAIR: I will read out the privileges caution. These hearings are legal proceedings of the Legislative Assembly protected by parliamentary privilege. That gives certain protections but also certain responsibilities. It means that witnesses are protected from certain legal actions, such as being sued for defamation, for what is said in this public hearing. It also means that there is a responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter. Do you understand that?

Ms Gorrie: Yes.

Ms Rockliff: Yes.

THE CHAIR: For Hansard purposes, could you please state the capacity in which you are appearing before the committee.

Ms Gorrie: My name is Jane Elizabeth Gorrie and I am the President of the ACT Council of Parents and Citizens Associations.

Ms Rockliff: I am Susan Louise Rockliff, Executive Officer of the ACT Council of Parents and Citizens Associations.

THE CHAIR: Thank you. Would you like to make an opening statement?

Ms Gorrie: Yes. Thank you for inviting us to make a submission to the inquiry. We have provided a written submission and this morning we'd like to just briefly go through that and talk through our main points. I'll just do an overview and then I'll ask Susan to go through the submission in more detail. That will probably take us about 10 minutes or so and then we will give time for questions or discussions, if that is okay.

Basically, we believe council has a role in putting a submission to this committee because it has an interest in behaviour management in schools because all the parents' children are in school and if behaviour management is managed well in schools all children do much better. Also we're interested in the way children and young people are socialised by their activities or their experience at school.

One of the things that we've realised as we've made the submission is that restorative justice is not just a behaviour management tool. I think that's a really important point that we've learnt. It's a bit of a cultural change possibly for schools but it's a foundation for building a learning community that is based on relationships. As we say, it can be seen as a challenge to more traditional models of educational practice or student behaviour management where the child does something wrong and they're punished and the rules have been set up. The whole approach is quite different from that.

Our submission looks at the development and implementation of programs in schools and the way the programs support young people and their families. The P&C council has a policy on a range of issues. Our policies on student welfare and also just our general introduction to our policy document reflect part of the reasons why we thought we should make a submission.

We think all children have the right to education within a setting that is free from tension, aggravations or violence or the threat of these, and we support the development of student welfare policies within each school that cover aspects such as bullying, harassment and prohibition of dangerous goods and that encompass behaviour management.

Another important point in our overall introduction to our policy is that we believe children should be given an education that will promote their general culture and enable them on a basis of equal opportunity to develop their abilities, their individual judgment and their sense of moral and social responsibility to become useful members of society. We believe that the practice of restorative justice contributes to those points.

In summary, council support restorative justice principles and their implementation in schools throughout the ACT. We think there are also strong links to the values education that is already being practised in ACT government schools. There are some cautions that I suppose we would like to make. As we said, it is a paradigm shift. It's more than just a silver bullet where you can come in and say, "Let's do this," and it doesn't have major implications on people's practice. So it's important, if it is going to be presented or used more widely, that it should be systematically supported, which has an impact on resources.

On a system-wide basis, teachers need to be consistently and effectively trained or retrained in the principles of restorative justice. There would be benefits for children being consistently required to utilise these practices—we draw attention to the practice in Calwell cluster—and provision would need to be made to allow for the education of parents, because this is very much a practice that also has an impact on parents. It's important for parents to understand what is being proposed. I suppose you could call it a generational change that is being suggested, so it does require careful and phased implementation. It's very important to let people see that this is a good way to go and that they convince themselves of that rather than it being forced upon them. As we've said, it can be also done in stages. It doesn't have to be a total: "This is the whole thing you must do."

Another point, which we haven't quite got in here, is about the importance to collect more evidence around how supportive it is. One of the comments that Susan and Merredy, our policy officer, made is that there is still a lack of empirical evidence. A lot of the evidence that we have is still to a certain extent based on anecdotal reports, which is good but I think it's at the stage now where it is very important to have more empirical evidence to be able to support this, to help sell it to the teachers, the students and the parents that would be looking at this.

I will let Susan now talk through the submission in more detail.

Ms Rockliff: Yesterday when we sent in the submission we referred to two articles in *Feedback* and I agreed to bring along copies of these today because they were Publisher files. To some degree they demonstrate council's longstanding interest in restorative justice, in that one article from 2001 is called "New tactics to deal with schoolyard bully", and that's about the work of Dr Brenda Morrison.

The second article is from last year and it's about restorative justice, empowering students at North Ainslie primary school. There are three copies of each of those if you'd like to review those. As Jane said, this submission was largely put together by the policy officer, Merredy Brown, and me. We reviewed, as we've written, a limited selection of relevant literature. But one which was particularly interesting and relevant is a paper by Peta Blood entitled "The Australian context—Restorative practices as a platform for cultural change in schools". I note that Peta Blood is going to address the hearing later today.

As Jane said, our particular interest in this is about restorative justice in schools and therefore the parent view of how effective it has been. In order to get some idea of that, we spoke to some parents in a range of schools where restorative justice has been implemented and I also spoke to some principals and school leaders about their impressions of it. As Jane said, we really don't have hard data about it, but overwhelmingly people are positive about it.

I would just like to amplify the point that has already been made about it being more than just a behaviour management tool. As Garry Burrows, a principal of a school, said, we entered the project with the view that restorative justice was a student management process. We have since come to appreciate more fully that it is an all-encompassing philosophy of life. Based on the fact that no learning goes on unless people are happy and secure in a learning environment, relationships are really important and that's why this particular approach seems so valuable to schools to develop—to focus on developing quality relationships as a basis for learning.

We gathered some information about the benefits of restorative justice from the literature but also we were able to find evidence from what people said about the benefits, about teaching children to choose to act appropriately. The effect on schools where restorative justice is the norm is, as someone has said, that the school has a more positive vibe, with less punishment and more affirmation.

Of course, the aim of all education is an improved learning outcome for students, and we see that the development of appropriate social skills is really a key part of that; it enables learning to go ahead. Some of the skills that are learned through this process by students are problem-solving, empathy, assertiveness, and thinking about the impact of behaviour on others.

Yesterday, after we had forwarded our written submission, I had the opportunity to speak to a person who works in a welfare role in a primary school. From his point of view he said that what stood out for him about it was how it empowered children who otherwise may not feel very empowered; their home background in some cases is one in which they're not encouraged to verbalise, and this process at the school had encouraged these children to be more confident in talking to adults and more able in a sense to accept responsibility for their actions but also feel that they could express their views about

things in a safe way.

We see that as a very important skill for some children who are probably in disadvantaged educational backgrounds to learn, so that's a very important thing. Basically, if they learn the skills well, it does provide them with a strategy to continue to work on all relationships in their lives. It gives them strategies and tools to set about healing their own damaged relationships, and that seems to be the way that people have observed children—informally, going through some restorative practices and questions in the playground—starting to take action in sorting out their own issues.

Jane referred to the national framework for values education in schools, and I think you will be able to see that restorative justice certainly supports respect and responsibility, which are very key values in that framework. I think the challenge will be in having people really understand that restorative justice is a completely different way of addressing breakdowns in relationships. Instead of attributing blame and wanting to punish people or have them feel bad or excluded, it works on the premise that your aim is to keep them within the community, to reintegrate them through a process that has them feel better, to some degree relieved of guilt, through making reparation of some kind.

From what we've heard, it also has a positive effect on the person who has been harmed in that children sometimes are not afraid of the perpetrator any more; they don't carry forward any negative feelings, because the resolution has involved some sort of authentic process where they feel the matter has been handled by them rather than being dealt with by a figure in authority in which they had no part. We think that's very different. Sometimes with restorative justice when people say it doesn't really work or it's letting the perpetrator off too leniently, it's because there hasn't been a full understanding that we're not looking for blame. It's not like someone is going to be harmed or punished in the way that we've been used to seeing. So, if children come away feeling that the process hasn't really worked, it hasn't probably been implemented properly; that's what it would seem to indicate.

Of course, it's really important that parents also understand the principles of restorative justice. I was involved in a parent education evening at a primary school last year where my daughter was in grade 6. It was interesting. It was extremely well attended in that particular setting. Parent meetings often aren't, but this one had a full hall of parents who had come along because the process had been gone through with the staff over a couple of days, the particular specialist had worked with every class in the school, and there was a high degree of interest from parents to find out what it meant, how it was going to impact on the kids' behaviour at home and how they could support it. I couldn't say that that degree of community interest and support would be replicated in every school setting, but it was still really worth while and I think that, if you're going to be effective, it needs to be considered how you're going to get it across to parents.

As you can see, there is some anecdotal evidence there about its effectiveness. One staff member said that in 85 per cent of cases the same student didn't reoffend for the same issue necessarily—they might do other things but it wouldn't be a repetition of exactly the same behaviour—so it seemed to be effective.

It would appear that educational leadership is really a key to it: people who are in

positions of responsibility at schools have to be fully behind it. In situations where that is the case, it seems to be very effective because it has got high-level support, which implies support for the resourcing that is necessary.

Although it is not a focus of our submission, we are conscious of the fact that indigenous youth face particular issues in our education system and we've just referred there to what we have learnt about restorative justice in indigenous youth settings and circle sentencing, and why that appears to be effective for the same reasons. In that setting in particular, a lot of authority is attributed to elders. So, if they're involved in deciding what appropriate reparation is, it has a lot of authority with the young people and they are much more prepared to accept it.

As you'll see, we've noted that the Calwell cluster appears to have implemented this method very successfully, and that's partly because of quite consciously establishing links between primary and high schools, making sure that people are given information about restorative justice when they enrol their students and that there's a lot of support on a cluster basis.

More broadly, I'd say that this restorative justice model seems to accord with a developing feeling—and I've got absolutely no basis for this except some feeling that I have—that we don't want to hang or shoot people any more, and that's most clearly demonstrated by the recent sentences given to young Australians overseas. We recoil from that. People recognise that something must be done about offenders but that it's probably a far more powerful thing for them to be involved in their own rehabilitation and hopefully by doing something positive. So in a way that seems to indicate that we have moved beyond that punitive, retributive attitude towards justice in our own communities, in some respects.

THE CHAIR: I have a quick question around parents. You've mentioned how you see that it's important that parents come on board. You did talk about the parent meeting, but you also talked about some children who may not be encouraged to speak up at home and are now being encouraged to speak up. I can imagine a young person at school being encouraged in this way and then going and trying it at home. I can imagine some of the reactions that that child might get. So can it work if the parent doesn't come along with it?

Ms Gorrie: Susan was talking about an incident in a community. But a lot of people, not just particularly in that community, have had a bad experience at school themselves so they can find it difficult to come to school. But the power of what was happening in the school has created a lot of respect for the school, and the parents coming into the school pick up that attitude. A lot of respect has also been generated by this program as it has come through and I think that's probably helped also with parents understanding what is happening at the school. A child speaking up at home doesn't necessarily mean a child is being rude or cheeky; it just means the child is actually saying, "Guess what I did at school today, mum." It doesn't necessarily mean a child is showing behaviour that a parent wouldn't like. A child that is coming home, is confident and maybe says, "How was your day, mum?" rather than grunting, could also be a very good thing for a parent to see as well.

Ms Rockliff: I actually asked that question yesterday when I was speaking to a

gentleman who works in a welfare role. I said, “From what you’re saying, it could bring the home into conflict with the school.” He didn’t seem to answer it directly except by saying that in that particular situation the parents now felt a greater safety within the school community, so possibly that’s how it works as well, and that, having established some level of feeling confident and safe, they’re more likely, maybe, to participate in some parent education around more effective communication, one would hope.

MRS DUNNE: Just to continue on with that theme, but to look at it from the other end of the spectrum—I suspect what madam chair was talking about and you were talking about is children who are in a sort of particular aspect of disadvantage, in that the family might not be particularly functional—what happens with, and does the association have experience of, people who have particular views about values and discipline in school that would be in conflict with the restorative justice approach? Are there significant groups within the parent body that are not happy with the idea, with the sort of cultural change that is being advocated by people who advocate restorative justice? Do you have experience of that?

Ms Rockliff: In this process we haven’t heard from any of those people. The most critical thing they would say is that it doesn’t seem to work with all children; that it works best with children who have been brought up in some environment of moral education or kids that have a conscience, which is probably the majority of them. Some staff there have put the figure of five per cent of students in a school that may not benefit from this process because they’re not socialised to the extent that they have empathy with others. A couple of parents said to me that they thought that it didn’t work for everybody, and certainly all the staff that I talked to even said, “This can’t be your only way of dealing with behavioural issues. You have to have other things. This is one approach, but you have to have your other strategies in place for those students that it doesn’t work for.” When you talk about parents who have completely different attitudes towards values—for example, parents who may be punishing their children at home—I don’t think they’ll find their views supported within the education system anywhere now, if it involves, say, corporal punishment. That’s just not going to happen in any school. So your only way of tackling that really, I suppose, is to just continue to give information and support through a process of change.

Ms Gorrie: Some of the feedback through some of the forums we had last year about restorative justice was that it improves children’s behaviours at school. For parents who have had children coming home complaining about Joey, Emma or whoever who’s always a troublemaker, when those types of behaviour are seen to be lessening, the child is coming home happier because now they can focus and are enjoying their class. That’s also a very positive thing that comes back.

In answer to your question, too, if we adopt this approach, I think a graduated approach is important and one where the school communities decide that they want to adopt it. So part of that is very much discussing with the school community—the teachers, the students and the parents—what this approach is about. As we said earlier, we need enough evidence. We certainly need more than just a few teachers saying that it works, or a parent saying it works. We need more empirical evidence to support that, to help convince people that this approach is worth trying, especially if you’ve got problems that traditional behaviour management approaches aren’t helping. We certainly do have some parents who like the black and white approach. So I think you need to have very much an

approach that brings people along.

MR GENTLEMAN: You mentioned earlier that corporal punishment is not supported by educators. What is the council's position?

Ms Gorrie: We don't support it—not at all.

MR GENTLEMAN: But in your submission on page 2 you've said that the council's current policy is cast in a compliance mode.

Ms Rockliff: Yes. That was really just a reference to the fact that it talks about behaviour management as though it were a sort of a bank of strategies to deal with aberrant behaviour; that is, if kids won't do what you want them to, there should be a whole lot of strategies to deal with that, rather than the relational mode of restorative justice, which is about creating, I suppose, relationships within a school, which are more likely to promote cooperation and wellbeing. I think that was the extent of the compliance.

MR GENTLEMAN: That's good. It answers the question.

Ms Rockliff: We haven't talked about this at all, but I was just thinking when Jane was talking that this might be one of those things where it would be more effective for parents to talk with parents, rather than having some specialist say, "Look, this is a far better way of relating to your child." It might be something that is more powerfully done within parent groups.

Ms Gorrie: I think you would use multiple approaches. You want to give people an understanding of what the approach is about. I think your point is really valid, Susan, that you then also get people who have been through the process as parents or teachers or students to talk to the respective groups about their experiences and what the problems are. Every community is a little bit different, so being able to allow the community to look at it and come up with what they think is good about it is important.

Ms Rockliff: I notice that Richard Shanahan is speaking to you later, too, and he might have quite relevant reflections on that, working from Menslink. What we are really talking about is challenging people to change their own behaviour as parents, and that would be very relevant.

MRS DUNNE: I suppose one of the issues that comes from that, and I'm glad you said it in that way, is that you're challenging a cultural change but in a sense we run the risk of dictating what that cultural change might be. That is a very difficult philosophical point of view. Yes, you might see every family's behaviour as less than optimal and every family's circumstance in some way or other is less than optimal, but we, I suspect, have to be careful about saying, "This is the way." I think Ms Gorrie used the term "silver bullet". You said before that it works for a lot of people but there still needs to be a plurality of methods. Do you see restorative practices in the school as the linchpin of this or as one of a suite of mechanisms that would sort of change the culture of a school?

Ms Gorrie: Restorative justice is very much a cultural shift. So for it to be fully implemented I think you need to allow every community to start to approach that themselves. I think having a blanket approach would be difficult because what you

would get is something symbolic or window dressing: “Yes, we’re doing restorative practice,” when they’re really not doing restorative practice. It has to be a process where the evidence speaks for itself, because kids basically want to go to school to learn. Parents want their children to learn, but more than just the eight KLAs; they also want them to come out as individuals who can cope in society, who have good skills. I think restorative justice seems to look as if it helps develop that side of the person as well. It seems to have a lot to offer from that point of view as well.

THE CHAIR: I would like to thank you very much for appearing before us today and also for the submission. If there are any questions on notice, we will get them to you very early next week and we will give you two weeks to get back to us with the answers. A draft transcript will be sent to you so that you can check that through. There just may be an occasional word that may have been interpreted wrongly, so get back to us if there are any problems.

MEREDITH ANNE HUNTER and

CARRIE FOWLIE

were called.

THE CHAIR: I welcome Ms Hunter and Ms Fowlie. You should understand that these hearings are legal proceedings of the Legislative Assembly protected by parliamentary privilege. That gives you certain protections but also certain responsibilities. It means that you are protected from certain legal action, such as being sued for defamation, for what you say at this public hearing. It also means that you have a responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter. Do you understand that?

Ms Hunter: Yes.

Ms Fowlie: Yes.

THE CHAIR: Thank you. For Hansard purposes, would you please state your full name and the capacity in which you appear today.

Ms Hunter: I am Meredith Anne Hunter, Executive Officer of the Youth Coalition of the ACT.

Ms Fowlie: I am Carrie Fowlie and I am Deputy Executive Officer of the Youth Coalition of the ACT.

THE CHAIR: Thank you. Would you like to make some introductory remarks?

Ms Hunter: Thank you. We are very pleased to be able to put a submission into this inquiry and also pleased to see that restorative justice is a concept, an idea, that is being embraced in the ACT, certainly with the establishment of the restorative justice unit. We probably have some more to say today about our relationship with that unit. I guess we focused in our submission on introducing restorative justice into school settings and some of the issues that arise around that. I also wanted to let you know that our policy officer left last week. So we have come as prepared as we possibly can be, but there may be some issues that we might need to get back to you about after this hearing.

THE CHAIR: That is fine. We have just heard from the ACT Council of Parents and Citizens, and one of the things we didn't get to talk about in that discussion but is mentioned in their submission is that one parent in a school reported that he or she believed that it didn't quite work with older children but was more effective with younger children. Do you have anything that you would like to say about that?

Ms Hunter: In our submission we do say that, in cases where restorative justice is being used, quite often it seems to be used on children or young people whose behaviour would probably have changed or improved anyway, rather than on those that are considered to be in the too-hard basket. Certainly, we didn't come across that sort of idea that older children—high school children, for instance—were less likely to benefit from this sort of practice going on in primary school. Obviously there is a very, very successful example

here in the ACT with North Ainslie primary school. It certainly has been very effective with that age group. I understand that is one parent's view but certainly that is not where we would come from. We would say that it is very beneficial in a lot of different circumstances and for different age groups.

Ms Fowlie: I also just want to throw in that it is essentially the underlying principles of restorative justice and looking at how those have been successfully applied in diverse circumstances. They have been successfully applied and the examples of restorative practices and restorative processes in things like youth centres, in custodial settings and in criminal justice system, are a really good example of how restorative principles can be applied across the spectrum.

THE CHAIR: Do you want to talk a little bit more about that?

Ms Fowlie: I guess essentially that restorative justice is based on the underlying tenets of creating a supportive environment for someone but supporting them to take responsibility for their actions. It looks at essentially what has happened—what harm has been done and what can be done to repair the harm. By looking at that in that very simple way, I think it's easy to see how it can be applied in a diversity of environments. The work that the Restorative Justice Unit has been doing here in the ACT is a really good example of how you can work with other people to apply it.

THE CHAIR: So what has been the experience of the Youth Coalition working with that unit?

Ms Hunter: Very early on we made contact with the unit and developed this great working relationship, which Carrie can go into in a little more detail, that involved us working with them on the pamphlets, the information that was going out to young people about what restorative justice was. They wanted to have it in a format and in language that was youth friendly and I guess it did get that information across effectively.

We also went out to do consultations with young people around that pamphlet but also to talk about what young people's ideas were around how restorative justice could be further promoted out there in the community, particularly amongst the community of young people. That resulted in the Restorative Justice Unit being currently in the process of developing a comic book that's similar in style to *Streetwize* comics, which have been a very, very effective way of getting across a whole range of different messages to young people across Australia.

We also joined together with the Restorative Justice Unit, the AFP, Youth in the City, the ANU and, obviously, the Department of Justice and Community Safety, to put on a half-day conference towards the end of last year that looked at restorative justice. John Braithwaite gave an opening address, then there was a series of workshops looking at how restorative justice could be applied in the care and protection system, the juvenile justice system, school settings and also I think just generally within youth work. That was highly successful. There were probably about 80 people from those various sectors who attended that conference. We had very, very good feedback. We have drawn up an evaluation report, which we could provide to you. People said they could see how this could be applied in their area of work with young people and with some very beneficial positive results.

THE CHAIR: It would be good to get a copy of that. Do you want to add anything to that, Ms Fowlie?

Ms Fowlie: Maybe a couple of things. In regard to the consultation that we conducted with young people, we focused on consulting with young indigenous people and we spoke to a small group but also included some elders as well. Part of it was also having a broader conversation about people's experience with the criminal justice system more broadly. One of the issues that came out was that, if people had had previously poor experiences, this impacted on their willingness to participate in something like restorative justice. So I guess it's really important that, when we talk about restorative justice, we talk about the partners that are involved in it, and it's necessary for the community to identify who those partners are. I think the workshop was a really great example to see so many partners involved to look at their individual roles that they need to take in terms of making restorative justice and restorative practices successful.

As a direct result of the conference, within a month there have been—I will have to double check; I don't have the paper in front of me—up to eight referrals directly from the people that attended. So I think it's also a good sign that there are results that can happen from bringing people together, but also identifying people's responsibilities.

MR GENTLEMAN: Just on partners, could you say more about the need to link with other types of services like mental health support, support for an expansive family illness or disability, for example.

Ms Hunter: That is an important issue that we raise in the submission. What we're saying is that, if you are going to take on something like restorative justice in a school, there are also a whole lot of other things around a school culture that need to be looked at. From other consultations we've done, particularly our young carers consultations, there were quite a few young people saying that at their particular school they did find that teachers may make comments that were quite negative about people who had disabilities, drug addiction and so forth. So in our submission we talk about the fact that this really does need to be taken on, because if you're using restorative justice everybody should be modelling that, and that also leads into the issue around not just having a couple of teachers in a school do it and it being just up to individuals. It really needs to be everybody who's trained up and everybody who's committed to it.

But certainly there do need to be improved links between schools and community-based organisations and services. That is on its way. I think we mentioned in our submission the youth support workers in high schools that are into their second year, I think, of operation. So certainly in the youth sector we're playing a role, I guess, to get those connections going between a range of youth centres or youth services—whether they be mental health and wellbeing, health promotion services and so on—linked into those youth support workers, so that there can be those programs, activities, information, that can be brought into the school for young people.

Of course, it's also important that that relationship go the other way, because children are not in school 24 hours a day seven days a week, so after school, on weekends, holidays and so forth we really want to build the knowledge of young people about what's available in their local area and what services are available to them in the ACT.

MR GENTLEMAN: I need to play devil's advocate a bit here. In your submission you've mentioned funding a number of times, funding through the Department of Education and Training, and I guess the budget has a finite line. To provide funding we may need to cut other programs. Is there a particular program you think that we'd need to cut to supply funding for RJ?

Ms Hunter: I don't believe it is my job to tell government where to cut their funds, but certainly I do understand, and the community organisations out there have a very clear understanding, that there are many budget constraints, particularly probably in the next couple of years. What we're saying is that, if this is thought to be a good idea and to be beneficial for not only students but many, many people across the community, it does need to be well funded if it's to be done properly, and obviously then the hard part is maybe reallocation of funds rather than new money coming in.

MR GENTLEMAN: On the other side of the coin, do you think that if the program was instituted and worked well there may be a saving in costs, because you wouldn't have to provide—

Ms Hunter: That's certainly what you would be hoping to do. In a way it's an early intervention prevention tool; that is, stopping young people committing more crime, which, obviously, has a whole lot of costs involved, and then into the juvenile justice system, and, who knows, maybe further down into the adult correction system. I'm not sure—you may as the committee know more about any research that has been done—around the sort of future savings if this sort of scheme is put in place. New Zealand is one of the forerunners of all of this; it may have done some work in that area. My guess would be that generally when we do talk about effective early intervention and prevention, we are also talking about cost savings down the track.

MR GENTLEMAN: You touched on levels of consultation. You were talking about indigenous people. What other methods and what levels of consultation did the Youth Coalition engage in about restorative justice?

Ms Hunter: Carrie was actually a part of those consultations, so she could tell you the level of detail. Certainly this submission did draw on consultations that had been done with young people in previous projects—as I said, the homelessness project and young carers. In both of those projects the model we use is a peer research model. We train young people to be peer researchers or youth consultants. They're supported and they go out and interview or talk to other young people and then bring that information back. Quite often what will happen in our process is that the staff members will then write that report, it will go back to a workshop with those young researchers—to test it, to make sure that that's what they understood was being said—and then the report is finalised from there.

In our model, these young researchers are paid. We see them as people who are trained up into a job and they're doing a job. We also have a policy at the Youth Coalition that if we interview young people we do either pay them or provide a CD voucher, or whatever the appropriate circumstances are, because again we're going to them and asking for their experience and expertise in a particular issue. But Carrie can probably tell you more about the detail on this particular consultation for the Restorative Justice Unit.

Ms Fowlie: In terms of this consultation specifically, it's important to acknowledge the Restorative Justice Unit and that they really wanted to get young people's views about how they could improve their program. It was early days, the first year of the program, and they really wanted to do some quality improvement. So I think that's really important to acknowledge, and also to acknowledge the partnership that they made with community organisations as well. Essentially, we ran a small workshop with young indigenous people and a couple of elders and had a conversation about broadly the criminal justice system, their experience within it, if they had one, stories that they had to tell about their community's experience with it, what was working well, what wasn't, what were some ideas and what were some barriers that they identified to participating in a process such as restorative justice.

Then we went through the details of how you would get information out there, because essentially what we found is that a pamphlet isn't just a pamphlet; sometimes these are the only bits of information that people ever get about a program or a service, and it's a very important thing to get right to support people to participate. It also fits in with health and wellbeing. If you look at things like the Ottawa charter, health and health literacy are really key components for people being able to achieve proper health outcomes.

Anyway, we typed it up and we fed it back to the Restorative Justice Unit and they actioned it and they are developing a comic, which is then being fed back to the young people. So I think it's a really excellent, positive story about how governments engage with community and work very positively with the community.

MR GENTLEMAN: I look forward to seeing the comic.

Ms Fowlie: It should be great. I just wanted to make another comment about restorative justice. I think it is also important to look at restorative justice from a public health perspective, because it is actually about addressing issues such as violence in the community and schools. It is also about setting the building blocks for a civil society. So, if we take that perspective, investing in the early days will cut costs, particularly for things like bullying. For example, mental health issues may develop for the bully or for the victim and it also crosses over and often can mean a lot of saving in the future.

The other thing is that restorative justice and restorative practices are a long-term commitment. Take the example of something like North Ainslie primary; it took them several years to be able to get to the position where they are now.

Ms Hunter: Just to follow up on that comment about the future costs: in the submission we do put in the financial costs of workplace bullying. I think that's what Carrie was saying: if you don't deal with that at a younger age, it will move from a school environment to a workplace environment. The figures there were estimated at between \$6 billion and \$13 billion a year. So the costs can be considerable.

Ms Fowlie: There's quite a large body of work that has come out through the ANU, through Dr Brenda Morrison. She's done a lot of work on this, with lots of figures.

MRS DUNNE: A constant theme for me is that an array of people come before us and talk about the advantages of restorative justice in a whole lot of areas. I take the point

that you make, Ms Hunter, about addressing issues like schoolyard bullying so that they don't translate into the workplace and into the sort of wider social context. I suppose the question is: why isn't everyone already doing it now if it's the greatest thing since sliced bread? I'd welcome your views on that comment, and also keeping in mind that at the same time as saying there's a lot of enthusiasm for instituting restorative practices in schools and, in other aspects, other areas of the community, there seems to be a variety of approaches. Is there one, from your experience, that works better than others? And what are the impediments? What do you see as the impediments of it being introduced and practised more widely?

Ms Hunter: I think I will start backwards a bit first. I think one of the critical things is having very skilled facilitators. You have to have people who are properly trained and very clear about how they carry out that facilitation role. You can have a great system in place, you can have a great pamphlet, you can have a great comic, but if you walk into a conference and the facilitation is poor everybody is going to walk out feeling as bad as or worse than they did when they walked in. So there are some very clear things there around good training and ongoing, I guess, professional development in that area.

Why isn't everybody doing it? I'm not sure. More than a decade ago—Mary could probably help me out here—the AFP were starting work in this area, and they picked it up from the New Zealand experience. I guess it's still, in large terms, a relatively new thing that was seen first of all to be something new and innovative in the criminal justice or juvenile justice system. I think it has taken a number of years for it to be seen that this could be applied in other places and other settings. I think it's just about a lack of information, probably. It is a big task for schools to take something like this on and, when they do have a whole lot of other pressing priorities and their own issues around funding and resourcing and so on, it's probably not something that they grab off the shelf to go with straightaway. I'm afraid I couldn't give much more of an explanation than that.

MRS DUNNE: This is to be sort of the devil's advocate: if we absorb all that we're told in that the application of restorative practices will deliver us utopia that over time would save the community billions of dollars, why then would we put it aside for other programs in the school? As you're saying, there are lots of calls on a school's time. But, if it is something that works so well and so effectively that it has a huge social and economic benefit down the track, why would we pass it by?

Ms Hunter: Our view is that it shouldn't be passed by; it certainly should be taken on and it should be introduced into schools in a consistent way in a funded, well-resourced, supported way. I would say that we're also in our submission careful to state that this is one of the strategies. Restorative justice won't bring about utopia on its own, and we do state that quite clearly in our submission. It is one of a number of strategies that can be used. It has proven to be an effective one. We're very supportive of it. But we do state in our submission that people shouldn't go along thinking, "We'll toss all the money that way and everything will be sorted out in the long term," because issues out there are too complex just to be addressed by one thing. People are individuals; they will respond to different things. We're saying that we believe this is a very effective strategy to put in place. Obviously it does have costs associated with it. We would encourage government to look at this very carefully and to see how it may be introduced—maybe over time; maybe we can't put the whole system in at once—but certainly some way that at the end

of the day, over the next so many years, we could see this operating in school environments. And, yes, I do believe it saves costs down the road. But it's one of other techniques and measures; it's not going to deliver utopia on its own.

THE CHAIR: There was a question that came from our discussion with the unit with regard to some young people that don't get an opportunity to go through a conference because the so-called victim won't agree to go into conferencing. There were also some questions in our mind, such as: is there some kind of selection process? You talked about some children who may be disadvantaged and not in the mainstream and may have some disadvantage in not being noticed or having exposure to these principles in the setting that they are being educated in, or in other settings—for instance, youth detention or wherever they may be. Do you think there's a danger of some young people being given this opportunity and some young people missing out?

Ms Hunter: Yes, and I think that you've given a clear example, and that is where the victim of a crime says no, that's not for them. That's obviously a case where a conference can't go ahead. We do mention those in alternative education settings and other settings. Certainly, with the example you've given there's nothing you can do there. It is a victim's right to say yes or no as to whether they want to be part of it. But in the other sorts of situations it's more about, if it's going to be introduced to schools, let's not forget that there are a number of alternative education settings. It should be across the board and it should be consistent. Quite often, the alternative education places do miss out on things that are introduced into mainstream schools and they play an extremely important role in our education system.

Ms Fowlie: I guess also part of that is about young people who may be experiencing some type of disadvantage where the school community needs to be aware of the different issues that might come up for a young person. For example, with young carers: the school community needs to be aware of who are young carers, what are their needs, how can we provide appropriate individualised support to them? So it becomes really quite complicated when you look at different young people's needs and how the school community can respond to them. Part of identifying young people's needs is identifying the response and then supporting them to participate in the broader cultural shift within the school towards restorative practices. So it's definitely a long-term commitment and it's about looking at restorative practices as an investment and acknowledging that it will take several years for a cultural shift to occur.

THE CHAIR: Thank you very much for appearing before us today and thank you for your submission. We will get any questions on notice to you by early next week and we'll give you a couple of weeks to get back with your answers. You'll also get a copy of the transcript so you can check through it to see if there's anything that has been misinterpreted. And could you please get the evaluation report back to us.

Meeting adjourned from 10.36 to 10.55 am

RICHARD SHANAHAN was called.

THE CHAIR: You should understand that these hearings are legal proceedings of the Legislative Assembly, protected by parliamentary privilege. That gives you certain protections but also certain responsibilities. It means that you are protected from certain legal actions such as being sued for defamation for what you say at this public hearing. It also means that you have a responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter. Do you understand that?

Mr Shanahan: I do.

THE CHAIR: When you first introduce yourself, would you say your full name and position for Hansard, please. Obviously this is being recorded. Would you like to make some introductory remarks?

Mr Shanahan: I would.

THE CHAIR: Then we will ask questions after you have finished making your remarks.

Mr Shanahan: My full name is Richard Shanahan. I am the CEO of Menslink, a not-for-profit organisation based in Canberra. I would like to make some comments addressing the submission that I put in. Before I do that—ironically, this is before an education committee—I have to admit a grammatical error that may misrepresent what I intended to say. I refer to the second page of the submission I put in. Point 4, second paragraph, says:

Boys lag behind girls in literacy, numeracy and HSC results ...

This is a quote from Miranda Devine in the *Sydney Morning Herald*. She goes on to say:

Whereas 20 years earlier boys outperformed girls, now about the only areas which boys come up trumps was in truancy, suspension rates and jail time, and deaths by road accident, accident and suicide ...

That is where that sentence and quote are meant to finish. The next comment is an addition by me. So it is not intended to imply that that is the statement that Miranda Devine made about the ACT situation.

THE CHAIR: Thank you for that clarification.

MRS DUNNE: It may have been a lapse in punctuation but it was a tour de force of proofreading.

Mr Shanahan: I would like to start by saying that, in representing Menslink, we have a clear position on restorative practice; that is, we strongly support it and its implementation in the education system and in the youth justice system. We congratulate the current government on this initiative. It is a really important initiative in developing a more mature and functional society.

We would like to encourage future governments, regardless of their political affiliations, to continue the work on restorative practices in the education and the youth justice systems. We need to be careful about expanding its usage in other systems like youth settings such as youth centres. We need to get it right when we start it. This is taking into account the fact that we have limited resources and we should be careful about opening too many new fronts because in each area there are specific things that need to be developed and specific local situations that arise which might result in more experimentation about how that would apply. So we need to be very conscientious about getting it right where we have it now.

Menslink has a long-running association with the restorative movement. Our inaugural chair, David Roberts, is currently a trainer with Circlespeak, which is the organisation contracted to do training in the ACT education system.

Personally, my first cousin is John McDonald. He is one of the original founders of restorative practices in Australia. He was involved in the original Wagga Wagga trial projects. Within our own family, I have to say, there has been many a dinner table discussion on the issues and how this is such an important initiative in what I see as one of the faults of the more adversarial parts of the justice system that might alienate both the offender and the victim and that this is a far more mature response when it is applied on the right occasion.

We need to be very careful when we apply it. It is not a panacea; it does not apply in every situation. I know that that is not new to you and that you probably have heard that already. It is worth emphasising that we need to be careful. People who create new ideas often get overexcited and want to apply them everywhere. I am a victim of that myself. The people on the ground who are managing the institutions need to be aware of their own core values, what they are about, what are the aims of their institution and in what situations it might fit and in what situations it is not appropriate.

I have also done a Churchill fellowship, which has resulted in a visit to the international centre for restorative practices in Pennsylvania. They have strong links with Real Justice; they have formal ties with Real Justice Australia. A lot of the initiative for Real Justice comes from that source, from this international centre. Ted Wachtel is the executive of that organisation. He is also one of the original founders of restorative practices.

The reason I would like to bring this up is that that particular centre based a lot of its learning on the application of restorative practices in the educational centre on a local high school called Palisades high. I am not aware whether that has been mentioned to you yet. I visited Palisades high. In my travels, both here locally within the ACT and internationally, I saw it as one of the more effective high schools—probably the most effective high school in maintaining good educational practices combined with good support and safety practices. I will talk a little more about the implications of Palisades high school a bit later if I may.

That gives you a bit of a background on where I am commenting from. I also have been trained in facilitating educational-based restorative practices. I have never run one. My cousin put me in a workshop that he ran in Sydney. I never got the time to implement the practice. I need to say that I have not had that experience.

It has to be said that restorative practices fit pretty nicely with the ideas of social inclusion. I can see why the current government has taken this on board and the appeal of restorative practices. It is about, as much as possible, including people in finding outcomes in difficult situations and not excluding them, which of course can be one of the dangers of the traditional justice systems. I suppose, in the end, you want to apply what works. It can sound fantastic but does it work? Yes, Menslink thinks it works, and that is why we are supporting it. We think it is practical. We do not think it is a soft option. I will go a bit into some of the others—what we think it is and what we think it is not—soon.

Restorative practices, as I said, is not a solution for every situation. I will give you an example. If a young man were to steal something from Woolworths Dickson and we were to have a restorative conference with him about that issue of theft, there would be the binary practices in the conferencing form, obviously. There are other interpretations of restorative practices. Who would represent Woolworths? What relationship would they have to the young man? Very little, I would suggest.

Restorative practice is based on relationship, to a degree. It extends from tribal ideas: people who know each other very well sit around. In fact, their families have lived with each other for centuries. That is where the core principles come from, essentially around community relationship and wanting to feel a part of that society.

In this particular situation, I suggest it would be highly risky and wasteful, potentially, to run a restorative practices conference with a young man who has no relationship with the shop manager or someone from Woolworths. When the shop manager says, “The way that has harmed me is that it has lost me 50 bucks worth of profit for the week from Woolworths,” it is not really going to have a great effect on the conscience of the young man, unless, perhaps, there was a victim in that theft—he held up someone—and that person was able to attend the conference and the offender was able to see the individual ramifications of the offence on an individual. In terms of a corporate identity, there is not a lot of relationship or empathy with them. So restorative practices relies heavily on empathy with the offender. That is a bit of a background on why restorative practices works: it is the idea of relationship.

I address the idea that it is not a soft option. It is not a soft option when it is done well. It can be done badly. In its conferencing version, it relies heavily on a skilled facilitator and good preparation. What does this mean? This means that it is going to be prone occasionally to human error and there will be bad conferences and bad outcomes. But overall it works.

Not surprisingly, some results are starting to show that it works particularly well in Aboriginal societies and so on. Their links and their tradition of having connections, a sense of collective identity, are very strong, particularly in, shall we say, the less fragmented communities. Therefore, in those communities, it is likely to be particularly effective. I believe, from watching the show the other day, in the way that it was represented, it certainly has had great results in Aboriginal communities.

It relies on a thorough examination and exposure of the issues in the conference. The offender needs to have that full exposure of what they have done and the harm they have caused clearly spelt out and exposed, and the effect it has had not just on the individual

but on those around them. When they see people like sisters and so on, parents or husbands and wives talking about the effect it has had on them when in fact they are not the victim, they start to see a greater sense of the damage that they have caused and the harm that they have caused. Having seen this, the young man has found it quite easy to associate with, for example, peer groups.

I am talking of young men because that is the area I work in. I know it applies to young men and young women. They can conduct themselves at times in a language, in a conversation, that allows them to distance or alienate people from them by saying, “It is their fault; it is the teachers; it is their fault; they have done this wrong against us.” They can conduct themselves in a discourse, a discussion, that devolves responsibility for taking it on themselves. By being in that peer group, that attitude can be reinforced.

Taking them out of the peer group, putting them into another community circle and exposing them to other beliefs and other impacts at a very emotional level, can be quite startling for them and effective in their rethinking their beliefs and whether they are going to do the behaviour again. If it is run well, that exposure will happen and they will seriously rethink things. We believe that, in the majority of cases, with good facilitators, it will be run well. We are very optimistic about the current directions in which the government is going.

I would like to go to the Palisades model. The Palisades model is a high school in a county, I suppose you would call it, in Pennsylvania. It is the only high school in that county. Therefore, it has a strong identity in that county and a lot of people have a relationship with that high school. So it is quite plum for restorative practices because it has a fairly strong local, connective environment. I refer briefly to my Churchill fellowship report:

At Palisades High School ... the Institute for Restorative Practices was partly responsible for creating a model that I believe to be one of the most effective in creating safety and valuing young men. The origins of restorative practices are indigenous in nature, traditionally practised in many cultures including the Maori and North America and Africa. It moves away from Punitive (punishment) approaches that exclude offenders, and moves towards exposing the harm caused by the offender, yet restoring the relationships that have been damaged. Some organisations are examining restorative practices in a broader sense—

and this is the broader application—

and viewing it as a philosophy, that more than anything, is about “commitment to community” and practices of inclusion, and embracing practices that engage, examine, seek to understand and ... include rather than exclude offending community members.

Palisades high has provision for restorative conferencing and associated practices where they might not do a pure conference in the form of, say, arrangement two weeks prior and getting offenders in, but they might sit the class down and have a discussion because some conflict has arisen. They might do a hybrid version, you could say. I noticed that a couple of teachers were doing hybrid forms of it. The educational system is starting to utilise it to be effective in their context, and the teachers themselves are starting to show initiative in how they might apply it in their environment, which is a very good thing.

It has got to be said, though, that in one sense this school community developed a deep understanding of restorative values and that it was a real commitment to include and value students by giving them important roles and by providing a curriculum that provides an alternative stream. I am starting to touch on other themes which are not restorative but which show this school had a range of practices in place. Restorative was only one of them. There was a school-within-a-school concept.

It had almost a TAFE system happening in its education system. Young people of the age of about year 7 or year 8 were able to go down a TAFE-like stream, which is far more applicable to the work setting, and were able to do projects that were, at times, work based in work environments. This stream was highly valued. It was not, what I would have called at my old high school, off line where all the guys who are not achieving get to go in there and get really stigmatised. This is a highly valued stream. These guys were well resourced; they had quality teachers; and the students, both young men and young women, were more than happy to get involved. In one sense, it was not an add-on but a highly valued curriculum that exposed students to a range of learning experiences that engaged them at a very practical level.

There were also a significant number of young women who benefited from this version of schooling. An example would be students who designed a video production; thus they developed skills in media that allowed them to attend the feeder school and sell the benefit to the school within a school. One of the projects of the students was to go to a primary school feeder, present them with a media production and market the idea of coming into the stream that they were in at the school. Projects were highly relevant to functional outcomes. Indeed, it was very much like having a TAFE within a high school.

Why am I saying all of this? I am saying this because, as I referred to in the submission, restorative practices is just one particular intervention in good educational practice. It does not replace good school management; it does not replace the essential aims of a school, which is to educate young people. We should be careful about applying too much emphasis to issues like restorative and about undervaluing other good initiatives like school counselling and mediation.

I tend to think that sometimes there is an unfortunate system where, for about a decade or five years, a certain thing will be in vogue. Recently it was concepts of resilience. Restorative seems to be the new thing on the block. Good education is to absorb all of them under an umbrella of what are our main aims. What is our governance of this school? What are our long-term visions? Schools need to have good school management. They need to have a vision that absorbs these things coming in but never deviates from primary goals of basically good pedagogy or good teaching.

I am particularly emphasising this because I attended a restorative conference in an alternative school run by the international institute in America. It was very clear to me that they were pretty much managing the school. The primary background was not in education; it was in restorative practices. Yet they had overall responsibility for running this alternative school. It was very clear to me that the primary goals of education were coming second to goals of restorative practices and that this resulted, to my mind, in losing their way on educational priorities.

I sat in on a conference where there were no windows in the room; there was not good ventilation; it was dark; and they were running school classes in it. For the half of the morning I spent in the conference, no kids were being educated. They were doing a conference for two hours. The conference was primarily facilitated by a young person. They were experimenting with the idea of the young person being the facilitator. This is referring back to an earlier point. We need to be very careful about valuing the role of facilitation. It is a highly skilled position. We need to be very careful about experimenting with youth involvement in that role. I am advocating the continued idea of a holistic approach to education, with primary goals of good pedagogy, which is basically good practice.

MRS DUNNE: Most people emphasise this but it particularly came home here. You talked about Palisades high school and its local connection to the community. You talked about restorative practices being based on relationships. You talked about relationships a lot. What happens to the young person who is completely disengaged?

Mr Shanahan: Who has no-one whom they have a real relationship with to attend with them?

MRS DUNNE: Yes. Because of their state of mind, the state of their physical health, their propensity to addiction, even though they may have family, they have cut themselves off in one way or another. Do you have to work at restoring the relationships before you can use the restorative practices? Will this system work if you find somebody who is a disengaged individual?

Mr Shanahan: I have not experienced an example of that. But you certainly have to be very concerned about whether it would be potentially more harmful to run restorative practices in that situation or you would need to create some sense of strong advocacy for that young offender within the conferencing process. You need to have someone who is walking with them during the process, I would say, and following up with them, not just being there for the short term. Beyond that, I do not think I can answer that any better.

THE CHAIR: I have a question on your comments in your submission to us on gender differences. Did you see any issues in the application of restorative practice with regard to young women and young men? Are you seeing a different approach?

I am interested to explore a little your fairly adamant statement that you do not think young people can run conferences. I am thinking back to some young people who appeared here from a primary school where, in fact, young people use the script in the playground, apparently quite successfully, and in corridors, apparently quite successfully, and teach new relief teachers how to use it because they may not have been exposed to it in the school that they have come from. I want to explore that gender thing with you. I seek your comments about whether you had heard about that particular school and that practice.

Mr Shanahan: In responding to the first comment, I have some concerns about restorative. They are not founded on any evidence. They are founded on one example of restorative slightly disadvantaging young men who do not have good verbal skills and good skills of self-expression. I witnessed that happening in the example I gave of the alternative school in America where two young men were highly disengaged in that

process. But that was poorly run. It was poorly facilitated by a young person who had a lot of power in that process.

Those two young men were pretty much hammered by a couple of people there. No-one really supported them in that process. I was very disappointed in that process. We need to be very careful of allowing for the fact that some young men perhaps are not as verbal in being able to communicate what is going on inside them or some of the messages they want to get across. My own personal experience is this: I have been in conflicts, in relationships as an adult, where I have gone away and thought later, two hours or a day later, about what I wanted to say. In the heat of the moment or under that pressure, I just was not able to express myself.

There are some high-level skills required, at times, in restorative practices, and there is a lot required on the part of the facilitator to be aware of those issues, to be sensitive to them and to be also sensitive to time issues—not running long sessions, allowing breaks and so on. Yes, I have some concerns. I have not really seen enough conferencing to see how effective it is, though. That is the first issue I was responding to. Is that it?

THE CHAIR: Yes, thank you.

Mr Shanahan: The second issue is the idea of application in primary schools.

THE CHAIR: And young people actioning.

Mr Shanahan: In my comment, I was specifically referring to fairly high-level engagement in formal conferences where there is a reasonable level of conflict or offences that have occurred and where there needs to be a formal sitting down between parties, between victims and offenders or perpetrators. In those situations, there are a lot of group dynamics and there is a lot of skill required in making sure that people are heard. You need adult facilitators.

The example you gave, Mary, is a great example of the wider applications of restorative practices and of being able to influence how children can communicate. I do not have any problems with that. There is opportunity there. It is a good thing that it might be practised in that way in conversations and so on and in skilling them up to be able to communicate. Yes, I am very reticent about them running formal conferences.

MR GENTLEMAN: You mentioned that RJ is not a soft option. Could you expand on that a little?

Mr Shanahan: We are pretty good in the ACT; we do not tend to get too carried away with law-and-order issues. I have noticed in other states there can be debates, strong emotion, on applying punitive approaches when an offence is committed and on increasing sentences. That is a knee-jerk reaction often to crimes and a fear that pervades the public.

An example of restorative practices resulting in a bad outcome, or a poorly run conference where the outcome seems to be fairly soft on the offender—and I believe there has been criticism of this side of restorative practices that it can be going soft on the offenders and not encouraging them to take more responsibility or being punitive

enough—is that, if it is run well and applied in the right circumstances, it is a hard option because that young person is really grilled and exposed to a thorough self-examination of what they have done. It is probably more likely to be effective in the end.

My concern with restorative practices is that, if we put a lot of resources into implementing it down the track, if we get law-and-order crazy like some of the other states, as soon as we have a bad outcome in restorative practices, we will plug it; we will get rid of it; we won't support it. Governments need to support it when it gets criticised, and at some stage it will, for being too soft on the offender. That is the context that I am particularly concerned about.

Can I also refer to a couple of later points I made in this report. The second part of the submission refers to boys education issues. How this links to restorative practices is that restorative practices are partly about stopping conflicts or incidents in schools and so on. It is issues like fights in school and exclusions from school. Rather than suspending people, we might be more inclined towards restorative practices, which is more about inclusion.

In about 2002 the Martin report was brought out by ACT education. That was on the issue of boys education. It lists the fact that 85 per cent of suspensions in schools are boys. On top of that, we are aware of poor outcomes from boys in terms of school attendance, in terms of their completing certificates, in terms of their involvement in incidents in the schools and so on.

Education assistance, I believe, is a really important pathway and can be a really positive pathway for getting boys more personally developed in our society. There are concerning statistics that a significant minority of boys are not achieving well within our ACT education system. How this relates is that the Martin report in 2002 highlighted some things we can do about that and highlighted some of these issues.

I am concerned that there has been no follow-up on this report, that issues of boys education have not been prioritised within the ACT education system and that on this issue—I am not suggesting there is a leadership vacuum overall in ACT education—there is a leadership vacuum. It is pretty obvious. We have got significant statistics that boys are falling behind in almost every subject in our schools in the ACT. We do not know what the statistics are since 2002 because there has been no follow-up. So no-one within the education system has been empowered to follow up on this issue. There is no personnel within ACT education who is resourced, that is, a funded position, to see if this report has been implemented, whether in fact the suggestions in it are effective and what are the results four years on. We just do not know.

I am speaking very passionately on this issue because this is a social justice issue. I have worked in the Quamby youth detention centre. Twenty-two young people, children, have been in that detention centre—and all of them were boys—and have been completely excluded from their community. This is a government that talks about social inclusion. We can intervene earlier in these pathways. We can do stuff about this. But we have let it fall off the edges. To my mind, it is not good enough. So I would urge this committee to seriously consider what are we going to do for these boys. The stats are there; they have been there for over a decade.

We, quite rightly 20 years ago, did stuff for young women, which was great. They were behind; they were well behind in subjects; and everyone went about doing stuff about them. “What are we going to do for boys”—that is what I am saying—“now that we know these statistics?” What is ACT education going to do? When I say this, I want to be very specific. I am not talking about local schools. There is enough evidence to show that local schools in Canberra, individual schools—Melrose high are working with us very closely; they are addressing some issues with their boys—are really aware of these issues and are trying to do stuff about it.

At a more policy level—within the bureaucracy, I am talking about—there is not enough leadership on this issue. This needs to be re-examined. This report needs to be followed up. Has it been effective? Has it been implemented? What are we doing to redress these issues? This is all part of that holistic approach. Restorative practice is one, but we need to have that as part of our holistic approach in dealing with some of these issues that arise.

MRS DUNNE: Thank you for those comments. They reflect some of my own experience and perhaps my own prejudices on the subject, and it is good to hear. Do you feel that there is a lack of will in educational bureaucracies to address the issue of boys failing? Do you think that perhaps there is a—

Mr Shanahan: It is fair to say there is a lack of prioritising the issue. I am not prepared to speculate on whether that is a conscious thing or not. I do not want to get into a gender debate on this. I do not want to bring up issues of whether this is a feminist issue within the department or whatever. It is really about our needing to create a better community and what can we do to fix that. My experience is that, once you get into issues of blame and why this is not happening, it does not really assist things. But I will say that, yes, there is a lack of prioritising of this issue. There is certainly some poor leadership on this issue. We need to redress that.

MRS DUNNE: One of the things that you said before brings this into sharp focus. I suspect that has been lacking from other submissions. In a sense, what you are saying is that restorative practices are a means of re-establishing the balance so that you can assist with pedagogy rather than that they are an end in itself.

Mr Shanahan: Yes. That is a crucial point. What I noticed about Palisades high was that it had extremely good school managers. Management is an issue we do not talk enough about within our school systems. We can train people to be educators and teachers. But it is a completely different thing to run a school. I know that, from running an organisation, there are management issues that you need to be good at; there is personnel management stuff; there are governance issues; there are partnerships to be formed—a whole range of new issues. Palisades high was extremely effective in good management practices. Its principal was a damn fine manager, as were its deputies. That came across fairly clearly and it came across fairly clearly that the teachers had a stronger respect for them because of that.

MR GENTLEMAN: You mentioned the Martin report. I have not read the report, unfortunately; I must get hold of it. When it talked about those percentages of poor results for boys, were the comparisons with boys 20 years ago or were the comparisons with girls in the current environment?

Mr Shanahan: The comparison was with girls in the current environment. For example, with issues of suspension, it was 85 per cent. Certainly in our primary school system I would be very surprised if they had not increased significantly in the last four years—sixth-grade boys being suspended at higher rates. I know in the New South Wales education system there have been quite significant increases in suspension in primary schools. The majority of them, by far, are boys. There are increasing problems in lower age groups in schools.

THE CHAIR: Is it possible to have a copy of that submission that you put in, the Churchill one?

Mr Shanahan: Yes. I am happy to leave you my copy.

THE CHAIR: It would be fantastic if we could have that. We will all get hold of the other report. Thank you very much for appearing before us today and thank you for your submission. Any questions on notice will be given to you early next week and we will give you two weeks to get back to us on those. You will also get a copy of the transcript so that you can look through that for anything that is not quite clear or correct—not huge changes in fact, but sometimes Hansard misinterprets a word.

Mr Shanahan: Sure. I am happy to send you via email my Churchill report. That will probably be easier for me if you like.

THE CHAIR: That is fine. Thank you very much.

TERRENCE ANTHONY O'CONNELL was called.

THE CHAIR: Thank you for appearing before us today.

Mr O'Connell: It is my pleasure.

THE CHAIR: You should understand that these hearings are legal proceedings of the Legislative Assembly, protected by parliamentary privilege. That gives you certain protections but also certain responsibilities. It means that you are protected from certain legal actions such as being sued for defamation for what you say at this public hearing. It also means that you have a responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter. Do you understand that?

Mr O'Connell: Yes, I do.

THE CHAIR: Obviously this is being recorded today. When you start, if you would say your full name and your position. I was wondering whether you wanted to make some introductory remarks. We did not receive a submission from you. We would like you to make some introductory remarks and then we will go into questions.

Mr O'Connell: For the record, my full name is Terrence Anthony O'Connell. Presently I am the director, Real Justice Australia. My post office box is post office box 95, Springwood, 2777. But I do not live there. I live at 11 Nagle Avenue, Springwood, New South Wales, again 2777.

I welcome the opportunity to be here. In fact, I have only just arrived back from Papua New Guinea after two weeks of conducting a series of trainings in Lae and Port Moresby. I welcome the opportunity because it is a great opportunity to begin to talk a little bit about my experiences of evolving and developing restorative practice and then, more importantly, to talk about what its real potential is.

To set the context, I was a police officer for 30 years in New South Wales. In around 1990, when I was appointed the sergeant in charge of a group of young police, I really wanted to challenge what they think about policing, what we did, what outcomes that achieved, did it make sense, did it make a difference, and how did we know. The theme through my presentation will be these questions: what do you do? How do you know doing that makes a difference? What does a difference look like?

That began the broader issue of realising that, in policing, simply relying on courts to deal with young offenders was a less than satisfactory experience. I do not want to go into that because it is well known that processes that are very adversarial in nature and are quite punitive do not promote opportunities for insight learning or responsibility taking. I guess it began the development of what became known nationally and internationally as the Wagga model. That was shared in a number of ways and, in particular, originally with the ACT, where they did some fabulous stuff.

At an international level, I guess that two important things happened. Like Richard, I was on a Churchill fellowship and ended up in Pennsylvania presenting to a criminal justice audience. A guy by the name of Ted Wachtel who, with his wife, Susan, had been

running alternative schools and group homes for young people for the last 35 years, when he heard what I had to say, said, “You are the bit we have been looking for. That is the bit that has been missing.” At the time I did not quite appreciate what he was saying, but I got to see his skills. What I was on about was being explicit in terms of your practice. At a very basic level they were challenging young people in a pretty consistent way with what I was on about, except that theirs was implicit.

In 1994 Ted decided—he was very excited about it, having heard that—to come to Australia. He established the Real Justice organisation as an international organisation. The offshoots of that are the International Institute for Restorative Practices, the Buxmont Academy and the Community Service Foundation. They are all sister organisations, all non-profit organisations.

Whilst I was still on the Churchill fellowship, I ended up in England, in the Thames Valley police service area. Again, as a result of a presentation I did to a criminal justice audience, the then Chief Constable, Sir Charles Pollard, became very excited and that relationship resulted in a number of visits, extensive training development, accredited training, et cetera, and that became a really important catalyst for some significant change in the area of juvenile justice in the United Kingdom. What was interesting was that the cops were very much at the forefront, the catalyst, for that change. What I have done is continue to evolve this in various ways, but my main target has been schools and school communities.

It is important to point out that professionally I went to university and got a social welfare degree as a cop, which was interesting. I spent 15 years as a senior elected official of the largest police union in Australia. One of the things I did was that I was instrumental in developing a very significant research capacity within the police union. I tell you that because it gives you an indication of where I am coming from.

This morning I was talking with folk from South Australia; on Sunday I travel to Adelaide. I am working with a whole district for two weeks. Every school is going to be involved in some capacity.

Let me summarise what we need to focus on and what restorative practices have to offer. I listened to Richard. The issues he raised were excellent; they were terrific. What he did not quite understand is the much broader context in which we are involved. I realised a long time ago, when I first started training teachers in Queensland and New South Wales, that the idea of developing restorative conferences in schools would generate a lot of excitement, but it hit me that that really was not the issue—it was not about how you dealt with critical issues—the issue for me was how we develop an environment, a way of relating, that incorporates the elements of restorative practice and, as we call it, a way of being.

I want to step you through this and give you an appreciation of what we have to think about. Typically, last week I was in Lae and Port Moresby. They had been asking me to come up there for some time. The deputy administrator of the Morobe district organised it. I said, “I want you to include as many of those agencies who are working with young people as possible, because what we do not do is share a common understanding about what practice is really good at: building and maintaining relationships. We tend to work in our silos. We have got a different philosophy, et cetera, et cetera.”

What we ended up with was quite a large group, from magistrates to cops to probation officers. I insisted on school folk being there. The first question I asked them was: “I want you to stop and think for a minute; I want you to go into your groups; I want you to list all of those things that you think add towards becoming good practice. What are the attributes and characteristics?” They went through a simple exercise, and I wrote it up on the board. What they talked about was respect, respectful challenge, empathy, compassion, understanding, listening. You might think, “Nothing novel or new in those.”

I then said to them, “I want you to tell me about your practice. What is the rationale for your practice? What are the assumptions and the theories that underpin your practice? If you are a teacher in the school and I ask you to tell me what it is you do, when you challenge people who have done the wrong thing, in a way that allows them and helps them to focus on their behaviour but at the same time they feel no resentment towards you and feel okay about themselves, how would you explain that? Tell me in very simple terms what is the rationale for your practice. What are the assumptions that underpin your practice? For example, the role of punishment; tell me about that.” I said to them all, “I really need to know the answers, and so do you.” What they discovered was that they struggled to be able to do it. The reason is pretty simple. It is not that their practices fundamentally were not okay; it is the fact that it was implicit; they did not know how to explain it.

Let me take the next step from that. Because I am working with teachers, students and parents, I say to the teachers, “What would parents say if we asked them, ‘Tell me about your school; what makes it what it is?’ Importantly, how do you, as a teacher, challenge students in a way that allows them to focus on what they have done but to still feel okay about themselves? How do you manage a classroom so that you create a supportive/inclusive environment that favours learning and that is the essence of good pedagogy?” I say, “What would your parents say?” They say, “They would not be able to answer any of that.” I say, “Tell me part of the reason. What are the reasons why they would not answer it?” They would say, “They rely on their own school experience; they rely on what the kids say; and they do not see what we do.” Then some honest teacher will say, “We do not tell them.” I say, “The reason you do not tell them is you do not know how to tell them.”

What I have discovered—and I have been rattling around the world on this—is that we do not pay attention to practice that is explicit and that can be easily understood, not only amongst practitioners but can be shared with students and with parents. The basis on which good learning takes place is this: if relationships are critical to all of that, and they are, it is a question of how we build, in a very conscious and deliberate way, and foster healthy relationships. When I went through this exercise—whether they were mental health workers or drug and alcohol workers, whether they were family counsellors, whether they are dealing with kids at risk, whether they are working in men’s management, whether they are in schools, whether they are counsellors, whether they are parents, whether they are teachers—almost universally no-one could, in a fairly confident way, explain the rationale for their practice.

I then said, “What conversations do you have in the staff room? If reflective practice is about practices that are rigorous, that we can talk about, that we can argue about, and they are explicit, that is, they are transparent, honest, open and fair, and we can easily

understand them, where do your practices fall?" The answer is: a long way short of that. What is happening is that we are moving from seeing restorative practices as a fairly discrete process, which is often associated with conferences or circles, to a framework that underpins all of the really good practice that we all recognise is the basis on which we build and foster healthy relationships.

At the end of the three days in Papua New Guinea every one of those workers had an understanding that they needed to pay attention to how it was they engaged young people and their families. They were able to clearly answer the question: what influences behaviour? They then realised that the critical role they played was their capacity to engage those who were struggling; to create an opportunity for a journey which they could share an understanding about what in the hell was happening; how they have arrived at that point; what is important; and where they need to go.

The basis on which we have built this is to identify some key restorative elements. They are the building blocks of what we call our process of restorative practices; that is, the nature of explicit practice and a common language but, more importantly—and I have brought some along to point out—when you make this explicit, you can fundamentally change the way we relate with one another.

In a school setting—and I have been working in schools for a long time—one of the real issues of challenges is to get teachers to devolve responsibility down to young people, to navigate and to deal with their own conflicts and tensions. What happens—and whether it is primary school or high school, it does not matter; they have the same experiences—is that I say to kids, "Tell me what are the things we need to agree on in this classroom that make it a fun and safe place to be." They say, "Rules and how we treat one another, respect." I write "rules" and I write "respect". I draw a little window. I say, "What happens if we do not get the balance right between complying with the rules and how we treat one another?" They go, "We do not know." I say, "Let us have a look. What about a teacher who is really bending all the rules but is very low on fairness, justice and support? What would that be like?" They say, "That teacher is really mean, nasty."

Then I say to them, "What would this be like: you might like this teacher who says, 'You can do whatever you want'—no high expectation—'I just want to be nice.'" They say, "That's cool." They think about it and say, "No; we wouldn't learn a great deal; it would be unsafe." I ask, "How would you describe that teacher?" They say, "Soft or weak." I ask, "What about the teacher who doesn't want to set any boundaries and doesn't care?" They say, "Slack or unemployed." I had a little year 5 kid say, "Unemployed," which I thought was a hoot.

I say, "What about the teacher that you most respect, the teacher that is really good at setting clear expectations, being able to do it and to be consistently supportive in an encouraging way?" They say, "That's a great teacher." Then I say to them, "I will see whether or not you are paying attention." I write four words "with", "to", "not" and "for". I say, "If a teacher is being mean and nasty and not listening and is not very fair and consistent, what will they be doing?" They say, "They are doing things to you." I say, "What about one who is neglectful? What about one who is soft?" They say, "They do things for you." I ask, "What about one who is very inclusive?" They say, "They do things with you."

We strip all that away and I say, “Which box are you in? Are you doing things ‘with’, ‘to’, ‘not’ or ‘for’?” Teachers all go, “My God!” I go through a little exercise; so do the kids. Bear in mind that I work in schools throughout Australia. In high schools I say, “Where would you put the teacher if the teacher said to you, ‘Sit down and shut up’?” They say, “To.” Not only that, in high schools they call out the names of the teachers. It is a good call. I love it, but that is another issue.

Then we go through this exercise. I say, “Someone who says you only need to do that if you feel like it?” They say, “For.” I say, “Someone who says you ring someone who cares; don’t worry me?” They say, “Not.” I say, “A teacher who says, ‘You are a great group of students. I have seen some great results. Do you know that when I left the room and I came back I was really disappointed?’” They say, “With.”

The bottom line, where I come from, is our capacity to devolve responsibility to those we are working with, whether it is in a family context or whether it is with kids who are disconnected. It is about how you devolve that responsibility. So I say to young people, “Tell me what it is you love about school.” The answer is pretty simple: “Friends, friends and friends. Nothing else matters. Friends; friends and friends.” I say, “What are the things that really upset you at school?” I ask them, “What is the worst thing that could possibly happen to you at school?” Do you know the worst thing? Being excluded from the friendship group. That is the worst thing.

This broad banner of bullying is a poor concept because it does not reflect all of the tensions that reflect in our day-to-day relationships that we would not describe as bullying. We often think that the bully is that stand alone who exhibits all these predictable behaviours. Kids, by and large, can manage that. What they cannot manage is being isolated from others. So I say to them, “What box would you be in if you excluded someone from your game?” They say, “That box.” I ask, “Why is that?” They say, “Because we wouldn’t be very respectful or fair.”

What is the value of making this explicit? We do a larger size of these, in A3s. The classroom will have one. The question is: “What box are you in?” What is important is that it gives kids a mechanism by which they can start to challenge teachers. The year 5 teacher says to me, “Bloody hell, you know enough about that workshop. I had three young kids come to me and say, ‘Mr Jones, we think you are one of those “to” teachers.’ Honestly, that made me stop and think.”

I put this up. I was working at a high school in Perth, and I noticed a little girl crying. I looked at the teacher. I noticed that the girl very much unsettled all of her friends around her. Anyhow we wrapped the workshop up. I noticed they all gathered around her. The teacher said, “I couldn’t believe that your going through that exercise and making this explicit brought into critical focus that that is exactly what they had done to that kid. She was excluded.” When you make it explicit and start to talk in very concrete ways about what it looks like and feels like, that is a base on which we can at least share an understanding about how we need to treat one another.

More importantly—and this says a lot about what is not happening—this is not only about schools. When I show this to parents, they go, “Bloody hell, I never thought about it like that.” When I say to mums, “Where are you?” They say, “We are down here. What is that about? He is up there. He is too tough.” I say to him, “Where are you?” He says,

“I am up here.” I ask, “Why is that?” He says, “Because she is too soft.” I can guarantee it: when you run this with parents you will get lots of the mums say, “Can we have another one because we want to bring our husbands along?” That is the critical issue.

More importantly, when I say to students, “What are the things that annoy you in class?”, they might say, “It is about other kids distracting and annoying when you are really interested in something the teacher is talking about.” Then I say, “Who has got responsibility for actually asking that student to stop?” What they say, invariably, is: “The teacher.” I say, “What would happen if every student took some responsibility?” They say, “Ooh.” The other reality is that they do not know how to do it really well.

A logical extension of the basis on which we share this insight is that you need to give them the language. The whole focus about being restorative is to move away from blame and punishment. It is best exemplified when we run restorative stories for primary school kids. They are illustrated. We get to a point where a little girl finds some money, decides to spend it and is busted by the mum. I say, “What should happen?” Her name is Mary, by the way. I will talk to you after about that. “What should happen with Mary now?” The first response overwhelmingly is: “She should be sent to her room.” I say to kids, “What happens when you go into your room? What does Mary do when she goes into her room?” They all say, “She will sit and think.” I flick on a slide which shows Mary playing with toys in her room. They all laugh and say, “That is exactly what we do.”

I ask the question: “How is this going to help Mary to understand whom she has hurt?” The answer is: “It doesn’t.” I then say, “What needs to happen?” They say, “Mary knows what to do is apologise and give the money back.” I say, “How should we go about this? It is the next-door neighbour that lost the money and was going to go on a holiday. Everyone is really embarrassed about it all.” They say, “We need to have a meeting. Bring them together in the meeting.” I am talking about really little kids. I say, “Who should speak first?” They say, “Mary.” Everyone agrees: Mary should speak first.

Then I say, “What question would you ask Mary?” The first question is: “Why did you do it?” I say, “Mary, why did you do that?” She goes, “Whoa; I don’t know,” or she says, “I needed the money.” I say to the other kids, “What do you think of Mary’s answers?” They say, “No good.” I say, “What happens when you are asked at home or by the teacher, ‘Why did you do it?’” They say, “We don’t know.” Then I say to them, “What we have to all agree is that there are no ‘why’ questions. We have to stop asking ‘why’ questions, because they are blame questions.”

It points out that the first response, the learnt response with little kids, is to punish and to blame. So what we do is this: we then share with them some very simple questions that really are the basis on which the original script that I developed as the cop in Wagga was based. I will leave this with you. These are pretty simple questions, because the focus of being restorative is not about what happened, who is to blame, what the punishment should be; it is about what happened, who has been hurt, how are we going to make it right. I ask the question: “What happened?”, as opposed to “Why?” I ask, “What were you thinking about at the time? What have you thought about since? Who do you think has been affected and in what way? How are we going to make it right?”

When we look at blame, we are only looking in the past. When we talk about harming relationships, what we are talking about is the past, the present and the future. We need

to engage young people in respectful ways so that it gives them an opportunity to go somewhere. It has to be hopeful. We need to stop doing things “to” and “for”. We need to work in a way that is inclusive, levies responsibility and provides opportunity for insight learning but, more importantly, promotes the opportunity for significant others to be involved. At the end of the day, when we ask, “What influences behaviour?”, invariably most talk about significant relationships.

John Braithwaite’s question back in 1990 was: “Let us think about, rather than why you do the wrong thing, why do you and I do the right thing and who are all the influences.” Everybody answers the same. Punishment gets fitted down the bottom.

I want to make a couple of observations. We really need to pay attention to what constitutes decent practice. The fundamental challenge for all of us working in this area is not whether or not restorative processes become an adjunct to existing practices but what they represent in terms of good practice and sound pedagogy. The issue is not whether there are enough resources, the issue is about how we can get everyone to agree, in a really explicit way, that this is the base on which we build and maintain relationships; and, importantly, we share that with everyone we work with.

I know Matt Casey and Peta Blood will talk about their own experiences but, the more explicit you make it, the much better placed you are to promote conversations that allow people to deal with painful emotions in healthy ways. I have been really fortunate to have dealt with almost every category of offence, from murders, rapes, indecent assaults, sexual assaults, home invasions, to all manner of matters. Fundamentally, having a framework that does really well at engaging people so that it provides a safe forum in which they can talk about their experience and its impact provides a basis. The evidence is overwhelming that, when you provide those ingredients, you are more likely than not to get outcomes in which people feel they were treated fairly, respectfully and, importantly, you get behavioural change.

There is an inherent problem with all of this. We can suffer from what I call paralysis by analysis. We can do things to death. One of the things that I listened to was this idea about the right leadership. My challenge to anyone working in this area is: to what extent do these practices inform how you run your organisation, how you deal with one another, how you develop the dialogue amongst practitioners that is respectful, productive and reflective?

If I work with school principals, the challenge to school principals is: how are you going to embed this, what conversations do you have, what needs to change? I am saying to teachers, “We want you to try to devolve responsibility to students.” I am saying to administrators, “We want you to create a working environment that is conducive to and supportive of the same things that are happening with teachers.” What this has to offer every practitioner knows no bounds.

I can tell you that when I left Papua New Guinea every one of those practitioners was thinking in terms of what this stuff has to offer them in terms of their day-to-day activity of working with young people and of working with families. They always thought it was about some other complicated process of running conferences. That is just one of many possibilities. We need to shift the focus back to what we understand constitutes decent practice, how explicit are we, does it offer a simple language and practice that is easily

understood by everyone. If it does, that is the basis on which we can go forward.

I am a critic of practice because I have had too much experience of working right across the board, with social workers, counsellors, psychologists—the full gambit. Fundamentally, I struggle with some of the practices that I think have not only a questionable basis but simply are not understood.

I was working in Ireland in November. I had 38 very experienced conference facilitators working there with youth justice and family welfare—the full bit—and they knew that I had played a significant role in developing what they call the scripted model. I am going to leave you with some scripts so that you can get an appreciation of it. They said, “No, we use a different model.” I said, “Tell me about your model; tell me about the practices. Deconstruct what it is you do, the practices. Tell me about the assumptions that underpin that. And what are the theories that inform that practice? Importantly, what do those that you are working with understand of your practice, and how would they describe your practice?”

My argument in schools is that every kid ought to be able to describe the practice that teachers use; every parent needs to be able to. They all go, “We hadn’t thought about it like that.” Do you know what happened? Not one of them could even go remotely close to it. I said, “You have heard about the model we have developed. Let me give you a really simple insight of how it falls together, the rationale for the script, the nature of the questions, the theoretical underpinning. What we have done is draw heavily on Braithwaite’s notion of what he calls reintegrative shaming.” Everyone goes, “We don’t want to involve shame. Get real.”

How do you ever challenge anyone without evoking a sense of shame? And if we do not understand that what we are trying to move towards is respectful interventions, respectful engagement, away from those that exclude and humiliate, there is a problem. The problem with our society is that it takes universal pride in our capacity to humiliate at every level—in parliaments, in the bloody media—and is underpinned by the first response of kids, which is the need to punish and to ask why. We need to challenge that. When I said, “Isn’t it important that you understand why something works?”, not one of these folk who had been working with it said, “Does it matter?” I said, “What do you think?”

Of course the realisation is that it does matter and that we need to think about what the basis of decent practices is. There is a lot of rhetoric about values in practice. Our Prime Minister goes on ad nauseam about it, but I would remind the Prime Minister that, if I were a teacher at a school, I wouldn’t take them to Parliament House to see the antithesis of what he is on about. But that is another issue.

The question is: how do you give expression to values that we think are really important in day-to-day practices? When you develop an explicit practice framework, you can develop a checklist that I am really confident can be easily satisfied if we pay attention to sharing respect for explicit practices in which we promote the opportunity for insight, learning and development.

Another challenge for teachers is this: those little questions are on those cards. Every kid gets two of them. Do you know why they get two? One for them, and one for their mums

and dads. This becomes relational currency. You see that on the large A3. You have that; we have them in big scoreboards that sit in the middle of the playground.

What we have discovered is that, when exposed to it, this becomes a way of being, a way of relating. I have been working in enough schools for long enough to see that we are starting to do some pretty useful evaluations. What they are finding is that, when kids become so used to the mantra about what happened, who has been hurt, how are we going to make it right, taking responsibility becomes what is expected and they do it because they can go somewhere with it. Not only that, they can start to challenge their mums and dads and they can start to challenge teachers.

Where I come from is to try to keep this pretty basic. It has universal applications. The ACT is a great place in which to start to integrate this at every level in terms of practitioners, day-to-day practice. I hate to see this misrepresented as being a process at which people come together. That is not the case at all. If we develop a really explicit clear-practice framework that funnily enough does really well at ensuring we ourselves can build much more respectful relationships, we have got the basis for doing some really useful stuff.

MRS DUNNE: The question that has been sticking in my mind all through your presentation may have been answered in probably the second last sentence. Do you see that there are problems of cultural difference? We are all, essentially, white Anglos sitting around here. You talked about your experience in PNG. Are there problems of cultural difference?

Mr O’Connell: I often hear that question. I have traversed the world and worked in indigenous communities. What we have, what we all share in common, is a need to be connected, to be loved, to be valued; that anything that impedes that process causes alienation, disconnection and unhealthy relationships; and that, as human beings, we all share a set of innate emotions. The universal response to this framework—and at the outset Peta and I first started working at Lewisham primary school where there were at least 50 different ethnic groups—is that it is the things we have in common that allow us to transcend what are often seen as significant cultural differences.

Having said that, in PNG, one of the things I have realised is that, whilst they are really good at English, what we have got to do is convert that into pidgin. The other thing is that I could not or would not pretend to be geared to know how they would navigate this stuff in their own village situations, given some of those cultural considerations. Do you know what? It did not matter, because what they had was a really solid framework that gave them a much better way of thinking about their own practices. It gave them a much better way of thinking about how they engage others.

In many respects, at one level, the cultural differences are not at all significant, but you have got to pay attention to them in terms of the setting. The classic example of the indigenous focus is this: in Darwin, with the community court, I have run this two-day forum for about 50 indigenous folk. When they started talking about who ought to be in and out, I ran the line “significant others”. “Significant others”, to me, has a very different connotation. Someone says, “No, you couldn’t do that; you couldn’t have skin type.” They go, “Give us a break.” In other words, “I don’t want to go there because I haven’t got a clue.” Having said that, it is a really important consideration.

THE CHAIR: I realise that we have run out of time. You said, “We do not want to analyse this thing to death and be paralysed by analysis.” I may be paraphrasing what you said.

Mr O’Connell: I called it “paralysis by analysis”.

THE CHAIR: Many times we have heard people say that there is not enough vigorous evidence that this thing has not been analysed properly; that you haven’t measured the “before”, you have only talked about what happens after. In terms of academic achievements of young people in school, we do not measure what has happened before; we do not know what all the other variables will be that may have caused this improvement in academic achievements after these practices have become more inclusive in schools. So my question is: how do you respond to those criticisms?

Mr O’Connell: They are very valid, actually. There is not enough “rear”. They are very valid, and that is part of the reason why I had this conversation just prior to coming in here. I am working in Adelaide over the next two weeks with 25 schools. I said, “You have generated a lot of excitement about this, and every school in this district wants to buy into it. We have got to get serious. We need to move beyond the good-feel factor, and in a very concrete and tangible way. What are we looking to measure? What would decent outcomes look like? What is the baseline around this?” What we have done is put in place some measurements before and at least attempt some rigour in terms of being able to measure those outcomes.

Let me say this: one of the schools that I have had a fair involvement with just happens to be in Perth. I was in Perth and was rung by the principal who said, “Do you know what? I had the district director came out. Our assessment scores in terms of reading, maths and English in grades 3 and 5 are exemplary compared with every other school in our district and extraordinarily high, above state average. This has been a quantum shift in the last three years.” I said, “You are not going to claim restorative practices?” She said, “They have had a contribution.” I said, “I don’t know, but I would love to think that.”

It was like Richard was saying, before we ever arrived on the shores, there was some fantastic stuff being done in schools, which has never been appreciated. When you overlay this, we have to work it out, if it is possible. I think it is too complex to be definitive about. What we know is that schools that achieve well academically are schools that can create an inclusive/supportive learning environment where the premium on relationships is appreciated and understood by everyone, as a general rule.

THE CHAIR: Thank you very, very much.

Mr O’Connell: No problem. Can I leave a couple of these with you?

THE CHAIR: Yes, you certainly can leave those.

MR GENTLEMAN: I have not got a question, Chair, but I would like to make a comment. I thank you for being with us here today.

Mr O'Connell: Not a problem. I appreciate that. I was talking with you.

MRS DUNNE: I like it when you can sit for 20, 25 or 30 minutes and not have to come up with a question.

THE CHAIR: I thank you and let you know that the questions on notice will be given to you very early next week.

Mr O'Connell: They might email them to me. I will be in South Australia.

THE CHAIR: That will be fine. You will have a fortnight to get back to us on those. You will also get an email of the transcript so that you can have a look at the draft to see whether there were any words that Hansard may have picked up incorrectly.

Mr O'Connell: Not a problem. Let me say that you guys are doing some groundbreaking work. I encourage you. The restorative justice unit is doing some great stuff. You have got a wonderful laboratory here to grow this stuff. So if I can help in any way, I am more than happy to do that.

THE CHAIR: Thank you very much.

PETA LEWESE RAELENE BLOOD was called

THE CHAIR: I welcome Ms Peta Blood. You should understand that these hearings are legal proceedings of the Legislative Assembly protected by parliamentary privilege. That gives you certain protections but also certain responsibilities. It means that you are protected from certain legal action, such as being sued for defamation, for what you say at this public hearing. It also means that you have a responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter. Do you understand that?

Ms Blood: Yes.

THE CHAIR: For Hansard purposes, would you please give your full name and your position.

Ms Blood: I am Peta Lewese Raelene Blood and I am the director and owner of Circlespeak, Sydney, Australia.

THE CHAIR: We invite you, if you want to, to make some introductory remarks. We've got your submissions and from what you say now we might also have some questions, as well as some from what we've heard this morning.

Ms Blood: Firstly, I must say I'm not as verbal as my former colleague is and I am not sure that you won't have to come up with a few questions. But I am sure that I will be able to work through some of the issues. I guess I've worked in the area of restorative justice now for a decade—as you've heard, initially in my capacity as a former member of the New South Wales police service's restorative justice group, working alongside Terry O'Connell. So, like Terry said, I've had the opportunity of having worked with and seen restorative justice used in a whole range of different settings, including, of course, around sexual assault, domestic violence, within workplaces, policing, in juvenile justice and serious crime. Of course, the main focus of my work is in the educational context these days.

In 2000 I established Circlespeak, primarily to meet the overwhelming need for workplaces, community and schools wanting to work restoratively and, in that, starting to look at what they needed to do to start to more effectively manage the day-to-day difficulties in the school environment. I mostly choose to work with educators around Australia. I work in most states, and more recently my work has been informing what's happening internationally in terms of the implementation of restorative practices in schools.

I am a firm believer in working at the preventative, proactive end, having worked at the serious end, mopping up after significant and horrendous crime. I believe that the more energy that we put in at that lower level of actually skilling teachers, skilling community and, of course, parents to do things differently, ultimately, hopefully, the more we will interrupt the number of young people entering the formal juvenile justice system.

Of course, last year the New South Wales Bureau of Statistics released some rather horrifying statistics that of a group of young people that they tracked for eight years 68 per cent had reoffended once they'd entered the formal justice system. That report

strongly recommended that there needed to be more work at the health and wellbeing level and in the educational sector to start to break this cycle of violence.

My involvement in the ACT, which of course is the most important, has been with schools since 2000. Initially I worked with those schools that wanted to make a difference, that were searching to find a way to work with their student and parent population, and I did so on a piecemeal basis up until the end of 2003. That was when Fiona Macgregor, the manager of student support services, approached me and asked me to speak to a delegation of primary through to college level staff about the principles that inform restorative practices and the range of practices available to assist educators.

So since 2003 student support services have, if you like, sponsored the implementation of restorative practices and very much on the basis that this was not to be seen as something that replaced everything; that it needed to sit alongside a range of very successful initiatives and work that they were looking at doing. On that basis, we've approached this all the way along as being about cultural change. It's not just about effective behaviour management. As Terry, I think, said very clearly, it is about changing the nature of relationships within the entire school community. We know that, if we get the entire school community functioning effectively, it has far-reaching implications into starting to change the nature of relationships within the community and, of course, within other agencies and sectors.

The other thing that is important is that the developments within ACT schools have stirred the interest nationally and internationally of other schools and practitioners. Certainly in May there will be a delegation of 18 Singaporean principals and education personnel visiting the schools down here, and over the last 18 months we've seen practitioners, not only nationally but also from the US, from Scotland, from England and from other places, visit some of the schools here to see what is happening.

There is currently no other implementation as advanced and of the scale that is occurring with ACT schools. To date my organisation has worked directly with 63 schools, which are in the process of implementing restorative practices at varying levels. Some of those are far advanced; some of those are only just beginning. In some of those their practice is not so great. That includes over 200 staff trained in conferencing and, of course, more importantly, the informal range of practices, and over 85 personnel trained in circles and classroom management practices, which is changing the nature of relationships in the classroom day in and day out, effective pedagogy and developing the social and emotional literacy in the classroom. Of course, there are many others who have been exposed to the principles of restorative practices through introductory sessions with their school or with other schools. Some of this has been funded through the Australian government's quality teaching program and the rest through the national safe schools framework but largely it has come from schools funding themselves or applying for funding to support this work.

I think what has been critical is that it has been about working with the volunteer schools—those schools that have an identified need, that are searching to do things differently and who are asking questions. That remains an important part about what happens from this point onwards.

We've also worked hard down here to develop the internal capacity to sustain quality

practice. I believe Terry spoke quite extensively about how sometimes that practice is not always quality. Sometimes practitioners don't understand what they're doing. We've worked hard to build the on-the-ground support by training all the student management consultants in restorative practices, and there is a whole range of initiatives there that are supported by Fiona Macgregor, Faye Borman, who's here, and also Terri Mountford, one of the leading practitioners in that field, to ongoingly bring those people together to start to develop that practice. It does take time—we believe three to five years is the minimum for cultural change—and it takes time to develop quality practitioners. So it is something very much in hand, but something which remains quite tenuous at this point in time.

In terms of the capacity building, I believe that we're probably 12 to 18 months away in the ACT Department of Education from actually achieving sustainable practice. There are a number of factors that are likely to hinder this sustainability, which concern me, the first being that the department currently has a belief that that capacity currently exists and is starting to divert its attention to other places. My concern is that that will mean that unhealthy practice starts to prosper and that eventually restorative practices will be something about which it is said, "Yes, we did that."

I think also the department's mobility policy is both a hindrance and something that has helped spread practice throughout the ACT. At the same time as we start to develop quality experience within the schools, those practitioners move on and ignite a fire in another place. So it is a balance. What happens to the school that they've left? Were there enough people that were feeling comfortable with the practice? Were we starting to see cultural change before they shifted? The other part about that is that that means that critical positions where people are developing expertise are lost. Only last year we looked like losing the two critical positions, Terri Mountford and Faye Borman from student support services, who have been absolutely instrumental in doing a lot of the internal capacity building. They've only just held on to an extension of their jobs, but that will not extend past this year. So, whilst they're working hard to ensure that other people come up, without dedicated positions I don't think this is going to survive, in terms of what it could be capable of.

Thirdly, the issue is of evaluation, as you raised before, Mary. We've currently got somewhere in the order of 50 to 60 per cent of the schools implementing restorative practices in some way. There's anecdotal evidence that this is working. I know the committee has been out to Charnwood primary school. You can walk in there, you see it, you feel that, you can witness that cultural change. But this is more than managing behaviours; this is about effective learning and teaching. Do we understand what those academic rates were before, once we're getting the social emotional? Do we know what the culture, the climate, of the school was before we went in there, and post follow-up? To date, there is no evaluation of that—in fact anywhere in the world—and I think it's a shame that in a place where we're informing the rest of the world on practice we don't have that supporting evaluation. We've got the expertise in the ACT, of course, through the ANU restorative justice group, with John and Val Braithwaite, Heather Strang, Brenda Morrison and others. Yet we've not been able to find the funds, find the resources, to support that.

Finally, one concern for the committee is that, if this is seen to be making a difference, if this is seen to be something that is worth while—I believe that it is or I wouldn't be doing this work—it would be errant of us to suggest that every school in the ACT should

do this. This has worked successfully because we have worked with schools that have been the volunteers, that are willing to look at themselves. If we said that all schools should do this, it would kill off a very successful initiative. It's something where we have to be able to support those schools that might already work in a highly relational way and not have the same issues to attend to.

There are also schools that need to be challenged and supported on how to raise their standards. But certainly imposing something will not assist them. Only the other day, I heard that someone within the department, who will remain nameless, was suggesting that the entire primary school in a certain area should be sent along to be trained so that that would fix the problems. I guess that's a concern that we have to always monitor, and be careful. They certainly sound like they need support, and they need to be challenged to change. But sending them along to a course will never fix them.

That's probably all I've got to offer at this stage, other than, of course, addressing any questions.

MRS DUNNE: Can I ask the really difficult question?

Ms Blood: Certainly.

MRS DUNNE: This is the devil's advocate question, Ms Blood. You're saying that you advocate this and you wouldn't be doing it if you didn't think it was worth while. But it's also remunerative. What you say to us sort of makes us sit up and take notice; but at the same time that has to be balanced with the fact that you're a consultant whose job it is to sell this—

Ms Blood: Yes.

MRS DUNNE: Why is your method better than anybody else's?

Ms Blood: I don't think I'm saying that my method is any better than anyone else's. I think anyone in our field who suggests that really needs to look at their practice. Certainly within Australia those of us that are experienced in the field all come from the one rootstock, if you like. We might approach things differently, we might have a different way to go about things, but all of us draw our income from this source whether we are paid through a not-for-profit organisation or whether it is our own business. So yes, you're right; there will always be something where we need to keep our mortgages paid, if you like. But my primary concern is that we develop that sustainable practice. That's not just about Peta Blood working in the ACT; that will be working with the people who are most skilled, who have the most to offer, working with the practitioners to develop that practice. How that happens and the quality of that are probably the more important issues.

MRS DUNNE: You raised a couple of things that have always sort of struck me, and I was just saying to our secretary before that when we were in South Australia I particularly marked the contrast in the mobility practices between here and South Australia. As an example, here I think people tend to stay three to five years in a school whereas in South Australia, principals in particular, stay up to 10. There are a whole lot of reasons why we have the mobility practices that we do, but from the point of view of

the programs that you are trying to implement what's an optimum longevity in a school? Is there an optimum amount?

Ms Blood: We're looking three to five years in terms of cultural change, and the high schools have said to me: "Pete, you've got it wrong; it's eight years"—for them, because they're much bigger beasts.

MRS DUNNE: It's two generations in a high school in that case.

Ms Blood: Absolutely. My belief is that you get someone into a school, the first year they're finding their feet, the second year they're starting to become productive, the third year they're really starting to do some things creatively—and then they're shipped off. Likewise with restorative practices, I think there needs to be some flexibility, because obviously there are reasons for mobility, but that flexibility to start to sustain some key positions rather just having to shift people.

MRS DUNNE: Because that's what the rules say.

Ms Blood: Yes, and one of those practitioners, Terri Mountford, has been doing some amazing stuff. She has done a master's on the implementation in the Calwell cluster, which I think is an important piece of work that needs to be looked at. But she only just held onto that position by the skin of her teeth, with an extension. She would have gone back into a kindergarten class and made a lot of difference with 24 students, but at the moment she's got the capacity to make a lot of difference with hundreds of schools, so I think that's where with that mobility you can start to lose that expertise that you're starting to develop, and that's the difficult part about it.

MRS DUNNE: The other issue is the one that Mary has touched on, and you've touched on as well: evaluation. The concern that I have is that there's a lot of anecdotal stuff. Terry O'Connell was talking about the school in Western Australia. Similarly, we can see over three to five years that whatever the Western Australian equivalent of ACTAP scores is have gone up by this amount. But there's never any pre-testing. Are there schools now coming into the scheme where you are doing pre-testing? There was no pre-testing at Charnwood. I presume there was none at some of the standout examples, the Calwell example, or the North Ainslie. Is that part of the program now?

Ms Blood: It's not, and that's because there are no resources to go into doing that—collecting the data, analysing that data and following it through.

MRS DUNNE: So what's the data set that you need?

Ms Blood: The data set; there are probably two lots. Firstly, there's a lot that you can get from the schools, in terms of all the behaviour management side of things.

MRS DUNNE: That should be all there.

Ms Blood: You can get that; we're finding in the Calwell cluster they're starting to do that now, but of course they're between 12 months and two years down the track. So you can do suspension rates, attendance rates, referral rates, absentee rates et cetera; that's all there. You can do staff absentee rates and things like that, and complaints against the

school, but the other sector is actually looking at the school climate and having someone go in there to do that work on finding out the school climate, as well as the academic measures. Within the department, if they put the resource towards it, they could probably pull that out.

MRS DUNNE: They can extract it, because we've been doing ACTAP testing for five years or a bit more than that.

Ms Blood: Yes, exactly. But in terms of the school climate Brenda Morrison and Val Braithwaite did the life at school survey back in the late nineties and started with a couple of schools. It's a very effective measurement. There's now an international survey, and last year or the year before we actually had an offer from France for them to come in and to do that within the ACT on a number of schools, but the department in its wisdom decided not to go with that.

MRS DUNNE: Could you explain the life at schools project?

Ms Blood: The life at schools project was very much about measuring school climate. They went in pre any intervention and the intervention that they were using at the time was discussing shame but also working on a pro-social program, combining elements of help increase the peace, a social skills program, and a responsive citizenship program. So they measured the climate by all students and teachers going through this survey, then they ran their program—I think it was about 12 months—and then went back in and re-surveyed.

MRS DUNNE: How do you resolve observer effect on things like the initial survey, especially with kids; they always say everything sucks, so—

Ms Blood: Yes, exactly. The academics, of course, have a way that they can put in the checks and balances, so they can weed that out, if you like. That's where it needs to be done by people who have done this before, that have the ability to actually put the proper instrument in place. I don't think I'm the person to do that and I don't know if the department has the internal capacity to do that sort of stuff, but the surveys exist; with some adaptation they are there.

MRS DUNNE: Say you were introducing over a period of time your program into a cluster of 20 schools or something like that. Is it necessary to do all of that sort of baseline testing for all of them or could you use a sample of those schools? What do you think?

Ms Blood: I guess you could do some sample work if it were a large enough sample, but at the same time it would almost be a bit of a shame not to capture that for every school, because each school is going to be different and progress at their own different rates and there will be different factors which contribute to it. Take Charnwood: Charnwood turned their school around within 12 months, yet they're about the only one in the ACT that have done it in that period of time, and that's because a whole number of other factors contributed to that—not only the leadership but the other programs they had in place. Just as with each and every school, they become very eclectic in what they do. So I think that would be the risk in a sample group.

MR GENTLEMAN: On your recommendation 4, you've talked about cross-funding; can you explain to us what you mean by cross-funding?

Ms Blood: I've had the opportunity of working with government and non-government schools in the ACT and we've started to see a few examples where some of those schools are crossing the department divide, if you like, and starting to work together to support each other in the implementation. But it's been quite piecemeal and I think it's a bit of a shame that at some level those resources aren't combined. So, rather than the Catholic system starting to set up something, replicating perhaps what the government department has here, and then the independent schools doing something, it would be great if somehow they started to be far more connected in sharing that expertise, sharing resources. That way, I think it makes a huge difference to the area.

I keep going back to Charnwood and how they started to connect in with the Catholic school that's behind them. A couple of schools are working with Radford College and starting to work that way. The Steiner school are starting to look at how they can connect into government schools. So that's what I mean by that: we actually start to share what's developing.

MRS DUNNE: So when you're talking about the 90-odd schools in Canberra that you've had some dealing with, that's across the sectors—government, non-government, systemic, non-systemic?

Ms Blood: I've dealt, at latest look, directly with 63 government schools. I don't know how many non-government independent schools that I've had access to, but I suppose we'd be looking at probably about 20—something like that.

THE CHAIR: I wanted to ask a question about the voluntary aspect of that. You said that, even though you could see that schools could benefit, it wouldn't be a good idea for us to arbitrarily require a school to all go off and do this training and solve all the problems of the world. What about schools that voluntarily come forward yet their leadership within the school is such that it really is going to be a big struggle in order to get it integrated and create that cultural change?

Ms Blood: Absolutely.

THE CHAIR: So what happens then? Are we throwing good money after bad?

Ms Blood: It's that thing of a few critical practitioners in a school who are making a difference, particularly to the high-needs kids and perhaps in one or two classrooms. It's kind of like: do we rule out having an impact on, say, 60 or 70 students versus having an impact across the whole school? I would say I don't think we can ever rule it out. I think within the ACT there are many practitioners within schools that are not supported by their leaders in the implementation, yet they're working away and they're doing a fantastic job at the level that they can. But you're right: when you don't have the leadership there, that affects the quality of the implementation, and ultimately that goes back to the department's systems and way of working.

I've talked down here probably for a couple of years of how we need to develop that capacity to start to gently challenge and support those leaders within schools who are not

doing the job, where bullying is a problem, where suspensions are a problem, and that, instead of just blaming them and dumping on them, which is quite a common practice—that such and such is a shocker; don't go near them—we start to put some accountability measures in place. That's where I would see that you would start to see restorative practices start to come together. When we look at the whole work the Regulatory Institutions Network has done at the ANU through restorative practices, we can actually bring about that accountability, that regulation of what's happening. That's the level I would like to see the department start to move towards.

MRS DUNNE: So restorative practices in the department for the recalcitrant teachers or the principals?

Ms Blood: Yes, and how they manage staff issues, how they manage complaints from the public. At this stage it's not handled that well all the time.

MRS DUNNE: It's actually handled very badly, complaints from staff on staff.

Ms Blood: Yes, and I think it needs to be extended. Terry was saying that this is not something teachers do but kids and parents need to be doing. I say the department needs to be working this way, and that is a whole level that has been completely unexplored at this stage.

THE CHAIR: I also had a question about universities. We did hear before from some academics about this and I was wondering about your take on introducing it into the actual training of teachers.

Ms Blood: I think it's quite critical. In fact, last week I was talking to the education faculty at Wollongong University about doing the same thing. Beginning teachers come out—and I've met many of them down here—and say, "Yes, we've touched on that, but we don't know what it is." So I think it's absolutely critical to start to bring it into teacher education, but also knowing that those beginning teachers, of course, are going to need support once they get into the classrooms. But it fits so well with what they're learning to achieve throughout their entire teacher education.

THE CHAIR: The barrier seems to be, going back to that evaluation, that the rigour is not there in the evaluation or in the study of it, and therefore the academics are saying, "Show us the evidence. When we have the evidence, we will introduce it into the curriculum"—but in a bigger way, in a larger way, in a more strenuous way. But at the moment they can only just get the examples of us saying it's working, that it does work et cetera, but they say that that's not good enough.

Ms Blood: Yes. I think you're right, and one of the aspects of the academic world is that they are looking for that rigour. I think the other part is perhaps finding practitioners that understand that perhaps it's not all about that as well. But that's an ongoing challenge.

THE CHAIR: Did you have any more questions?

MRS DUNNE: My mind is running with a few things. Much of what you're saying, Ms Blood, sort of bears out the experience, from a distance, that a lot of people have with the department. You touch on some very important issues that probably need some

exploration.

THE CHAIR: I'm just mulling over what may not be an appropriate question; I'm not quite sure. Two sessions ago someone gave an example about so-called victimless crime. The example that he particularly used was someone taking something off a shelf in Woolworths; that person wouldn't have any empathy for Woolworths because Woolworths is this ginormous thing and there wouldn't be anyone who could actually get the person to feel empathetic towards Woolworths: "They're wealthy, I'm poor," or whatever, or "I just wanted this thing." There's no relationship there. I was wondering whether you want to make a comment about this. We have the same situation in our Restorative Justice Unit, where young people are not given the opportunity if the victim says they don't want to participate.

Ms Blood: Yes. I am of the belief that there's very little in the way of victimless crime, firstly. I do understand the point about crime against large corporations; because it is so removed, it's impersonal. They're not likely to even want to send along a representative to worry about something that was taken off the shelf, which of course is the reality. However, we can start to personalise that crime. So it's perhaps the shop attendant that's had to deal with it at the time. It's perhaps the loved ones at home that have to deal with the aftermath of it. When we can bring them together, I think it can make a difference.

I go back to a young lass I spoke to years ago at the Royal Easter Show, whilst I was still in uniform, talking about my work. She'd had a long history of drugs, of having stolen, shoplifted—you name it. As we finished talking, she said, "I wish I had had exposure to these processes when I was in the midst of that, because what I've just understood is that it's not so much about the stranger that I've hurt; it's how I have affected my loved ones that makes the most difference."

To me, there is very little victimless crime. It's how we go about it, it's who we involve in those types of processes, that makes the difference. If we just rigidly look at it and think, well, it's just them against Woolworths corporation or whoever it might be, then no, they're not going to be effective. But, if we start to break it down and bring it back down to who really was involved, who really was affected, I think it will work.

THE CHAIR: And do you have a comment about whether or not some young people can be so switched off in their emotions that they can't actually reach that feeling of empathy towards those relationships?

Ms Blood: At some degree, yes, and of course we're working down here with special education, where of course that is a huge challenge of reaching empathy when they are perhaps not capable of that. However, I keep drawing insights from the educators down here working with special-needs kids. They say: "Well, we can educate them. We can start to build that capacity and we wouldn't not try it because we don't think they're capable. We can get in there." But you're right: some kids and young people are so shut off after years of ineffective interventions, of horrendous backgrounds—whatever it is—that it's going to take some time. Not everyone should be shoved into these processes. They may not be capable at that point in time, but I think it's worth while exploring.

THE CHAIR: But you do see it, as you said in the beginning, as one of the key ways of stopping the progression of our young people into the criminal justice system?

Ms Blood: Absolutely. That New South Wales study by the Bureau of Statistics was pre juvenile justice conferencing coming in. But even studies from around the world are still showing that we're getting re-offending rates after juvenile justice conferencing. It just holds them for a bit longer before they re-offend. There has been no evaluation to say what are they re-offending. My guess is there is a de-escalation in what they're doing, but it still says that once someone enters that formal justice system it's almost like they've got to work it out of their system.

I'd like to see more examples like the one at a high school (*At the direction of the committee, names were expunged from the Hansard record*), who was headed that way. Having been someone that was suspended every couple of weeks, he hasn't been suspended now for 12 months and is entering year 10. I don't think that he's going to be entering the juvenile justice system, whereas before I wouldn't have held out any hope that he wouldn't be the next client.

THE CHAIR: I don't know whether I heard this in a hearing or whether I've heard it somewhere else, but I remember being told about a young person who was very effectively assisted through restorative practices in a primary school, but unfortunately came to the end of year 6 and had to go to—or his parents chose to take him to—a school where there was no practice, and then afterwards the whole cycle began again of being excluded from the school. That was also a concern to me.

Ms Blood: Absolutely. One thing schools don't do well is manage the transitions. They will actually hand someone on to the next school without the full history going with them. There is very little case management around the special-needs kids, the high-needs kids. So it's almost like they are set up for failure the moment they walk into the new environment. That's one of the things we're working on with more and more clusters—getting those feeder primary schools to a high school and starting to look at how that is managed: what's your plan the moment that these kids come in through the door? What's your plan to actually start to support them for success?

THE CHAIR: Can we have the year of that ABS study? What year was that, do you know?

Ms Blood: That came out last year, so 2005. It was an eight-year longitudinal study, tracking juvenile justice offenders in New South Wales.

MRS DUNNE: Could you perhaps get us the name, the catalogue number or whatever?

Ms Blood: Yes, I should be able to get that.

MRS DUNNE: That would be great.

THE CHAIR: Thank you very much for that, for appearing before us today and for all of your submissions. Questions on notice will come to you early next week, and you have a fortnight to get back to us on those. The draft transcript will also come to you, so you can have a look at that. If you have any problems with it—sometimes Hansard doesn't pick up the words correctly—you can get those back to us as well.

MATTHEW WILLIAM CASEY was called

THE CHAIR: You should understand that these hearings are legal proceedings of the Legislative Assembly protected by parliamentary privilege. That gives you certain protections but also certain responsibilities. It means that you are protected from certain legal actions, such as being sued for defamation, for what you say at this public hearing. It also means that you have a responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter. Do you understand that?

Mr Casey: I do.

THE CHAIR: Thank you for coming today, giving us your time and the submissions et cetera. Would you please state your full name and position for Hansard, then I presume you'd like to make some introductory remarks.

Mr Casey: I would, yes. My name is Matthew William Casey. I'm a practising clinical counsellor and a consultant. I work with Real Justice but I'm also a member of the Australian Institute of Affective Practice, which is a recently formed organisation. Thank you for the opportunity to address you today. Any reader of the issues document, which was published, would come away with the view that restorative justice is about processes that occur in response to an offence, generally within the confines of the justice system or as part of a school disciplinary system.

Today I'll be suggesting that the opportunities for this practice are far beyond the initial applications; that the term "restorative" should not refer to a process but to a practice that has its principal foci around harm and relationships. In my submission you'll notice that at no stage did I refer to a conference. In fact, my colleagues and I rarely reach that stage. Although conferences do occur, they tend to be the exception rather than the norm.

So the question is: is what we're doing restorative and, more importantly, as it appears to be working, why is that happening? In the literature there's much discussion on whether RJ works, not so much on why it works, and herein lies one of the great flaws. Little consideration is given to who or what is likely to have the most significant impact on the offender. Some argue that the most significant factor is the realisation of the impact on the victim. Can I suggest that that's neither my experience nor that of my colleagues.

Let us consider the question posed by John Braithwaite: why do most people do the right thing most of the time, and who or what are the influences? The answers are always the same: family, religion, background, upbringing, conscience, values, you just wouldn't do it, it's easier. Sometimes punishment is not even mentioned. In fact, when asked for the most important reason why they do the right thing, most people acknowledge that it's because they wouldn't want those closest to them to know they've done the wrong thing, and the least important is punishment. That even holds good when we ask prisoners in a jail.

Consider for a minute your own case. In the unlikely event you did the wrong thing, who's the last person in the world you'd want to know about it? You know what the answer is. It's mum, dad, kids, family. Interestingly, our experience of the driving offender program in Goulburn, where we principally deal with young men, is that, after

mum, the person they most not want to find out about what they've done is nanna.

Consider, if you will, the central role then of shame in our lives. Some years ago I sat in a jail with nine members of a family, five of whom were currently in custody or on remand. I simply asked each one of them to describe the last time they got into trouble, what they were thinking about, what they have thought about since and who's been impacted. I then asked their mother to describe what it was like for her when her sons were arrested. She described how her heart broke each time, how much she loved them and how much she worried for their futures. One of the boys actually fell off a chair to stop everyone seeing the tears rolling down his face, but one of the other boys told me later on that until then he had no idea of how his behaviour had hurt his mother. Following this, interestingly enough, none of the boys got into any real trouble for 18 months, and three of the six boys have been in no real trouble since.

I was recently contacted by a school and asked to speak to a father whose child had just been suspended for the third time that year. I was told that the parent was difficult and aggressive and that these behaviours were mirrored by the boy. When I arrived at his home, he was certainly ready for me and regaled me with problems he had with the school. So when I had the chance I asked him, "What did you think when you realised your son had been suspended and I had been brought into this?" He was very angry and he explained it in great detail and at great length to me. When he finished, I said, "How has this impacted on you and the rest of the family?" Again, he went angrily into great detail about the impact on him, his wife, his children. Then I said, "What's been the hardest thing?" and at this stage he stopped, completely broke down and sobbed. He said, "He's turning out just like me and I didn't want that to happen."

Later this father told me that for the first time he felt somebody cared about what it was like for him. He acknowledged his behaviour towards the school was often inappropriate and he also shared his own negative school experience. It was very obvious that, just like the rest of us, he wanted the best for his son. He was just simply out of ideas on how that could happen. He was also very intimidated being around the school because of his own experiences. You'll also note that it wasn't a conference—just a simple affective conversation between the father, his son and me.

There are always going to be parents who struggle and are challenging for school authorities. Unfortunately for these parents, their children and the school, if there's no common understanding amongst the teachers on what's going to make a difference in how they improve that relationship, and to engage them, it's always going to be a lucky dip, their relationship with the school. We need to concentrate on those things that promote and maintain wholesome behaviour, and at the heart of that are strong and wholesome relationships. This is really important. Restorative processes are only important if they help us repair and strengthen relationships. While ever restorative is construed as an application to be used when something goes wrong, or classified and measured in its application in terms of whether some kind of victim-offender process is reached, regardless of the best intentions, it's always going to be an add-on.

For example, when I speak to some serving cops in the ACT and New South Wales they tell me that restorative justice is mired in bureaucratic minutiae, time-consuming, only available and useful for low-end juvenile cases, disconnected from reality and generally ineffective. They see it as a bit of a gabfest to be approached with much reluctance and

little confidence.

Take, for example, the outraged comments of Andrew Scipione, deputy commissioner in New South Wales, concerning a proposal that juvenile offenders involved in the Macquarie Fields riots be dealt with by way of a conference. In schools, some teachers who understand restorative justice as a process comment either that the problems with their school are not sufficient to warrant the time, or, even if they have big problems, their workload is such that again they haven't got the time, and some colleagues working in the social and family area struggle to see the relevance of it in across-the-board issues that families are suffering.

I think they all miss the point. As one of my clients answered me one time when I suggested we get together with her husband, "I wondered how you were going to get us back together if we weren't going to talk to him." Why is it that many people still view restorative as a group process for when something goes wrong? Can I suggest that the answer is that why it works has never been explained. The way we solve that, I suggest, is to make it explicit and share the practice as broadly as possible. It's not about a conference; it's about every human interaction inside and outside the agencies.

It's no good asking teachers to act restoratively with students if we're not going to treat them that way within the school and within the system generally. It's no good asking coppers to treat children restoratively if we're not going to treat them restoratively within the organisation. Tomkins theorised that we're wired to want to increase positive affect and decrease negative affect, both of which we do by talking and listening; we live best when we accomplish those goals; and anything that increases our power to do this favours life. A conference is simply an opportunity for a group of individuals impacted by something to share affect. It is through sharing affect that we establish, develop and maintain relationships with others. We don't necessarily need a conference to do this. Any interaction between two people provides that opportunity. And when we do that things can happen.

I was recently told of a mother who had had some trouble with her five-year-old and four-year-old children. She heard some noise but thought she would rest. Then, when she thought it was getting too big, she went in and found the seven-year-old with the question card, asking the other two the questions as a means of solving the problem. This was following her school having adopted restorative practices.

In October last year, with M4, a Goulburn-based training organisation, I conducted a VTAB accredited seminar incorporating affective restorative practice in a conflict management and animal control environment seminar. Since then, many of those who've attended have applied the practice in their work. One officer reported that simply by understanding the role of shame and using the conference script he was able to engage a previously hostile complainant and discover that her complaint about a neighbour's dog had very little to do with the dog and everything to do with her own tenuous work situation. He was able to quickly resolve the long-running problem, and at the same time suggest to her some avenues to seek some assistance for herself. One officer even ran a conference to resolve a long-running and previously intractable dispute around barking dogs. M4 use the affective restorative practice now for all the parking patrol officers and council rangers they teach right across the country.

Earlier I mentioned my experience engaging a parent around his son's suspension. Extrapolate this to a constable attending a burglary, who engages the victims in the same way. Given that in most instances the police are not going to apprehend the thieves, the constable's engagement with the victims is about as good as it's going to get for them, in terms of having to deal with their own shocking experience. Think of the possibilities if police were using that all the time. Imagine how a teacher who understood the compass of shame and was familiar with the script might handle a parent, outraged when contacted over the behaviour of their child, or imagine how this practice might assist workers with vulnerable families.

Also think of how, if youth workers, teachers and coppers knew and understood the social discipline window and the notion of pressure and support, this might change the conversations they had with young people. What about a new jail? We're going to have one of those. Think about how this might apply in the jail. We're at the edge of a really unique opportunity in the ACT to embrace this practice, I think—a move which I suggest could really enhance efforts at capacity building and create significant social capital.

MRS DUNNE: I have a question relating to the compass of shame and mainly the pointer that points to self-attack. I suppose there are gradations of self-attack. Here it is described in destructive terms, but self-knowledge is also very useful in terms of knowing your own limitations and being able to admit to wrongdoing. How do you extrapolate that and turn self-attack into authentic self-knowledge?

Mr Casey: Nathanson's argument around that is whenever shame occurs. He says shame occurs whenever anything interferes with our experience of the positive affects. So shame can occur when I'm on the golf course with no-one else around and the ball doesn't go where I want it to go. He says that affect is shame. He said when shame occurs we all respond by initially going into the compass. It's a measure of how well we're doing as a human being, whether we can move away from the compass into some solid reflection around what's happened and how we might make things better. For example, if I were to pick up a glass of water and spill it all over Ian or someone else, an appropriate response of shame would occur. An appropriate response is to say sorry.

MRS DUNNE: Some of us might applaud, though.

Mr Casey: An appropriate response is to say sorry, to try to make it right. When we don't respond appropriately is when we get into attacking self. For example, when something goes wrong for us, when we get it wrong, somebody says something to us that's awful or meant to hurt us, or just some feeling, and we start beating ourselves up, we go: "Gosh, everyone thinks that. I've come all the way down here and made a fool of myself. Everyone will know I'm an idiot." You know, we start beating ourselves up. But we can say; "Look, hang on, I'm not really very good at fixing things." I've just had a handyman in my house doing stuff that most other blokes can do and he was a bit amazed that I got him in to do it. I said; "Mate, I help fix relationships; I don't fix doors because I'm not good at it." So, yes, I've got that self-knowledge. But when I'm doing that I'm not attacking myself; I'm recognising something that's wrong. Shame actually shines a light into our lives on something that we might not want to look at. If we're looking at it in an appropriate way and saying, "Well how can I make this right? How can I move on from this?" we're not in the compass. When we're in the compass, we're invariably making it worse.

MRS DUNNE: Yes, I see the point.

THE CHAIR: The introduction of this sort of thing in various settings may cause some people, inevitably, to get into the compass because they will suddenly go, “Oh, my goodness, I’ve been doing all of this for so many years and now I’m here.” How do we get them from the compass to be able to then make some appropriate responses to be able to move on?

Mr Casey: Very simply by allowing people the opportunity to reflect on what’s gone on and to understand that whenever something goes wrong, whenever we do the wrong thing, it’s important to separate the act from the actor. So, if somebody behaves inappropriately—like, say, I’m dealing with a client who’s got a history of abuse around his family—I value him as an individual whilst at the same time deploring the behaviour.

The principal at Yass primary school, John Ford, said to me, “I’ve been doing things for years and thinking I was right; now I recognise that I was getting it wrong.” John is not down on himself; he’s simply recognising that there is some other way it could have been done more appropriately. So, yes, people do often go into the compass, but if we’re supporting them or helping them understand that it’s about behaviour, not about themselves, then they can move on. Whenever we’re in the compass, we’re thinking it’s about us. We can move on if we start thinking it’s about behaviour.

MR GENTLEMAN: Yes. You touched on ACT coppers earlier and some of their responses to restorative practice. Do you think that they have that sort of feeling because they work in a punitive system themselves? The system of policing has punitive results if you do the wrong thing—there are charges and internal investigations.

Mr Casey: Part of that is because they live in an environment that’s all about blame. It’s all about what happened and who’s to blame, and they think about a sanction, a punishment. The other thing is that we tend to reduce policing to law enforcement, which takes it to a very small amount. Less than 20 per cent of what policing is about is law enforcement. Most of it is about problem solving, but we devalue that part.

The other thing is that we completely separate what the cops do when they deal with people. They can deal with people any way they want: “You’re locked up. We’re doing this to you.” We’ve actually removed the process from the average cop. We’ve got some specialist dealing with it and they’re looking at this and saying, “What’s this about?” We haven’t explained to them what it’s about, explained to them how they can use it in their everyday practice and had the organisation look at how they can incorporate the practice into the way they run the organisation. It’s always going to be a difficulty if there’s a cognitive dissonance between the way we want them to treat people and the way they are treated themselves. Why would the cops respond any other way? I’ve had some conversations with people I really value. They are wonderful people, but they struggle to see its relevance until you actually start to explain it.

THE CHAIR: I have this vision of the hardworking cop on the beat, responding to break-ins, responding to behaviour of young people with fast cars and all these kinds of things—drunken behaviour, perhaps domestic violence and whatever else—hardworking, tired et cetera. We’re going to send people to jail and use restorative

practices in the jail. They're going to say: "Hang on a minute; that doesn't sound like a punishing place to me. I spend all my day out there on the beat, you know, rounding up these people, doing these things. I have so much paperwork, so much stress and I could do without all this. Then the end result is that you send them to what is being reported in the paper as this holiday farm where they don't get punished; they just get restored to society." Everyone's saying, "What is the use of that? Shouldn't these people be punished? Why are we giving them this opportunity to have a little break away from the community in what is almost like a motel?" We know that papers can play it up; you know what the media can do. I'm just wondering how we, as a government, or we as a committee, can manage that dynamic. We don't think about these processes in a way that's constructive at the moment. We're being caught up in this quite heated debate about punishment.

Mr Casey: I agree with you absolutely. Can I suggest that we punish people by sending them to jail. We don't send them to jail so they can be punished. And what are we sending them to jail for? Well, one, we want to take them off the streets, but, two, we want to rehabilitate them. If we focus on the outcome we've got, in New South Wales some research has been produced which says that 60 per cent of the offenders who get out are going to re-offend within a very short period of time. It would indicate that very little is being done in there to enable them to move beyond the behaviour.

The other thing is that we tend to get into this programmatic perspective where we've got to put them into some eight-week or 27-week program or something like that. Our experience is to talk to people about the compass of shame, such as we do with the driving offender program. Last week we sat down with 30-odd people and simply got them to start explaining what happened: "What were you thinking about? What have you thought about since? Who's been affected?"

Interestingly enough, as you go through it and we get to who has been affected, they'll say, "No-one." You move on and then at the appropriate minute you say, "What did mum say when you got home?" "She freaked out." So you say: "Goodness me! Why do mums freak out? What's that about?" Finally, one bloke said, "It's because they're worried, stupid." And suddenly the group started to think about it. Every time we do this, we get the same results; but, more importantly, people start talking about loss of trust, about having to rebuild trust when you get out. They start acknowledging that they need to go and apologise to the people, their loved ones.

I've seen clients who can't really read a newspaper but can talk to you about the compass of shame. I know clients that my colleagues have worked with who have got the compass of shame stuck on the fridge and every time they start getting into an argument they go out and look at it and try to work out where they are. So we need to start giving people the tools to be able to change their lives. The tools of life that are provided by the family support service are marvellous in terms of enabling people to do that. People will actually ring you and say, "Mate, you won't believe it. I got into the compass last night, and I know I shouldn't have been there." They know where they're going; they can see it and they can start changing it. We start teaching them about affects, giving them the questions so they can use the questions to talk to themselves and to others. If we give them this information, all our evidence is that they start being able to move forward.

THE CHAIR: A couple of people have said that maybe there are some people who

haven't got any skills in empathy, cannot reach into themselves and find empathy, and therefore this may not work with those people. They also said that particularly young men or boys may not be able to express themselves verbally very effectively and therefore again this may not be effective with them. Have you any comments about those kinds of young people or groups of people?

Mr Casey: One of the skills I work in is a behaviour skill. They have a high percentage of children with Asperger's syndrome. Asperger's is along that autism spectrum. A little while ago, one of the teachers ran a circle when there was some behaviour in the class that caused disruption. He knew he was going to get nowhere in terms of connecting emotionally. But one girl, at the top of her voice and with lots of adjectives, told the boy, "When you do that, I can't learn." He just took it all in, the circle finished and the teacher thought, "Well, that was pretty good." He had got all the kids involved; they had all said something at least. Ten minutes later, this kid who'd been causing the problem jumped up and said, "Stop." He turned around and looked right at her and said, "I didn't know when I did that that you couldn't learn—and I'm sorry." What had got to him were the facts.

I was approached by a parent a while ago about a child; it is in one of the case studies I've given you. I was told by the school that this kid had no shame, he didn't connect with people emotionally and that this was one of the problems. When I started to talk to him, I couldn't connect, because he didn't have the language. So I got the bear cards out and asked him: "What was a good day? When were you happy?" He pulled out the cards that showed me when he was happy—happy, funny. Then I said, "What about the other day before you started pegging rocks at Nathan?" He pulled the card out—I haven't got them all here, and not in this order—and it was "mad". I asked him to take others and he pulled out "sad." This one here's a bear, going like that. I said; "What's that one?" He said, "I don't know but I felt like that." Another one is of a bear walking away from us, shoulders slumped. I said, "What's that one?" He said, "I felt like that, too."

The next time we tried it, we asked another child, "Just before you felt all that, what's this?" Three weeks ago when I did this with another kid, he said: "Yes, it's this one here. It's the crumpled one." It's the shame bear. We have replicated this nine times so far with children. People say they can't get at people when they're at that withdrawal end of the spectrum. Some of my clients are very angry men and when they're at their withdrawal end of the spectrum what they're doing is putting up a wall so that no-one can get near them. What we found is that, when we go through affects and we let them construct the compass of shame, we can get through, because we start to give them a language where they can do it and an understanding of what's going on for them, so they can actually pick their angry face and the way they treat people as a means of withdrawing, keeping people away from them.

So my thought is that, yes, there are going to be some psychopaths and some people at that Asperger's/autism end of the spectrum that we're not going to get to; but, if we take the time to sit with people one on one or in a group, we can actually start to get through to them. When they feel safe enough, they'll get there. The minute we can start them to get there, do they want to be angry men? A while ago I had one little boy who was about 16. I was with his parents and he stood up and screamed: "I don't want to be this angry guy." With what we'd done, he was able to move on, because he didn't like being the angry guy. The minute we gave him a way out of it, he took it. It's a horrible world to

live in. So it's not something I'd actually agree with.

THE CHAIR: Thank you. Well, we are out of time.

Mr Casey: I appreciate that. I'm sorry to be longwinded.

THE CHAIR: No. Thank you very much for your time and your submissions. If we have some questions on notice, we'll get them to you early next week, probably at the latest Wednesday, and you'll have two weeks to get back to us. You'll also get sent a draft transcript, so you can have a look at it and make corrections where Hansard might not have picked up a word or so correctly. If you can get that back to us after you get it, that would be appreciated.

The committee adjourned at 1.33 pm.