

Grossly Negligent Operation with Death Resulting- A Conferencing Case Study

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The Incident

At approximately 7:00 a.m. on January 24, 2000, Jane Jones attempted to pass a northbound vehicle on a State highway in rural Vermont. In attempting to overtake the pickup truck operated by Bob Daily, Ms. Jones crossed double yellow painted lines and entered the southbound lane of travel at a point where a crest in the highway obstructed her view. This location is clearly posted with warning signs indicating the location is unsafe to pass. Although she did not overtake the pickup truck, Ms. Jones remained in the southbound lane of travel to the hillcrest at which time she collided with the vehicle of Mary Johnson, resulting in a severe collision. Apparently, there was no time for braking by either operator.

Immediately following the crash, Bob Daily braked, stopped and backed up, placing his pickup truck across the roadway on the north side of the vehicles that had collided. After exiting his vehicle, he walked up to Jane Jones' van and observed her sitting in the driver's seat. The airbag had deployed. He moved Ms. Jones' head back slightly, out of the air bag. Her mouth and face were bleeding and she was in and out of consciousness. She was, however, managing to breathe on her own. He then proceeded to the car driven by Mary Johnson. She appeared deceased and when Mr. Daily checked for a pulse at her neck, he found none. Mary Johnson, age 38, was pronounced dead at the scene. Jane Jones, who was six months pregnant at the time of the crash, was severely injured, as was her unborn child.

The Pre-sentence Court Process

The information and affidavit in this case were filed in Rutland District Court on May 1, 2000. Jane Jones was charged with one count of Grossly Negligent Operation with Death Resulting, a felony that could result in imprisonment for up to 15 years and a fine of up to \$15,000.00. At the initial arraignment on May 15, she pled not guilty on the advice of her counsel. Also on the advice of counsel, she had not contacted the family of the deceased victim, in spite of the fact that she had strongly desired to do so. A total of four status conferences were held prior to a status conference held on October 2, at which point it became clear that the State and the Defense were nowhere near reaching a plea agreement. The parties agreed to and Judge Theresa DiMauro ordered a pre-plea investigation to be completed by the Department of Corrections by November 11. Corrections Services Specialist John Alexander was assigned to the case.

A final status conference was held on January 8, 2001, at which a plea agreement was arrived. It was also determined that final sentencing would be held on February 22. While Jane Jones agreed to plead "no contest" to the original charge, there was no agreement as to sentence. The State would recommend a split sentence: 4 – 12 years with all but one year suspended, balance on probation. In other words, the State was recommending one year in jail with an additional

3 – 11 years on probation. The State would also recommend special conditions of probation that would include participation at a victim impact panel, loss of license for at least one year and attendance at a safe driving re-education course. Jane Jones was free to argue for whatever sentence she believed appropriate. A pre-sentence investigation was ordered by the Court (to augment the pre-plea investigation that was already submitted) to be completed prior to the sentencing date.

I became personally involved in this case one week prior to the February 22 sentencing date. Mike O'Malley, Superintendent of the Rutland Community Corrections Services Center (Probation and Parole), knew of my interest and experience in group conferencing and passed a draft of the pre-sentence investigation by me. One condition that the Department of Corrections was considering recommending to the Court was that Jane Jones participate in a group conference if the family of the deceased victim wanted to do this. While I thought it was great that this was being considered at all, I recommended to Mike that holding a conferencing prior to sentencing would be even more compelling. Doing so would potentially give the surviving victims a substantial role in impacting on the sentence, while simultaneously serving both the interests of the State and the defense. It also did not seem appropriate that the defendant be "sentenced" to do a conference, as participation in any conferencing process should ideally be voluntary.

On February 15, Mike sent the following e-mail to Rutland County State's Attorney Jim Mongeon, the defense attorney and staff of the Department of Corrections associated with the case:

"After reviewing and staffing a recent PSI on a Jane Jones, it became quite apparent that the adversarial nature of the court system was not in the best interest of justice in this case. The victims are looking for closure for this tragedy. They appear reasonable and rational in their requests for closure and reparation from the offender, given the situation. The offender has taken responsibility for her action, would have probably already expressed her remorse for her poor judgement, agreed to victim's wishes for reparation, and the social/psychological healing would have already begun, had she not followed sound legal advice from her legal counsel, which does not always tack and tie with good social/psychological advice. I would like to suggest the following - the use of Group Conferencing as a pre-sentence option.

"As part of our recommendation to the Court on this PSI, we have encouraged the Court to consider employing the group conferencing process as a pre-sentencing tool. This is indeed a compelling option in this case, as it appears likely that the defendant and the family of the deceased, along with other appropriate parties, would voluntarily agree to engage in this facilitated process. The goal would be to arrive at an agreement of reparation, which would be signed by all participants, that would address what needs to happen now as a result of the harm done. The final sentencing decision of the Court would not in any way be obligated by this agreement, but would certainly be, we would hope, informed and influenced by it. If all parties are agreed, the Department of Corrections could organize and hold such a conference in as little as two to three weeks time.

“There is no guarantee that a final agreement will be accomplished. However, there are very strong indicators that both parties in this case are excellent candidates to successfully complete this healing process for themselves as well as their community support systems. The ball is now in the hands of the attorneys in this case.”

As a result of this e-mail, the defense attorney submitted a request to the Court to extend sentencing in order to accommodate a group conference. State’s Attorney Jim Mongeon was willing to agree to this request so long as Dick Johnson, the deceased victim’s father, agreed. Kim Ezzo, Victims’ Advocate in the State’s Attorney’s Office, contacted Mr. Johnson. Kim then called me and suggested I speak to Dick in order that he might make an informed decision. I spent over an hour on the phone with Mr. Johnson during the late afternoon of February 19 explaining the process to him. He was very open to the possibility but wanted to discuss it with his wife that night. At 9:00 a.m. the next morning, he called Kim Ezzo and informed her that he and his family wished to participate in the group conference prior to sentencing. With the assent of the State’s Attorney and the defense attorney, Judge Theresa DiMauro agreed to extend sentencing until April 5.

The Conference

It was agreed that the conference would be held on Saturday, March 17, at 1:30 p.m. This would allow for everyone to be able to attend and would leave the length of time necessary to complete the conference open. A local inn in the victim’s town graciously allowed us to use a pleasant space for no charge. The 12 participants at the conference included: Jane Jones (defendant), Frank Jones (her husband), Harriet Franklin (her pastor), Kim Ezzo (Victim’s Advocate), Bob Daily (the driver of the pick-up), Thelma Daily (his wife), Dick Johnson (deceased victim’s father), Lynne Johnson (Dick’s wife), Diane Baker (deceased victim’s aunt), Robin Phelps (also an aunt), Ann Hall (cousin) and Jeanne Perry (stepsister). I facilitated the conference and Dyanne Lertola, a Corrections Services Specialist also trained in the process, co-facilitated. Dyanne’s role was to help take notes during the agreement phase and to remain in the room when I left to type up the agreement for signatures.

I did all the pre-conference logistics and participant preparation, which amounted to about 12 hours of work. I personally met with the defendant and her husband, the pick up truck driver and his wife, and the father of the deceased victim and his wife. I spoke with all other participants over the telephone. The only pre-conference snag worth noting was that Bob and Thelma Daily, the pick-up truck driver and his wife, were 30 minutes late. I had asked the victim contingent to arrive a few minutes early and the defendant contingent to arrive at precisely 1:30 p.m. The victims were shown to the room where the conference was to be held, and the defendant and her two supporters were waiting in the lobby. This half-hour wait seemed interminably long, but at least the two contingents were comfortable and separate from each other.

The conferencing script promoted by the Real Justice organization out of Bethlehem, Pennsylvania (www.realjustice.org), was used almost word-for-word. Slight variations were made to accommodate the situation. For instance, the defendant had no memory of the crash so asking, “What happened?” was replaced by the question, “From what you have been told, what

happened?” I also added the following three sentences to the preamble to make certain everyone understood the process: “We will begin by giving everyone the opportunity to speak. Later on in the conference, there will be ample time for discussion and questions as we seek to develop an agreement or understanding about what needs to happen now. During this first part of the conference, however, I would ask that everyone simply listen to whomever is speaking.” Since this case involved a fatality, I chose to use the phrase “address the harm” as opposed to the phrase “repair the harm.”

The conference itself lasted about 3 hours, with about 45 minutes spent “breaking bread” after the formal conference. As one might imagine, it was highly emotional, with many tears and a good deal of anger. All participants remained civil throughout. Toward the end of the conference, Dick shared pictures of Mary and there was quite a bit of discussion about what she would have wanted to happen in this situation. I believe that what was said in the conference and by whom should remain private. The agreement, however, is part of the official court record and reads as follows:

“We, the undersigned, agree and recommend to the Court that Jane Jones not receive a period of incarceration as a part of her sentence. We do believe that she should not drive for a total period of two years after sentencing. We also believe that the Court should establish a community service component at sentencing to possibly include public speaking, public service announcements, organizing public support to make improvements to (the State highway) or other appropriate efforts to positively impact the community.”

Sentencing

Sentencing was scheduled for 9:00 a.m. on Thursday, April 5. The actual hearing was delayed a bit, as the parties were busy developing and agreeing to a “Stipulation to Amend Plea Agreement.” At 9:30 a.m., Judge Theresa DiMauro opened the hearing. State’s Attorney Jim Mongeon opened with initial remarks and presentation of evidence. He almost immediately referred to the group conference and noted that, to his knowledge, this is the first time such a process has been employed in Rutland County in this type of situation. After presenting some photographs from the crash and other information to the Court, Mr. Mongeon introduced Dick Johnson, the father of the deceased victim, who wished to make a statement. Mr. Johnson’s unabridged statement follows:

“My name is Dick Johnson. I don’t have a lot to say because originally the State was asking for a jail term for Jane Jones and, due to the efforts of John Alexander and Chris Dinnan, they arranged this meeting between Ms. Jones and her family and members of my family. We agreed that Jane going to jail would serve no purpose. It gave us an opportunity to actually meet the Jones and tell them how we feel and why we felt the way we did and just generally discuss the situation, and we all agreed on what the penalty should be for that.

“The reason that we didn’t think that she should be incarcerated is, first of all, Mary loved children, and I don’t believe that she would want the mother taken away from her

children. Another reason is that four years prior to that, my niece made the same mistake that Jane Jones made and passed a vehicle there, and the result was that she lost her life in the same spot. Had the situation been different, I don't believe that we would have wanted her to go to jail for it. So we can relate to it from that angle. The third reason is that I think that the State shares in the responsibility for Mary's death. (This specific State highway) is a disaster and that particular spot is a death trap. The State Department of Transportation is aware of that. They can put up signs and they can paint lines and there's something about that that lures you into believing that you can see all the way up to the intersection, and you can't. A car disappears in that gully for four or five seconds and you come around that corner and it never occurs to you that there could be a car down there. The State needs to do something about that. They prefer to make a giant project out of it, talking about widening the right-of-way and moving poles and moving cables and doing all sorts of things and making it into a great project and then saying they don't have the money to do it. I believe that a simple fix can save a life. I believe that if they don't do something that someone else is going to die there and another family is going to go through what we went through.

"I don't have much more to say other than that I would like to thank John Alexander and Chris Dinnan for their efforts on our behalf and for bringing us together. I think that this is a good program that should be expanded and used wherever possible because it can work. It worked for us."

Following Mr. Johnson's statement, State's Attorney Mongeon asked Mr. Johnson if he supported the plea agreement with the stipulations that had been developed between the State and the defendant. Mr. Johnson indicated that he did. The State's Attorney noted to the Court that he would not have agreed to the stipulated plea agreement without Mr. Johnson's explicit support. Mr. Mongeon thus concluded his opening remarks, and Judge DiMauro gave the floor to the defense counsel.

While the defense knew that they had an agreement with the State's Attorney, there was no guarantee that the Judge would accept the agreement. Thus, over an hour of testimony was presented by the defense to illustrate Jane Jones' remorse and state of mind since the crash and to document the effect of the crash on the entire Jones family, particularly on their son, Steven. Jane's husband, Frank, was called to the stand first. His testimony was followed by a taped deposition from the family's pediatrician, who documented the extent of the injuries to Steven. Steven has severe developmental and neurological problems directly linked to the crash that will most likely lead to the need for extensive lifelong care and assistance. Finally, Jane Jones took the stand. As in the conference, she fully accepted responsibility and apologized for her action.

Following the defense's presentation of this testimony, State's Attorney Jim Mongeon made his closing remarks, followed by the defense attorney's closing remarks. Both recommended that the Court accept the sentencing terms of the stipulated plea agreement. Below are excerpts from Judge Theresa DiMauro's final remarks before sentencing:

"Probably one of the most difficult tasks for judges is sentencing. Some cases are much more clear-cut than others are and it is much easier to accomplish the goals of sentencing,

which are punishment, rehabilitation and deterrence of the defendant before the Court and of others who may be before the Court. This is, clearly, not one of those cases.

“I... have wrestled with what to do this day, having read not only about what happened to Mary Johnson, but what has happened to the Jones family as well. Clearly, we have to start at the point that we have lost Mary Johnson, that her family has lost her... They have had to deal with the suddenness of that loss, with this Court process, which doesn’t resolve everything for anyone. Its limitations are apparent and the benefits of the group conferencing are apparent as well.

“No one should have to live with the pain the Johnsons have had to live with and no one should have to live with the pain Ms. Jones has to live with.

“The comments of Mr. Johnson were very moving and the position that Ms. Jones should not receive any incarceration is a true tribute to the character and strength of the Johnson family. The statement regarding what Mary would want, that she would not want Ms. Jones to go to jail, is a tribute to the kind of person she was.

“The benefits, I think, of the group conferencing are apparent in this case and the Court was, when it was proposed, more than willing to try it. The Court has had the experience prior to coming to this Court of attempting and trying alternatives in juvenile cases. It was a similar process where the parties came together to discuss the issues, the case, the child, the needs of the family and what needs to be done to keep the child safe. It was a very, in my mind, successful process. I was very willing to try this and hoped that even if it didn’t result in some agreement than at least it would provide an opportunity for the Johnson family to receive some closure here and to meet with Ms. Jones and share their feelings and her to share hers with them in the hopes that it would be of some benefit to the family.

“The Court will accept the agreement.”

The complete text of the “Stipulation to Amend Plea Agreement” follows:

“NOW COMES the State of Vermont, by and through Rutland County State’s Attorney James P. Mongeon, and defendant personally through counsel, Attorney Richard Coleman and hereby notify the Court of the following amendment to the written plea agreement dated January 8, 2001.

1. As the direct result of a Conferencing in this matter held by the Vermont Department of Corrections on March 17, 2001 where the victims and the defendant met to review the events and effects of the collision of January 24, 2000 and arrived at an agreement which is attached hereto, the parties hereby enter this amended plea agreement.

2. The State and Defendant jointly recommend to the Court a sentence of 4 years to 12 years all suspended with probation including all special conditions of probation as attached to the original plea agreement except as struck, amended or added herein;

- a. Restitution: Struck since all decedent expenses were paid by insurance to the satisfaction of the decedent's family;
- b. You shall not operate a motor vehicle for at least TWO (2) years from the date of sentencing and not until reinstated by the Vermont DMV;
- c. You shall make arrangements to produce at your own expense and be the announcer on three separate public service announcements for radio broadcast on radio stations throughout Vermont on driver safety, specifically identifying that you were the driver of a car which collided with another, killing that driver, and that speeding and improper passing can kill others, the text and final product subject to the approval of your probation officer in consultation with the Rutland County State's Attorney and the Governor's Commission on Highway Safety;
- d. You shall make a presentation for driver education safety to Vermont high schools within a 25 mile radius of your residence based upon these events and effects on the decedent's family, your family and your life, such presentations being made to four (4) high schools each academic year for three (3) years for a total of 12 presentations beginning with the academic year 2001 – 2002, such presentations being to classes, assemblies or such gatherings as the school administration requests. At least one such presentation will be at (the high school in the town) where the decedent Mary Johnson lived. Such presentation shall be to the satisfaction of your probation officer."

Feedback from participants

Within a few days of the conference, as there had been no copier available at the inn where the conference was held, I sent a copy of the signed agreement to all 12 participants. I also enclosed a feedback form and self-addressed stamped envelope. Five participants chose to send the completed feedback form back to me, certainly a reasonable response (42%). The responses are collated below:

Scale: 1 = Lowest Score, 10 = Highest Score

Please rate your overall satisfaction with the conference:

1 2 3 4 5 6 7 8 9 10

Responses 2 - 8's, 1 - 9, 2 - 10's

Please rate the process as to how fairly participants were treated during the conference:

1 2 3 4 5 6 7 8 9 10

Responses 1 - 9, 4 - 10's

Please rate your level of satisfaction with pre-conference preparation efforts:

1 2 3 4 5 6 7 8 9 10

Responses 1 - 8, 2 - 9's, 2 - 10's

- Do you feel the conference properly addressed the offense? YES NO

Responses 5 - YES

- Did you personally experience any benefits from participating? YES NO

Responses 5 - YES

Explain:

- "I was impressed with the process and how it was conducted."
 - "I had heard rumors that Jane Jones felt no remorse and it was important that I hear, from her, how she has been affected by this. I don't think I could have agreed to the 'no jail time' part if that had been the truth."
 - "Just being present for an event like this is beneficial - to witness the opportunity for the truth to be told where people feel safe creates the opportunity for healing. Listening restores wholeness."
 - "It gave me an opportunity to express my feelings about my personal loss and also to express my opinion about what the defendant's sentence should be. Strangely, I also found forgiveness in my heart that I didn't know was there."
 - "It gave me the opportunity to put 'faces with names' and to express my feelings as to how this tragedy has affected so many people."
- Were you given ample opportunity to have input? YES NO

Responses 5 - YES

- Did the facilitators do a proper job in leading the conference? YES NO

Responses 5 - YES

- Would you like to see conferencing used more frequently in the future? YES NO

Responses 5 - YES

Please explain, including any ideas as to how and in what situations this might be done:

- "I think the offense needs to be taken into account along with the players. I'm not sure this would work well unless all parties are in agreement as to process/rules."

- “I think this avenue should be explored in any situation EXCEPT; 1. Intentional, pre-meditated, violent crime, 2. Crimes against large numbers of people, 3. Crimes where the defendant might be considered insane or mentally unfit to participate.”
- “Certainly, restorative justice conferences are beneficial in situations where the ‘victim’ and the ‘offender’ are unknown to each other. I also think they could be beneficial when they do know each other, such as instances of family violence or substance related crimes or sexual abuse, including molestation and rape. Too much television and movie violence leaves out the personal impact and desensitizes us to real pain.”
- “I would leave that to others to decide what situations this would work in. I think someone involved in each case should make that determination. It wouldn’t work for everyone.”
- “I think that any time people need to express feelings in a monitored, informal setting and if the chance to reach an agreement of sorts would help the parties involved to feel more a part of the process.”
- Please take some time to reflect on the experience of being a participant and share your thoughts with us in writing, including what you think was the worst/best thing about this specific conference and how we might improve the process for future applications.
- “I think the fact that it was structured yet the time unlimited were very important factors. It wasn’t a free-for-all yet we could take all the time we needed to come to an agreement. I like that everyone had a chance to speak because at sentencing only Jane and Dick would have had the opportunity. I wanted her to know that I (we) didn’t hate her and that her children were not the only ones affected by this tragedy. I think a lot of healing happened that day. I also wanted her to know about Mary and was worried that Jane would be too nervous on the day of sentencing to really absorb what was being said. I am now less nervous about the sentencing because no matter what the judge’s final decision is – Jane knows how we feel about it. She won’t have to walk in there thinking that we are out for revenge. I know that some people were quite angry going in to the conference and I think it was very beneficial to them to see her as a real person who made a horrible mistake.”
- “Even though the Johnson family thought that Jane should have contacted them herself, I think this process, because it was guided, was probably more beneficial for everyone concerned. I also think that the amount of time that has elapsed has given everyone a chance to live with their grief so that it is not raw. I don’t know how much time usually elapses before these conferences are held. As Robin described the hospital encounter and Dick described Christmas, had this been scheduled in the fall, I’m not sure that it would have resulted in the same outcome. Perhaps it would have called for more pre-conference preparation. There was still plenty of anger beneath the sadness. I was concerned with the certainty of Bob’s memory in regard to Jane’s driving habits and where we would go with that. Chris handled that well – because we could have bogged

down there. I did feel that a consensus had been reached and Chris could have stepped out a little sooner than he did to write the report. But that was minor. I didn't know whether Kim (the Victims Advocate with the State's Attorney's Office) was there because the Johnsons asked her to be or if she would normally be there. I was slightly uncomfortable that anyone from the State's Attorney's Office was present. No one was there from Jane's lawyer's office. I hope she maintains strict confidentiality."

- "I went to this conference questioning whether or not I was doing the right thing. I came out of it reasonably certain that it was the right thing to do and that we had accomplished something positive. I guess the best thing about it was the opportunity for my family to meet face-to-face with the defendant and express their anger and sadness and to receive an apology."
- "In our circumstances, I believe that this was very beneficial. Both parties had a lot of feelings that needed to be expressed, and I think that we were all given the opportunity to do so. I don't know if there were any negative aspects to it - at least not where I was concerned."

On Confidentiality

In the majority of conferences I have been involved with as a facilitator, the issue of confidentiality has come up in pre-conference preparation. Can what is said in a conference be used against the "offender" in further criminal prosecution or civil litigation? What if someone other than the offender, including a victim, reveals involvement in criminal activity? Can participants be subpoenaed and then questioned about what was said and by whom? Is there an obligation on the part of facilitators or others (like officers of the Court or social services providers) to report certain information revealed in a conference? In this particular conference, for instance, after all arrangements had been made, I received the following e-mail from the defense counsel:

"Chris: I have a few minor concerns about the "agreement" that Jane will be asked to sign. Does this purport to be a legally binding contract that would involve such things as restitution or other indicators of civil liability? I understand that nothing said in the group conference can be utilized later in a different setting. Is my understanding correct? Please advise."

I made the following reply:

"Especially in a case like this, where the conference is occurring pre-sentence, the 'agreement' is really more of an mutual understanding between all 12 participants. Nothing is really binding until the Court determines that it is binding. I have made this clear to all participants and will reiterate this point at the conference.

"You bring up the question of restitution. I assume that this will be dealt with in detail during the conference and that part of the agreement will therefore deal very specifically with restitution. I do not suspect that other issues of civil liability will come up. Again,

any specifics will ultimately need to either be accepted, modified or rejected by the Court at sentencing.

“As to the question of whether or not anything said in the conference could be used in a different setting at a later date, technically it could be. There is no "grant of use" immunity in place here and thus no guarantee that information revealed at the conference cannot be used later. The chances of this happening in this case, however, seem slim at best. As difficult as this situation is, all parties seem intent on having this meeting. The victims do not appear to be litigious or vindictive in their purpose. I think a face-to-face apology may go a long way to satisfying the needs of the victims in this case.

“I appreciate your position as Jane's lawyer. In her state of mind, feeling as guilty as she does, she might be willing to agree to just about anything. While I do not suspect that whatever agreement comes out of this conference will be particularly heavy-handed, you will certainly have the opportunity at sentencing to challenge any aspect of the non-binding agreement.”

This issue of confidentiality/immunity apparently varies dramatically between jurisdictions. It also varies depending on whether the offender is a juvenile or an adult, whether the action is criminal or civil, and at what stage in the justice process the conference occurs. In New Zealand, for instance, conferences convened in juvenile cases are strictly confidential while in adult cases, confidentiality is not protected by statute. In Colorado, the generally accepted view is that what is said at a restorative justice conference is not admissible in court because the conferences are viewed as a procedure to settle the case, similar to negotiations in a civil action. Apparently, there are also such protections afforded in Pennsylvania.

In Vermont, it is not clear to me as a practitioner whether protections exist or not or, if they do, to what extent. While there is a great deal of legislation related to confidentiality/rules of evidence, it is a complicated legal issue. Thus, I am inclined to advise participants in any conference that, yes, what is said may be used against them. I go on to say that it most likely will not be, which is easy enough for me to say. Only if a State's Attorney, who has county-wide jurisdiction, were willing to grant "limited use immunity," could any guarantee be offered to participants in a specific conference. This is unfortunate as absolute honesty and candor is so desirable. Assistant Vermont Attorney General Marie Salem is currently in the process of researching this issue for the Department of Corrections in order to give practitioners a clearer idea of how to proceed and how to best advise participants concerning this issue.

Final Reflections

While we seek to make restorative justice processes less offender-focussed than past practices, the offender(s) obviously still play(s) a vital role. In this case, when Jane learned on her hospital bed that she had passed a vehicle in a no-passing zone and killed a woman, her immediate instinct was to contact the family of the deceased victim. That instinct was quickly thwarted by advice against making such contact. When she finally was provided with the opportunity to meet with the Johnson family, she was able to understand the impact of her actions in an entirely different way than by simply being aware that she had done what she did. The human

connection had finally been made. Mary Johnson had a face now and a personality and a family. Jane's genuine remorse and acceptance of responsibility led to embraces, initiated by some of the victims, after the formal conference. She had longed for something positive to come out of this tragedy and, as difficult as it was, this conference was definitely "something positive."

Given that a central goal of restorative justice processes is to empower victims, this conference was undoubtedly a success. Dick Johnson was days away from making a statement to the Court at sentencing, when he was presented with this entirely different option. He was essentially given the choice as to whether he would prefer to proceed with sentencing as scheduled or delay sentencing and participate in the conference. As a result of deciding to proceed with the conference, he was afforded the opportunity to be involved in the sentencing process in a much more substantive manner than simply making a short statement to the Court. Five additional members of his family were also empowered by being included in the process, in addition to the driver of the pick-up truck and his wife. Beyond the sentencing aspect, and perhaps more significantly, all victim participants at the conference were also given the opportunity to process this tragedy in a safe and supportive environment. As Dick said to me the day after the conference, "There was an awful lot of anger in that room, but it all seemed to stay there when we left." This is certainly a testimony to the potential power of the conferencing process.

Please note: All names in this case, other than those of professionals employed by the State of Vermont in the criminal justice system, have been changed.