

Texting While Driving / Grossly Negligent Operation / Serious Injury

A Conferencing Case Study

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Kate Brayton, Director
Essex Community Justice Center
Essex Jct., VT
kate@essexjc.org, (802) 872-7690

Chris Dinnan, Program Supervisor
Rutland Office of Probation & Parole
Rutland, VT
chris.dinnan@state.vt.us, (802) 786-5153

This case study documents a restorative justice (RJ) conference that was convened in Vermont per a condition of probation in lieu of a more traditional meeting with a Reparative Probation Board. The conference was held more than two years after the incident. It began, as expected, in a very tense and difficult atmosphere but moved in a very healing and transformative direction to end in a positive and creative agreement / understanding among participants. **Note:** The names of participants have been changed to address any confidentiality issues or concerns.

The Incident

Somewhere in Vermont, some time ago, 18-year-old Erica was the driver of a car that hit and seriously injured Dorothy and killed her dog, Coco. Erica was driving to her friend's house from her mother's home, less than a mile from the crash. Dorothy was walking her dog on the road in front of her home. It was later revealed that Erica was reading an incoming text message at or around the time of the crash. Once this was determined by law enforcement, she was arrested and charged with Grossly Negligent Operation of a Motor Vehicle with Serious Injury Resulting, a charge that can result in a 15-year maximum sentence and/or a \$15,000 fine.

Dorothy was seriously injured in the crash. In fact, there was a question about her survival due to the injuries that resulted. Dorothy was in a coma, and her injuries included a fractured skull, traumatic brain injury, smashed pelvis and numerous other injuries. Dorothy was on life support and, after coming out of her coma, had to learn to swallow, talk and walk again. Doctors report that Dorothy will never fully recover from her injuries and will continue to have speech, vision, motor and brain challenges for the rest of her life.

Background / Pre-sentence Court Process

Erica was formally charged in criminal court. In a statement after the arraignment, her counsel shared, "We would say that Erica really felt horrible about the incident. Her thoughts and prayers, my thoughts and prayers, and her family's thoughts and prayers are with Dorothy. We really hope she comes through."

Prior to the trial, police investigators determined that Erica had deleted text messages received and sent from her phone on the night of the crash. After she dialed 911 and the police arrived, her phone was confiscated by law enforcement. These texts were documented as the result of a search warrant being executed and were sent and received within minutes of the incident. One text was sent by Erica 25 seconds ahead of the 911 call she placed after she hit Dorothy.

The trial began 14 months after the initial crash. Both before and during the trial, media coverage was intense. Erica's defense team argued that Dorothy was walking on a dark road, in the same direction as traffic, with no sidewalk or shoulder and wearing all dark clothing. The State's Attorney argued that Erica was texting with friends and was grossly negligent. They argued that she erased her text messages right after the accident to cover up that she was distracted.

In a surprising turn of events, halfway through the defense's case, Erica pleaded guilty to two counts: one of Negligent Operation and one of Grossly Negligent Operation with Serious Bodily Injury Resulting. Erica was sentenced to 30 days in prison and five months of in-home confinement, a five-year deferred sentence (with an underlying 6 – 12 month sentence to serve if unsuccessful on probation), and 500

hours of community service. At least 100 hours of the community service needed to “be served speaking to high school students (about the dangers of texting while driving), helping (Dorothy) if this is okay with her... or with an organization that serves people or advocates for the cause of traumatic brain injuries.” She was also directed to complete the “Community Reparation Program at the direction of, and full satisfaction of, your probation officer.”

In a statement to the court at sentencing, Erica shared, "I would just like to say I'm really sorry, Dorothy. I wish I could take all your pain away, and I do wish I could take your spot and give you your life back. I never meant for any of this to happen." Outside of the courtroom, when addressing the media, Dorothy shared, "If your car is on, turn your cellphone off."

Pre-conference Planning / Preparation

As noted above, part of Erica’s sentence was to participate in the “Community Reparation Program.” When a person on probation is given this condition as part of their sentence in Vermont, they are referred to a Reparative Probation Board in the area where the crime was committed. Even though the crime did not occur in the Essex Community Justice Center (CJC) catchment area, the Essex CJC was asked to oversee the case. It was clear that a normal Restorative Justice Panel (a process similar to a Reparative Probation Board) might not be the best way to address the needs of the offender and the victim in this case. The Community Justice Center requested assistance from the Department of Corrections to explore the possibility of, and, if it came to that, help facilitate a restorative justice (RJ) conference instead. The victim(s) and the offender would need to voluntarily choose to participate in order for a conference to be convened. Kate Brayton, the Director of the Essex Community Justice Center, and Chris Dinnan, Program Supervisor at Rutland Probation & Parole, agreed to work together to explore the potential for this restorative process.

During the planning/preparation phase of the conference, Kate and Chris identified potential participants, knowing that this list was dynamic and subject to change. The potential key players were clear from the beginning – Erica, Dorothy and supporters for both. There would not be a quantitative limit on the number of participants. Right from the beginning, there was an indication that Dorothy might not be interested in participating but that her sister Lauren and brother Kevin were interested in considering this option. Erica had also expressed a preference for an RJ conference over a regular RJ Panel meeting.

Kate agreed to focus her initial efforts on Erica to ensure that she would be an appropriate participant and begin to prepare her if a conference were to be convened. Kate met with her at the Essex Community Justice Center. Derek, Erica’s partner, arrived and joined in for the last 30 minutes of the 90-minute meeting. During the time Erica and Kate spoke, Kate explained in detail the conferencing

process, including: bringing support people; conference structure; conference script and outline; scheduling preferences; and potential barriers that might come up in the meeting.

Erica identified that she would likely bring her mother, Gail, and Derek to the conference. She shared that she may include her lawyer or the investigator. She was not sure about this. Erica indicated that she did not have any other family or close friends in the area. They had moved here less than a year before the incident. Erica explained that Thursday evenings were best for a conference for Derek and Erica, but they understood that it would ultimately be the decision of the affected parties and would be flexible.

Erica spoke to Kate about taking a plea in the middle of the trial. It essentially turned into a sentencing hearing, and the victim and the victim's family were given the opportunity to make a statement to the court. They wanted to know why Erica had not apologized, and they seemed very angry about this. Erica explained that she was not allowed to do this, even when she wanted to, on the advice of counsel.

When Kate asked Erica about the residual impact of the crime on her, she shared that when she worked at a local restaurant, people recognized her often, and this was hard for her. She was taunted at times and left this job because of the fear of being recognized. She shared that people used to drive by as she walked on the road near work and yell "dog killer" at her. Finding a new job was hard due to the ongoing media attention surrounding the case.

Erica was wondering about the conference structure, including how many pre-conference meetings there would be, how many people would be at the conference, and whether she would know who each of the participants would be ahead of time. Kate explained that she and Chris would be meeting with most, if not all, of the participants, and Kate would call or email with updates to all of those questions. Kate also explained that she, Erica and her mom would meet again prior to the conference so Erica's mother could ask questions. Kate gave her a general list of the things they would talk about regarding the incident, what she had been thinking about since, what has happened since, who was impacted, how they were impacted, and how to move forward.

Erica shared that, months prior, she contacted Dorothy through her probation officer and offered to do some work for her. Dorothy's family wrote Erica back saying Dorothy did not want this. Some time after that, a documentary film company approached Erica to do a documentary spot about texting and driving. Erica agreed, and they set up a time for Erica, an interviewer and a cameraman to meet together at Erica's apartment. Then, the producer called Erica and told her that Dorothy and her family also wanted to do the interview and that they wanted to meet with Erica on camera. This, in fact, was not the case. Regardless, the producer asked if Erica would be willing to apologize to Dorothy on film. Erica felt unprepared, uncertain and worried about this and declined to be part of the

documentary anymore. Erica and her family felt the producer was very aggressive. The producer's boss later called to apologize for the producer, saying she was inappropriate and had overstepped professional boundaries. Erica believed that Dorothy and her family were angry that Erica chose not to do the documentary. To link to the video, click on: https://www.youtube.com/watch?v=_BqFkRwdFZ0.

Another potential barrier discussed was Erica's mother, Gail. Erica described her mother as being her best friend and very protective. Both Erica and Derek were clear that it was going to be very hard for Gail to wait for her turn to speak during the more scripted part of the conversation. They indicated Gail was worried about the case continually drawing negative attention toward Erica. She was concerned about the impact on her child. Kate and Erica talked about the impact Gail's participation could have on Dorothy and her family. Kate explained to Erica and Derek that, if her mother seems dismissive of the victims in this case, the conference might not have the desired effect of potentially being a positive experience for all those affected by the crash. Erica understood this but did not seem confident that her mother would not be disruptive if things got intense. Kate explained that she and Chris Dinnan would want to meet with Gail prior to the conference and that we might develop a plan where we could take a break, if Gail needed one, in order to stay positive. We would work this out as we went along.

Kate shared with Erica that, after meeting with other potential conference participants, she would call her with the next steps and that Erica should think of others who might be her supporters at the conference and talk with them as well as think of ways she could offer to repair some of the harm. She said she would do this and would call Kate or email her with any questions.

After her meeting with Erica, Kate contacted the two investigating officers in the case by phone to ask about their potential participation in the conference. Kate explained the conference process and shared what their role would be. Both officers were interested in participating.

Eileen, a Department of Corrections Victim Services Specialist, had been working with Dorothy and her family since the court process had ended. Chris and Kate reached out to Eileen to share that we were beginning to prepare for an RJ conference in this case and to ask if she would talk with Dorothy regarding participation. Eileen had spoken to Dorothy about the potential for a face-to-face meeting with Erica some time ago, and Dorothy had not been interested. She agreed, however, to talk with Dorothy about possibly participating in a conference and let us know how this went. Ultimately, Dorothy chose not to participate.

Two of Dorothy's siblings were potentially interested in participating, however, and Eileen gave their contact information to Chris and Kate in order that they could reach out to them. Chris established email and phone contact with Lauren (Dorothy's sister) and Kevin (Dorothy's brother). A date was set for Kate and Chris to meet with Lauren, Kevin and their spouses at Lauren's home. As it worked out,

Chris and Kate ended up meeting with Lauren, Kevin and Catherine (Dorothy's mother) at Lauren's home. Lauren and Kevin's spouses did not attend this meeting, and Kate and Chris were not aware that Catherine would be there.

It quickly became clear at that meeting, based upon Lauren and Kevin's openness to a face-to-face RJ process, that a conference (without Dorothy's participation) would occur. One of the first issues we dealt with was the scheduling of the conference. Catherine noted that she did not live in the United States and would be leaving the country soon. Catherine shared that she would really like to attend the conference, and Chris and Kate decided to work hard to schedule it prior to her departure. Pre-conference preparation had been going on for months, but this factor kicked the planning process into high gear.

The group discussed the conference structure, scripted questions, goals and expectations. The group also discussed where the conference might take place and decided a local church where the victims would feel safe and connected could work well. Chris agreed to follow up on this suggestion by contacting the church. Lauren, Kevin, and Catherine suggested that Kevin's wife, Lauren's husband, Catherine's partner, two of Dorothy's co-workers and a couple of her friends could be invited to the conference.

Chris and Kate then met with Erica, Derek and Gail. Erica shared that she would be having her mother and Derek at the meeting but not any other supporters. Erica suggested that we use a "talking stick" (more on this below) for the second part of the conference. She thought this would help her and her family to stay in the moment and give more structure to the conversation.

Kate shared the list of expected attendees so far and reiterated that Dorothy still did not want to attend the conference. When she shared that the two arresting officers from the police department were going to attend, Gail became upset. Gail believed this would change the feeling of the meeting and that she would not be as open and honest about her feelings as she would be without them there. Erica also shared that she felt intimidated and worried about the possibility of the police officers participating at the conference. Chris and Kate talked at length with them about this and about what the expectations would be in the conference. Kate and Chris came to the conclusion that the conference would work best without the participation of the police officers. Gail expressed that she felt she would be able to stay calm, focused, and supportive throughout the conference. Kate shared that she would reach out to the police officers to ask them not to come.

Kate wrote the following email to the officers:

"Good Morning,

"I am writing to let you know of some developments in the case of Erica and the conference that is scheduled for next week. Chris Dinnan (DOC

conference facilitator) and I met with Erica and her mother, Gail, a few days ago to talk about the conference and what will be expected. During the conversation, it became clear that Erica's mother, Gail, has some serious and unresolved anger that she has focused on the Police Department and investigation of her daughter. This, of course, is not unusual and may be misplaced on her part, but it is definitely an important complicating factor for the conference. There are several ways that her unresolved and potentially intense feelings can impact the conference.

"1) Gail could create a situation where the focus becomes her anger with the police and not on her daughter's accountability and the attempted healing for the victims.

2) Gail could create a situation that is uncomfortable for Erica and prevents Erica from being totally open and genuine in her discussion with the victims.

"After talking with Erica, she also felt like she would do better in her conversation with Lauren, Kevin and others if the police were not present at the conference. She does not share in the same anger that her mother does, but she feels very intimidated by the investigating officers because of her culpability. She also wants to focus on what her role in this conference is, to help resolve some of the questions and feelings that Lauren and Kevin have, and not worry about what her mother may say or do in your presence. On a positive note, Erica is practicing what she is going to say and our hope is that she is able to take full responsibility and give a heartfelt apology to Lauren and Kevin.

"Our job as the facilitators of the conference is to create a situation that has the best chance to help the victims and their family move forward, and, in this situation, I think we minimize the risk of a disruption, and increase the chances that Erica will be most open and genuine, if we have DOC personnel at the conference, but not officers from the PD. I am really sorry that I didn't have this information prior to talking with you on the phone last week. This feels like we are back-peddling, and I can understand if this seems confusing. These conferences are ever-evolving, and we clearly did not anticipate the complicated feelings participants may bring to this meeting.

"Please let me know if you have any questions. I cc'd the other officer on this email just in case he was planning to come. I hope your not coming to the conference is not too upsetting, and I would be happy to share what happens with you after it takes place. I am best reached on my cell phone if you have any questions. "

Two community members were selected to participate in the conference. Both were representatives of the local Reparative Board and understood the purpose and structure of an RJ conference. Kate explained that the expectation for them was to be a community support and to share the impact of this crime on the community.

They would listen, share, and help support the process during the creation of an agreement or understanding.

The Conference

Chris suggested to Kate during the preparation phase that, based upon his experience, the list of expected participants would be different than the actual group that gathers. In fact, Roland, one of Dorothy's brothers, was in attendance but was not expected to be there. Thus, he had no preparation for the process. Also, Kathy (Kevin's wife), Ryan (Dorothy's niece Brittany's boyfriend) and Donna (one of Dorothy's friends) were expected to attend but did not. This required some last-minute readjusting of chairs, notes on the script, etc.

The conference was held at the church suggested by the victims. The circle of identical chairs was set in place with name tags (first name only) on the chairs. We have cut-and-pasted most of the script and other materials used during the conference below:

Preamble:

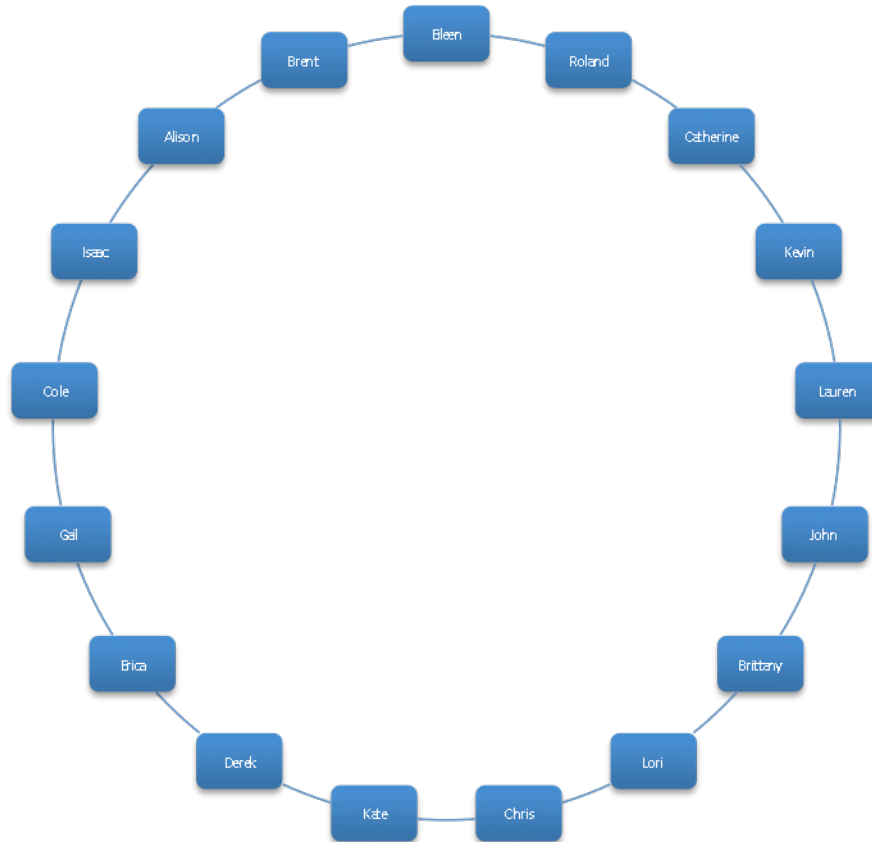
"Welcome. As most of you know, my name is Chris Dinnan and I will be co-facilitating this conference with Kate Brayton, who is sitting to my left. Essentially, I will begin the conference this evening and Kate will take the lead after everyone has had an initial opportunity to speak.

"Thank you all for attending. I know that this is difficult for you, some more than others, but your presence here will help us deal with the matter that has brought us together. The central purpose of this conference is to bring two families together to engage in dialogue and share their experiences and perspectives with each other. There are also various professionals and volunteers here, as an additional purpose is to satisfy a condition of probation as established by the criminal justice system. Ultimately, this is an opportunity for all of you to be involved in a restorative process.

"This conference will focus on an incident which happened when Dorothy was struck by a motor vehicle driven by Erica, causing serious injuries. It is important to understand that we will focus on what Erica did that evening and how people have been affected. We are not here to decide whether Erica is a good or a bad person. We want to explore in what way people have been affected, discuss the harm that has been done, and reflect on what may happen now. Does everyone understand this?

"I will now work my way around the group, introduce you all to each other and indicate your role or reason for being here this evening."

Below is the seating chart used in the RJ conference:



“To Kate’s left is Derek, Erica’s boyfriend.

“Next to Derek is Erica.

“Next to Erica is Gail, Erica’s mother. By the way, Gail uses the hand-held device for her back and may need to stand from time-to-time during the conference.”

“Next to Gail is Cole, a Reparative Board Member.

“Next to Cole is Isaac, also a Reparative Board Member.

“Next to Isaac is Alison, DOC Reparative Board Coordinator.

“Next to Alison is Brent, Erica’s DOC P&P Officer.

“Next to Brent is Eileen, DOC Victim Services Specialist.

“Next to Eileen is Roland, one of Dorothy’s brothers.

“Next to Roland is Catherine, Dorothy’s mother.

“Then we have Kevin, another brother of Dorothy’s.

“Lauren, Dorothy’s sister,

“John, Lauren’s husband,

“Brittany, Lauren and John’s daughter / Dorothy’s niece,

“And finally, Lori, Dorothy’s friend.

“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 whoever is speaking.

“Erica has admitted that she struck Dorothy with her vehicle that evening.

“Erica, I must tell you that you do not have to participate in this conference and are free to leave at any time, as is anyone else. If you do leave, however, you may be required to attend a more traditional Reparative Board meeting. That condition of your probation, however, may be satisfied if you participate in a positive manner and comply with whatever agreement comes out of this conference. Do you understand that, Erica?

“Okay then, we will start with you, Erica.

Key questions to consider:

- “What happened that evening?”
- “What were you thinking about at the time?”
- “What have you thought about since the incident?”
- “Who do you think has been affected by your actions?”
- “How have they been affected?”

Erica was clearly anxious during this time. She shared that she was leaving her mom’s house, and she had been texting with a friend. She explained that she was not typing a text at the time of the crash but had read one just moments earlier. She explained that it was dark, and she did not see Dorothy in the roadway. She talked about getting out of the car, calling 911, yelling for help and waiting for the police. Erica described that she was not thinking at the time and that she made a terrible mistake. She said she has thought constantly about Dorothy and her family and how they were doing and wishing this never happened. Erica noted those impacted as Dorothy, Dorothy’s family and her own family, herself, and the community at large. She explained how they had been affected, saying Dorothy had been terribly hurt, her dog, Coco, had been killed, Dorothy’s family had been scarred and had been taking care of Dorothy and that her own family had been harmed by having to take care of her throughout the whole process.

“Now, let’s find out from Dorothy’s brother, Roland, how he has been affected...

Key questions to consider:

- “What was your reaction at the time of the incident?”
- “How do you feel about what happened?”

- "What has been the hardest thing for you?"
- "How did your family and friends react when they heard about the incident?"

Roland seemed angry from his tone of voice and his rigid posture. As noted above, Roland had not been expected to attend and was therefore not prepared for the restorative process. This preparation had included a description of the first part of the conference, including the questions that would be asked. In this first part, as also noted in the preamble that had just been read to all participants, it was expected that everyone would have an opportunity to share their story, and then this initial sharing would be deepened in the second phase as a conversation among the participants. This first phase is not an interaction, but a listening exercise where participants do not talk or ask questions directly of each other. Roland started to speak directly to what Erica had said, asking her questions about her statement in an accusatory manner.

Gail, Erica's mother, started to defend her daughter, and Chris immediately intervened and re-emphasized the ground rules that this was not the time to talk directly to Erica. He explained that there would be ample time for questions and conversation later. Roland was upset about not being allowed to ask questions now and began to question the process in general. Chris again stated the purpose of the conference and briefly explained the process to Roland.

At this point, Roland's brother, Kevin, also became angry and said, "What are we here for then?" Kevin got up and left the circle, walking toward the exit. Chris asked if he was leaving as he walked by, but Kevin did not answer. Chris reiterated the fact that anyone was free to leave at any time. Kevin stayed standing for a short time behind the facilitators and then came back to his seat and sat back down. Kate again explained why we use the script and allow time for each person to share without worry of disagreement or contention. Once this part was complete, we could revisit anything that was not addressed. We discussed that it was important to be a listener and to share in this part and that there would be room for dialogue after this initial go-around. The room seemed to settle down, and Roland decided not to use more of his time to answer questions.

Repeat questions to all victims present:

- "What was your reaction at the time of the incident?"
- "How do you feel about what happened?"
- "What has been the hardest thing for you?"
- "How did your family and friends react when they heard about the incident?"

Chris then moved on to Catherine, Dorothy's mother, who answered the first question in an emotional but composed manner. When Chris asked Catherine how she felt about what happened, she exclaimed, "How do you think I feel?" Catherine

then broke down in tears and could not answer any more questions. Chris asked if she would like to have him come back to her, and she agreed to this.

Kevin, Dorothy's brother who had left the circle but then came back, still seemed upset, but he was more in control now. Kevin talked about the impact of the crime on Dorothy and on his family. He is one of Dorothy's primary caregivers and helps her daily on top of his other responsibilities. He shared what the night of the crash was like for him and his family and how they sat in the hospital waiting for the doctors who told them that Dorothy might die. He also shared that Dorothy says that sometimes she wished she had died in the crash.

Lauren, Dorothy's sister, talked at length about the night of the crash. She talked about the hospital, the weeks of intensive care, the months of therapy, and the details of Dorothy's injuries. She talked about being one of the primary caregivers for Dorothy and how difficult this has been for her. She was tearful but composed throughout her time talking.

John, Lauren's husband, who had been comforting Lauren with a hand on her back throughout her tearful time talking, reiterated some of what she said and was clear that their lives and Lauren's life had changed dramatically as a result of the crime committed by Erica. John talked about how he used to routinely text and drive before this incident, but now when he drives his car, he never uses his phone.

Brittany, who is Lauren and John's daughter and Dorothy's niece, shared memories of her aunt and expectations of the things they would do together in the future but that they would not be able to do now. Brittany explained that she and her aunt had a special relationship and friendship. She also shared that it could have been her or another friend behind the wheel that night and that she did not hate Erica but that she hated what happened. She was close in age to Erica and was able to relate to Erica's use of her phone while driving. She explained that because she was living in Chicago, she was unable to be with her family during this time, and that the conference was helpful in processing her feelings. Brittany then said that she forgave Erica.

Lori, Dorothy's friend, shared memories of Dorothy at work as a strong, adventurous woman who traveled the world and was liked by her co-workers. She shared that her friends were impacted greatly when Dorothy was hurt and how much had been taken from Dorothy and her friends through this crime. Lori explained that it was important that something good come out of this.

We came back to Catherine, and she shared what she felt as Dorothy's mother and how angry she was about this. She was tearful throughout her time but was able to share what changed for Dorothy since the accident including: Dorothy traveled internationally for work and would now never work again; Dorothy was an animal lover who could not care for her animals by herself anymore; and Dorothy was very independent and now needed constant care.

At this point, Chris read a letter written by a friend of Dorothy's who was expected to attend but could not make it. The letter ended with:

"... I do hope that you clearly see what you have done and the ramifications in total of a life cut short and disabled. I hope that is crystal clear to you. I hope that your actions are well-defined in your mind and you never forget the choice you made that day."

Note: All professionals and volunteers present were then given an opportunity to speak.

Key questions to consider:

- "What did you think when you heard about the incident?"
- "How do you feel about what happened?"
- "What has been the hardest thing for you?"
- "What do you think are the main issues?"

Cole, Reparative Board Member, shared the impact this crime had on the community, many of whom knew the family that was harmed and Dorothy in particular. He shared that the press and media focus was impactful to the town and the county. Cole also shared that many people text and drive, and he was hopeful that this case would help people make better decisions in the future. He shared that he also had compassion for Erica and what she had gone through because of her choices that night.

Isaac, Reparative Board Member, shared many of the same points about how terrible the community felt for Dorothy and her family and how he also had some compassion for Erica and her family due to the intense media coverage. He shared that the main issue revolved around reaching out to the community to help stop others from texting and driving.

Alison, DOC Reparative Board Coordinator, shared that she believed that everyone was impacted but no one greater than Dorothy. She shared that she hoped that Erica would be able to take this and help others make a different choice than the one she made that night. She felt the main issue was the education of the community around prevention.

Brent, DOC P&P Officer, shared that he had been meeting with Erica since the crash, and he knew that Erica felt deep sadness and remorse about what she had done. He shared that he felt that Erica wanted to do whatever she could to help make things better. Brent shared that Erica was the first person he had supervised on probation who did not exhibit typical criminal thinking.

Eileen, DOC Victim Services Specialist, shared that the worst outcome from this would be if Erica did not move forward and do good things in her life, that Erica should be focusing on living a good life to honor Dorothy and that she hoped that Erica would put some effort into educating others about the dangers of texting and driving and the consequences of these actions.

To Gail, Erica's mother, Chris asked:

"Gail, I know this has been difficult for you. Would you like to tell us about it?"

Key questions to consider:

- "What did you think when you heard about the incident?"
- "How do you feel about what happened?"
- "What has been the hardest thing for you?"
- "What do you think are the main issues?"

Gail shared that she was very sorry about what happened to Dorothy and her family. She also shared what it had been like to witness her daughter go through the court process. She shared that her daughter was a good person who made a terrible choice and that, again, she was sorry.

Derek, Erica's boyfriend, was asked the same questions as Gail. He shared that this has been very hard and that Erica has been very upset during this time. He shared that others need to know that if they choose to text and drive, this could happen. He also provided a good deal of information about how the documentary incident occurred. Erica had been open to being interviewed but then felt that it was becoming "ambush journalism," and she was just not prepared to proceed.

Ask the offender:

"Erica, is there anything you want to say at this time?"

Erica chose not to say anything more at this time. Her body language was stiff, and she seemed to be trying to control her emotions.

Chris described the next step, which would be to develop an agreement/understanding that would help move the group forward. This agreement should be:

Specific
Measurable
Attainable
Realistic
Timely

During this part of the conference, which was facilitated by Kate, the group used a talking stick at the suggestion and wish of Erica. A talking stick is used to help a group have a conversation. In a group, the person speaking holds the talking stick and others are asked to listen. The first topic brought up was the miscommunication about the documentary. Erica was able to explain why she chose not to do it, and the family understood. This led to Erica explaining that she was not allowed to talk with the family after the crash, although she wanted to. As noted above, she was advised by legal counsel not to do so.

The topic then changed to the matter of the 100 hours of the 500 total hours of community service that Erica needed to serve “speaking to high school students about texting and driving.” There were suggestions and ideas discussed and, after some time, Lauren offered to help Erica to develop this program and present it with her as well. At this, Erica began to cry. Catherine rose from her chair, crossed the room and hugged Erica, who was then standing, while Erica cried and repeated over and over again, “I am so sorry, I am so sorry.” Lauren quickly stood up, walked across the circle and joined her mother and Erica. Thus, the three women (from three different generations) stood weeping in a three-way embrace in front of the seat where Erica had been sitting. This key moment was emotional for everyone in the room, as they watched Erica truly express her remorse and family members accept that her remorse was genuine and sincere.

After this transformative point in the conference, the remaining time was used to craft the agreement. This agreement, signed by all in the room other than the facilitators, stated:

15 Participants gathered (family members, volunteers, professionals) re: the incident that occurred involving Erica and Dorothy (victim).

It was agreed that if something positive could come out of this tragedy, it would be extremely beneficial. Lauren suggested that Erica and she could go out together to do education about texting and driving (distracted driving). Erica agreed to do so.

Chris then moved to close the conference by saying, “Before I formally close this conference, I would like to provide everyone with a final opportunity to speak. Is there anything anyone wants to say?”

At this point in the conference, which was some 2.5 hours after it started, participants were in an entirely different space than they were at the beginning. What had been difficult and contentious at first had become peaceful and accepting. There were expressions of surprise at how well it had gone. There were also expressions of relief and appreciation for how everyone had participated in the process. Kevin apologized to the group for leaving the circle early on and was satisfied with the way things had gone.

Chris formally closed the conference by stating, "Thank you for your contributions in dealing with this difficult matter. Congratulations on the way you have worked through the issues. Please help yourselves to some refreshments."

Almost everyone stayed for a bit, shared some refreshments and talked. Many shared how much they were impacted by the evening and how they felt better about the situation. Lauren and Erica talked with Kate about meeting together at the Community Justice Center to create the presentation and to help them bring it out to schools. They set a date to begin to do this work.

Feedback

A two-page (one page, front-and-back) Group Conference Feedback Form was provided to all 15 participants by Chris with a stamped self-addressed envelope. Only three of the 15 participants (20%) sent a feedback form back. The results are below:

Please rate your overall satisfaction with the conference
(scale of 1 – 10):

- There were two 9s and one 10.

Please rate the process as to how fairly participants were treated during the conference (scale of 1 – 10):

- There were three 10s.

Please rate your level of satisfaction with pre-conference preparation efforts
(scale of 1 – 10):

- There were two 8s and one 10.

Do you feel the conference properly addressed the offense?

- There were three "YES" responses.

Did you personally experience any benefits from participating?

- There were three "YES" responses.

Explain:

- I personally felt a lot of forgiveness... it was an amazing conference. Couldn't have asked for a better end result.
- I really did not think that I was going to feel any differently, but I did. It helped to get my feelings somewhat out in the open and to hear how Erica felt. Forgiveness is powerful. My whole family benefitted from the evening. I wish that Dorothy had participated. We hope down the road that she will. She has been severely damaged.
- The power of forgiveness.

Were you given ample opportunity to have input?

- There were three "YES" responses.

Did the facilitator(s) do a proper job in leading the conference?

- There were three "YES" responses.

Would you like to see conferencing used more frequently in the future?

- There were two "YES" responses and one that was not circled "YES" or "NO" with the note – "Depends."

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

- Cases involving drug/alcohol addiction w/ resulting injury (personal or property).

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 application and how we might improve the process for future applications.

- It's my understanding that Erica was aware of the questions she would be asked, as I was. From comments made by the family, it did not appear that they were advised of the questions. Perhaps the initial tension would have been diminished somewhat had the victim's family been apprised of the questions (and/or the process in general). Otherwise, the conference went extremely well with excellent outcomes resulting...
- For me, it was forgiveness.

Present Day

Erica and Lauren have completed their work on the presentation. They have started presenting to local schools.

Dorothy's family still believes it would be best to have Erica and Dorothy meet someday, and Erica has said that she would do this if and when Dorothy is ready.

Conclusion / Reflections

The RJ process used in this case yielded powerful results for those who attended. It is an approach that is especially beneficial as a response to high impact crimes such as this one when all parties agree to pursue it. The traditional criminal justice system appears to lack the ability to manage the relationships between victim and offender in a meaningful way. It assumes that "protection" of those affected by crime is best achieved by isolating the accused and keeping distance between the offender and victim. There are times that this separation is necessary, but it can also, as in this case, grow to become a barrier to healing and understanding for the victim, offender and others impacted by crime. Through the time of arrest, charge, trial and conviction, there was little opportunity to address or resolve the main issues related to the direct harm experienced by the victim(s). There was also no true understanding of the offender's feelings, thoughts and intentions by those impacted by this crime.

Restorative justice processes, in this case engaging the offender with affected parties without the primary victim, create a space where conversations can occur that help all parties create meaning and share a deeper understanding than was previously available. Affected parties are given a space to share their feelings, voice their thoughts, make decisions and help define an offender's path to accountability through the agreement that the offender helps to develop. In this case, the offender had the obligation imposed on her as a condition of probation to do community service that included educational programming. As a direct result of the conference agreement, she is now able to team-up with Dorothy's sister to make this educational program more powerful and meaningful for the students who hear it.

The preparation for and facilitation of this conference yielded several learning opportunities / teaching points for those doing restorative work. They include:

- Preparation of participants is crucial for a successful conference and should be done in a thorough and thoughtful way. It was nearly 5 months before preparation began and then was truncated due to the travel schedule of Dorothy's mom. Due to this factor, we did not have a face-to-face follow-up meeting with family members prior to the conference and did not even have phone contact in advance with some of the more peripheral participants. We

did our best but might have done better if time did not unexpectedly become such an issue.

- Stay true to the focus of the conference and make adjustments as needed. An example of this was that the two police officers, who had offered a great deal of support to the victims throughout the criminal justice process, were asked to participate but then were asked not to. This was a very difficult decision to make, but we determined that an entirely different dynamic might arise that could jeopardize the outcome of the conference.
- There will be last minute deletions, changes, substitutions and surprises in the participant list. Of the 50+ conferences that Chris has coordinated/facilitated, only a few were ultimately comprised of the exact participants who were expected to attend. It is important that organizers be flexible and open to this factor. There may very well be times that individuals should not be allowed at the conference and will need to be asked to leave (members of the media, a person with a restraining order against them, someone who has been drinking to excess, etc.).
- Allow for offender influence to shape some aspects of the conference. While restorative justice processes such as conferencing need to be, at their core, victim-focused, being sensitive to offenders' concerns and input is also important. In this case, it was input from Erica and her mother that led to the police officers not being present at the conference. While it is not possible to know how the conference would have gone if they had participated, there was clearly a separate conflict there that was not central to the conflict at hand. It was also Erica's suggestion that the "talking stick" approach be employed, and it proved to be a useful tool.
- Be patient and let the process work. Do not try to influence the group to move toward a moment of apology or forgiveness as this may not occur and is not the purpose of a restorative process. The meeting belongs to the participants, not the facilitator(s). It is always unpredictable who will say what and where exactly the wisdom of the group will lead the conference. While it is clearly important that the facilitator(s) remain an active presence, especially at first but throughout the conference, we need to see ourselves as conveners and ultimately as observers who are serving the needs of the group.
- When things become emotional and/or chaotic, facilitators must trust the process and stay calm, direct, confident, and caring. We owe that to the people whom we have helped to bring together.