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Conflict Resolution Symposium Derails a Potential Tobacco "War"

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In Practice

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Conflict Resolution Symposium Derails a Potential Tobacco "War"

Dayle E. Powell

According to the U.S. Surgeon General, tobacco is responsible for the deaths of over 330,000 Americans each year from such causes as heart attacks, strokes, cancer, lung disease, infant mortality, and house fires.¹ It is the single leading cause of premature death in the United States. The growing of tobacco, however, is one of the major cash crops of several U.S. states and, in the opinion of many Americans, the consumption of tobacco is, and should remain, strictly a matter of personal choice.

How then does one balance the interests of the smoker, the nonsmoker, the tobacco industry, health care providers, and a government that is interested both in the health of its citizens and the preservation of free enterprise? The staunch anti-smoking crusader would say that the answer is simple: Stop smoking at all costs, through legislation, education, and regulation of the industry. Tobacco industry representatives (and civil libertarians) might counter by focusing on the individual's right to choose, the economic benefits generated by the business, and the tradition of free enterprise. Is it possible to resolve such conflicts in a manner that will satisfy—or at least mollify—these numerous, often diametrically-opposed interests? Are there useful processes that could be applied in this conflict, as well as in other major "yes-and-no" disputes facing contemporary society, such as abortion, the death penalty, etc.?

One such effort took place in September of 1985, when a small group of leading antagonists on the issue of the production, sale, and consumption of tobacco met together at a woody mountain retreat in Georgia over a period of three days. The goal of these meetings—which were staffed by a group of mediators skilled in conflict resolution processes—was not to resolve, or even attempt to resolve, the many issues related to the tobacco controversy. Participants in these meetings maintained positions that were unchangeable, and

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converts from one position to another were highly unlikely. Rather, the purpose of the session was to empower the parties *themselves* to work toward resolution of those issues that could be negotiated, and to do so through negotiation processes that may be more cost-effective and timely than litigation, lobbying, and traditional bargaining.

One indication of the level of intensity and volatility among this group of antagonists is the fact that a near fistfight erupted at the swimming pool on the first day of the program. It was not a promising beginning to the Carter Center's inaugural conflict resolution symposium. However, in a very short period of time, formerly bitter enemies on the tobacco issue began to try working collaboratively on possible solutions to mutual problems. In fact, many have credited the Georgia symposium with paving the way for a compromise agreement on the "Smokeless Tobacco Act," a controversial piece of legislation then pending in the U.S. Congress which would ban all television and radio advertising for smokeless tobacco products² as well as require health care warnings on the labels of such products. In February of 1986, some six months after the symposium, President Reagan signed the Smokeless Tobacco Act into law with hardly a ripple of the storm of controversy the legislation had been expected to generate. How the Georgia meeting happened, the design of the symposium, the activities that followed it, and an explanation of why this particular program may have "worked" are the subjects of this article.

Background

In 1984, the Carter Center—which also houses the Carter Center of Emory University, the Jimmy Carter Library, the Task Force for Child Survival, the Global 2000 organization, and the Carter-Menil Foundation—conducted a health policy study called "Closing the Gap." This initiative sought to identify the leading causes of premature death and illness in the United States and to look for specific interventions to reduce the gap that exists between scientific knowledge and the application of that knowledge in individual lives. Scholars involved in the "Closing the Gap" project cited tobacco as public health enemy number one. According to one of the "Closing the Gap" speakers, the number of deaths resulting from the use of tobacco each year is equivalent to the number of people who would die if three jumbo jets crashed, killing all passengers aboard, every single day of the year.

Recent governmental moves to limit or eliminate the public use of tobacco products, as well as pending litigation in many states on questions of product liability, are creating even further divisions between smokers and non-smokers, tobacco advocates, and abolitionists. These factors are also contributing to the need for a more rational decision-making process for the parties to the conflict.

Against the advice of this author, who thought the alcohol question was a far more manageable first case for the Carter Center to undertake, President Carter decided to focus on tobacco as the inaugural work of the Center's program on conflict resolution. For him tobacco represented even more of a challenge than alcohol. Parties to the conflict surrounding the consumption of alcohol, he reasoned, were already making great strides in cooperation. The same could not be said for the conflict over tobacco. So tobacco was the chosen subject. The lines were clearly drawn. The next questions were: Could we get the parties to come, and how should the effort be designed?

Our research efforts identified the leading manufacturers of tobacco products in the U.S.,³ prominent spokespersons for the industry, secretaries of agriculture for the four top tobacco-growing states, a number of tobacco farmers or distributors, and members of the Congress from tobacco areas. On the opposite side of the controversy, representatives were chosen from the Cancer, Heart and Lung Associations, D.O.C. (Doctors Ought to Care, an anti-tobacco activist group), key health researchers, and public policy specialists, among others.

An effort was made to secure numerically balanced participation on both sides of the controversy. There were also certain differences in education or sophistication among the participants, and these factors were taken into account in the design of the process.

A team of trained mediators was called in to staff the symposium. This effort was led by James H. Laue, Lynch Professor of Conflict Resolution at George Mason University and executive director of The Conflict Clinic, Inc., assisted by William Potapchuk, associate director of the Clinic. Mediation "teams"—consisting of facilitators, co-facilitators, and researchers—worked with the participants in each of three small groups.⁴ The teams were present at all plenary sessions and led small "breakout" sessions in mediated problem-solving. The researchers took no part in the process of the breakout sessions, but monitored the group continuously to observe critical turning points in their interaction and to capture data on the process.

The design for the symposium was essentially a teaching model. Parties to a real conflict would jointly define their own issues, then work through simulated negotiations, mediations, and other exercises, to learn how escalation of conflicts deprives parties of the power to control their destinies.

The Dispute Resolution Process

The symposium began with a get-acquainted reception by the swimming pool. A Carter Center intern found that one of his first tasks was to step between a doctor and tobacco distributor just as the two were literally coming to blows. This initial flare-up was the only open hostility and, once it was vented, the two settled into the structure of the symposium. Each was a valuable participant.

The first evening had three objectives: to become acquainted, to define the issues on which the participants would focus, and to rank order the issues. The dialogue which began at the poolside reception continued over an informal dinner. Each participant and staff member was asked to introduce himself or herself to the group and tell about his or her background with respect to tobacco. A friendly competition developed as one after another tried to demonstrate the longest connection with burley or flue-cured crops. A stout member of the process team took top prize, however, when he introduced himself as a "burly Irishman." Since he had been burly since birth, he claimed the victory.

In the first plenary session that evening, the participants were asked to set their own agenda. To do this, they were divided into small groups that were balanced numerically and by issue orientation. Working in various corners of the large plenary room, using a single facilitator, each small group was asked to define the issues they wanted to discuss. In the small groups' reports to the plenary session, it became apparent that several issues were considered important by all the groups. The parties were asked to consider which among the many possible issues they had defined were the ones that: (1) were important to most or all of

those present; (2) probably could be negotiable; (3) possibly could yield some progress in the short run; and (4) were susceptible to open and frank discussions. The lists were then quickly winnowed, narrowing to several issues the original menu of 27. Chief among them were questions of tobacco imports, marketing and consumption by youth, the economic plight of tobacco farmers, price supports, and alternative crops. A process of rank ordering was then used to determine the order of focus for these few issues, and the groups were ready to begin.

The symposium design focused most of the parties' efforts on working in parallel task groups. Each group, using a triad of professionals, would be working on the same issues and utilizing similar processes. For example, group one was taught how the single issue of tobacco imports could be affected by alternative processes of conflict resolution. The model was one of first allowing the parties to role play a negotiation based on that issue, followed by a debriefing in which they were encouraged to share their impressions with each other. Then, they were taken through a mediation exercise on the same issue, with a member of the process team serving in the role of mediator. With time permitting, they were also taken through other problem-solving exercises on the issue. In a different location, groups two and three were going through similar exercises. However, each group's exact process was unique due to the style of the mediation teams and the personalities of the groups.

The parties in each of the parallel work groups quickly came to realize that, as the level of conflict escalated, it became necessary to involve third parties to either help them resolve their dispute (mediate) or resolve the dispute for them (arbitrate). Most complained that such intervention caused them to lose control of the outcome of the dispute. Their destinies were literally being placed in the hands of strangers. Even if the third parties were unbiased "neutrals," the participants saw the advantage in maintaining control over the outcome, resolving their differences where possible before they escalated to the point of requiring outside involvement (negotiation).

A surprising degree of uniformity resulted from the parallel work group sessions. Indeed, without knowing what the other groups were doing, each of the task groups came to consensus on certain of the issues at about the same time as the others. In their report to the plenary at the closing session, there was consensus on several issues:

1. All agreed that it is in everyone's best interest to help the tobacco farm family and keep control of the growing of tobacco in their hands, rather than large conglomerates. Neither health interests nor the interests of the U.S. tobacco growers are compromised in principle by maintaining a viable tobacco program and by requiring imported tobacco to meet U.S. production standards.
2. Minors should not use tobacco, nor should tobacco companies market their products toward minors. There should be a program of education for minors about the health consequences of tobacco use.
3. Imports of tobacco products should be restricted.
4. The participants favored a tobacco price support quota system which would ensure a minimum price to farmers who did not overproduce. The tobacco interests supported this idea to ensure profitability. The health interests supported it because of the correlation between the cost of tobacco and the number of consumers, particularly young consumers.

Results of the Symposium

For many years, whenever the U.S. Congress addressed questions involving the tobacco industry, there were massive lobbying efforts, lawsuits, delays, and generally "win-lose" outcomes for all parties. This was not the case with the "Smokeless Tobacco Act" legislation pending in the fall of 1985 that would require the placement of strong health warnings on smokeless tobacco products and ban advertisements for them in any form of electronic media. The seeds for this remarkable compromise can be traced to the Carter Center symposium, which was attended by two key stakeholders in the pending legislation—the head of the Smokeless Tobacco Manufacturers' Association and the Director of the Coalition on Smoking OR Health.

The spirit of collaborative problem solving that had worked so well at the tobacco symposium was seen by these stakeholders as presenting a rare window of opportunity with a potential for a breakthrough on the legislation. This author and William Spencer of Interaction Associates were asked to continue to work with the parties in Washington to pursue a negotiated settlement on the bill.

A member of the Congress donated office space for a neutral meeting site. Thereafter, meetings were held with the principal members of the opposing camps to explore common ground.

In the Washington follow-up, it quickly became apparent to the parties that a negotiated settlement was in the best interest of both sides. The manufacturers knew they would face piecemeal state legislative efforts that would be quite costly if they defeated federal attempts to require uniform warning labels. Moreover, they saw the requirements of warning labels as a potential affirmative defense in any product liability lawsuit. The health coalition recognized that efforts to fight the manufacturers state-by-state would also be costly and tie up staff for years. When both sides saw winnable outcomes easily within their reach, they were able to put aside past problems and reach a compromise on the pending bill.

The resulting passage of the Smokeless Tobacco Act of 1986 banned all advertisements from television and radio, required disease-specific warning labels to be prominently displayed on all smokeless tobacco products, and required that such warnings be periodically rotated. A *Washington Post* article published on January 15, 1986, referred to the "unusual alliance" on this legislation between the tobacco industry trade association and the anti-tobacco health coalition. Unusual perhaps—but not surprising when one considers the months of negotiations that took place prior to and concurrently with the congressional debate.

In a letter to President Carter following the negotiations, Matthew L. Meyers, the director of the Coalition on Smoking OR Health, commented:

...Your efforts... played an important role as a catalyst in beginning the negotiation process and in focusing the negotiations... The Carter Center can look at this legislation as the successful culmination of a process begun by you.

Some Principles

Why did the tobacco symposium succeed? Were there factors present that can be replicated in future efforts? Some of the factors contributing to the positive resolution in this case would include the following:

(1) *The Convener.* It might be argued that having a former United States President serve as the symposium convener was the single factor that most contributed to the likelihood of the program's success. Certainly there were parties present for whom the attraction of a several-day retreat with President Carter was stronger than the invitation to learn about collaborative processes. However, there were also invited parties who declined to attend because the Carter Center's previous health policy work was viewed as biased against their interests. These parties were representatives of the cigarette companies. Issues were also raised about policies of the Carter Administration with respect to tobacco.

Clearly, the convener should be someone with the authority and the credibility to get the parties to the table (in this case, the classroom). A convener should be chosen whose profile or expertise on the subject under discussion is high enough to be equal to or better than the members of the group. Obviously, in complex international issues, persons of world stature would be potential conveners. In selecting the convener, however, the negatives must also be weighed. Does the candidate have a past history on the issue? Is there a potential political difficulty with the highly visible convener? On balance, if the convener's ability to get the parties to the table outweighs any negative considerations then one is probably best advised to use that convener. The role of the convener is certainly flexible enough that in cases where the negatives are significant, he or she can neutralize such factors by working on an effective design for the initiative. A convener with significant negative factors might serve in such a functionary role.

(2) *The Environment.* The woods retreat environment for the tobacco symposium was strategically chosen to focus, isolate, and liberate the participants. While it is not suggested that this is a necessary factor in successful resolution of conflict, the choice of the setting is an important one. Where possible, it is beneficial to remove disputing parties from their normal workaday lives to a protected environment that can help to transform their behavior, changing how the parties dispute. It does *not* follow that a "trip to the woods" is a requirement, merely that a positive environment can contribute to positive outcomes. When parties are not bombarded with everyday demands and distractions (i.e., telephones and televisions), they are free to focus their undivided attention on the issues. This can occur in a hotel room, a corporate conference room, or other location. But, an effort should be made to provide a calm, relaxed, reflective environment.

(3) *The Teaching Model: Teaching Rather Than Resolving.* Prior to the symposium, the mediation staff discussed at great length whether the primary objective would be to teach processes of conflict resolution or to attempt to resolve the tobacco issues. The final decision—to focus on teaching—was determined primarily by the relatively short time available for the symposium, less than three days. It seemed unrealistic to begin to tackle such complicated issues with so little time. However, it seemed quite possible to teach collaborative processes effectively within the time constraints.

We did not see the selection of the teaching model as a rejection of a resolution model. It was viewed as being analogous to the pre-mediation groundwork found in the "Track II diplomacy" of international relations. This initial step of getting the parties to the table seemed likely to—and did—produce later

opportunities for resolution efforts. Had a mediation initiative been attempted at the outset, its likelihood of success would probably have been adversely affected by the lack of time. What was learned was that the parties have the power within themselves to resolve conflicts when they possess the necessary knowledge about process. Their understanding of the advantage of keeping their issues within their control—of resolving problems before they escalate—was critical to their request for follow-up assistance. Had a process been forced on uninformed parties, it likely would have failed.

It was significant that at the same time that the pro-tobacco parties were learning how to define issues, negotiate, mediate and more, they were working side-by-side with the pro-health interests. This joint teaching model gave the participants an opportunity to work in tandem while focused on something other than their inherent differences of opinion. They shared common concerns of needing to understand new terminology, adjusting to a different environment and working with unfamiliar processes. These shared experiences at the symposium helped them begin to focus on a common problem: how to learn and apply principles of conflict resolution. As each side began to comprehend the advantages of utilizing alternative dispute resolution techniques, it was much easier for them to turn to the parties on the other side of the aisle to begin their actual application. Had a unilateral teaching model been chosen, the possibility of resolution would have been significantly reduced.

(4) *Empowerment of Parties.* Throughout the tobacco symposium, efforts were made to give the parties the ability or power to resolve their conflicts. This empowerment was evidenced in various ways. First, the selection of the teaching model showed respect for their ability to adopt and utilize effective processes once they were understood. Second, the balancing of the disputants was done in a way not only to keep the "score" numerically even, but to give the same weight to the opinion of a tobacco farmer as to a scientific expert. This balancing of power permitted the parties to view each other as equals, some for the first time. Perhaps the greatest act of empowerment was in letting the participants select the issues and set the priorities for working on these issues. The staff came with no predetermined agenda of issues and was prepared to respond to whatever the parties determined. Recognizing that this placed the responsibility squarely on their own shoulders, the group rose to the occasion and, indeed, seemed excited by the prospect. Some commented that it was the first time they had ever attended a meeting where the agenda was completely open and left to the direction of the attendees.

Conclusion

While it is, of course, very satisfying to see measurable results from a conflict resolution initiative, the immeasurable byproducts of the symposium are no less important. All who were present will never forget the evening at dinner when a preeminent cancer surgeon diagnosed skin cancer on the face of the oldest tobacco farmer and offered to fly across country to help treat him. The doctor who had earlier almost resorted to blows when the symposium began, made a commitment to visit North Carolina and see the plight of tobacco farm families firsthand.

In debriefing the symposium's design and outcomes, many of the participants expressed desires that such processes could be used more routinely. Value

was seen in having meetings throughout the country to teach such skills and model the processes of alternative dispute resolution. One member of the Congress even expressed a desire that training be offered on Capitol Hill, so that all members could benefit from becoming better at resolving disputes.

What the tobacco symposium participants experienced is not unique. It demonstrates the positive experiences that can occur when people in conflict are empowered to resolve their differences in ways that uplift them and result in mutual gain. Instead of focusing on each other as enemies, their creative powers were focused on common problems and redirected; they were then able to design creative solutions.

NOTES

1. Koop, C.E. (1986). *The Health Consequences of Involuntary Smoking: A Report of the Surgeon General*. Rockville, Md.: U.S. Department of Health and Human Services, Centers for Disease Control.

2. Smokeless tobacco includes moist snuff, dry snuff, plug, and chewing tobacco.

3. While representatives of manufacturers of smoking tobacco products were invited to attend the symposium, all declined. The Smokeless Tobacco Manufacturers Association was represented by one of its top officials.

4. Serving as facilitators were William J. Spencer, Interaction Associates, Cambridge, Mass.; Michael Keating, Pawtucket, R.I., and Richard Salem, Evanston, Ill. The co-facilitators were: Jack Etheridge, Emory University, Atlanta, Ga.; Edie Primm, Justice Center, Atlanta, Ga.; and Janet Rifkin, University of Massachusetts at Amherst. Serving as researchers were: Margaret Herrman, Carl Vinson Institute, University of Georgia, Athens, Ga.; Daniel McGillis, Harvard University, Cambridge, Mass.; and Beverly Schaffer, Emory University, Atlanta, Ga.

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