



About Saddles and Horses

Photograph by John Nolte

John Nolte, Ph.D.

PSYCHODRAMA AT THE TRIAL LAWYER'S COLLEGE

Within 10 minutes of our arrival on Thunderhead Ranch, July 31, 1994, Gerry Spence began explaining to Don Clarkson and me two basic principles underlying the approach to trial lawyering that he wished to teach at the Trial Lawyer's College. The first was that a trial is basically a matter of story telling, that the lawyer tells the client's story in voir dire, in opening statement, through direct and cross examination, and in closing statement. The second principle was that the lawyer's primary instrument for getting the job done was him/herself, and so it was necessary for lawyers to know themselves thoroughly, to identify and resolve any emotional hang-ups which could interfere with being able to effectively tell their client's story in court. Lawyers need to be spontaneous and creative, ready to deal with the unexpected on the spot, and this, he told us, is where psychodrama comes into the Trial Lawyers College.

Spence had experienced the human potential movement of the 1960's and 70's, and had been introduced to psychodrama through John Ackerman's National College for Criminal Defense. Impressed by its power, he selected psychodrama to introduce TLC students to the business of personal growth and development work.

Because psychodrama is basically a story telling method and because it offers a method of skill training, I suggested to Spence at the time that psychodrama might have more to offer to his College beyond introducing a method for cleaning up emotional baggage and increasing spontaneity.

The three days of psychodrama at the beginning of the month-long College in 1994 had an unanticipated (at least by me) result of encouraging students to put aside some of their competitiveness with each other. Instead of striving to be better than someone else, students' goals evolved into becoming better themselves than when they had come. When Don and I returned at the end of the month for two more days of group work, we were welcomed with the message that the month had been fantastic and that "it was all due to psychodrama." I was puzzled because I knew that in three days, we had barely scratched the surface of personal growth and development for this group of 48 students.

And students remained puzzled by what psychodrama had to do with trial lawyering. Although for the most part they tended to like the psychodrama sessions, it was hard for them to

conceptualize the relationship between what they were doing in psychodrama and the trial skills that they were learning.

BEYOND PERSONAL GROWTH

The first expansion of psychodrama beyond personal work was in the form of psychodramatic role training as the modality of training. This replaced the perform-and-critique approach adhered to by other post-graduate legal training programs in which students practiced their shortcomings and then received critique. Role training coaches students out of their comfort zone, thereby helping them improve as they practice. As students of the program were appointed to the staff, beginning in 1996, training in the psychodramatic method was introduced to enable them in the use of role training. A week of staff training is now an ongoing TLC event.

Introduction of role training was followed by the reenactment of case events in the place of reciting fact patterns. Spence often demonstrated his approach to the various phases of trial by asking students to recite the fact patterns of their cases. In the new approach, a student whose case had been selected was asked to reenact the critical events at the center of the trial with the help of a psychodrama director. This practice not only made the story more vivid, it was discovered to be helpful to the lawyer by allowing him to connect more strongly with the emotional elements of the client in a new and profound way.

This was the first recognized application of psychodrama specifically to trial preparation. From that beginning, a bridge began to be built with Gerry and the students discovering parallels between psychodrama and many aspects of the trial lawyer's work. Psychodrama, a creative method of story telling, could be applied to everything from voir dire to closing statement. And a new function of psychodrama had been developed. It was not only a method for personal development; it was a new vehicle for a vastly different approach to trial preparation and presentation.

The enthusiasm for psychodrama became so strong that some people felt that it was detracting from rather than enhancing the TLC program. A few of them accused TLC of becoming a school for psychodrama rather than of trial skills. Some staff members left the College over the issue.

As the College implemented different aspects of psychodramatic techniques in discovering clients' stories and for other purposes, the question arose whether lawyers could ethically use psychodrama, which has been widely regarded as a form of psychotherapy. As an untiring advocate of non-clinical applications of psychodrama for many years, I suggested that the ethical issue was resolved by the fact that anyone who was qualified to ask another person to "Tell me what happened?" was certainly qualified to say instead, "Show me what happened." After that, TLC

faculty gave students an option in the first week of Graduate Seminars to learn reenactment interviewing (psychodramatic) techniques, ways of making "Show me what happened" more effective and productive.

TWO FUNCTIONS OF PSYCHODRAMA

With the development of psychodramatic trial preparation, two distinct and different functions or uses of psychodrama were in place at the Trial Lawyer's College. The first, the one that Gerry Spence had in mind when he introduced psychodrama into the College, is for personal growth and self-understanding. The other is the use of psychodrama techniques in trial preparation and in trial itself. Early in the life of TLC, I compared them to the horse and the saddle, borrowing both from Gerry's Uncle Slim story, and Judge Bob Rose's tale of "Boaz A Good Horse."

Gerry Spence's story of Uncle Slim watching a dude rancher throw a \$1,000 saddle on a \$100 plug is presented as a metaphor for a lawyer with an expensive law school education but who is, as yet, poorly equipped to practice law as a trial lawyer. The thousand dollar saddle represents the law school degree of course,

(and maybe tens of thousands in student loans.) However, without a good, strong, fast horse, the fancy saddle is of little use. The goal of Trial Lawyers College is to create strong, capable horses, hence the frequently heard slogan, "working on the horse."

There are two major components to the TLC method. One is the personal, working on the horse. The other is the saddle, which is the approach

to the practice of trial law which Gerry Spence has developed, augmented with the psychodramatic method. Both are important. Together they create a very powerful trial lawyer.

A GOOD SADDLE

The saddle in the metaphor, of course, is a working instrument and the use of psychodramatic techniques in developing a case for trial, and in the trial itself is a saddle. Unlike the \$1,000 fancy parade saddle in Uncle Slim's story, the psychodrama saddle built on the Gerry Spence model is a working saddle, light and comfortable on the horse. And it is a safe and effective seat for the client whom the lawyer is carrying through the justice system.

Directing psychodrama looks easy, like child's play, when a skilled director is at work. It is, however, a very complex skill that can be mastered only with adequate training. Although a naive director will elicit information from clients and witnesses beyond that which can be obtained through interview and examination, the most effective and ethical use of psychodrama requires a high level of competence in directing.

Psychodrama is a relatively safe method when used by someone with formal training and common sense. At the same time, there are situations in which it can be harmful to clients and

Psychodramatic reenactment allows one to examine all the directives and rules that one has absorbed from early childhood and to reformulate or even jettison those that are no longer productive in one's life. Psychodrama frees the horse from useless and hobbling impediments of the past to run stronger and more freely. Personal psychodrama is an excellent and powerful way of working on the horse.

a lawyer should be fully knowledgeable of the ethics of using psychodrama. The American Board of Examiners in Psychodrama, Sociometry and Group Psychotherapy set these standards. While concerned largely with the use of psychodrama in the mental health disciplines, the Board does certify non-clinical practitioners of psychodrama with the stipulation that certified individuals practice only in their respective fields of competence. For lawyers, that means that the use of psychodrama should be limited to eliciting information from clients and witnesses about the event(s) germane to the lawsuit. This process has been labeled “reenactment interviewing” (Drew, 1993). Within TLC, this is the methodology demonstrated in “Discovering the Story” exercises. To be avoided is psychodramatic exploration of past events in the client’s life, a procedure that should be undertaken only by or under the supervision of someone with a mental health credential.

Even the Discovering the Story approach may not be indicated. Many of a lawyer’s clients have experienced severe trauma in the events that have led to the lawsuit. Directing a psychodrama of events involving a death, rape, or torture for example, has a distinct possibility of re-traumatizing the client (or witness.) We know of several cases in which this guideline has been ignored and, as a result, clients experienced abuse. Only a fully trained, experienced psychodrama director with a credential in one of the mental health disciplines should consider working with people who have faced the events like those enumerated. It should go without saying that lawyers should not attempt to engage in psychodramatic psychotherapy or personal growth sessions.

True competence in directing psychodrama comes only with adequate training and experience. That can only happen with supervised practice and over time.

WORKING ON THE HORSE

One of the amazing things about Gerry Spence is his ability to rise to occasion after occasion with a spot on response. One example: Spence demonstrates his approach to voir dire. He asks students to present the tough issues of their cases. With a list of a dozen or more issues, Gerry makes a jury out of a dozen students and in the moment defuses explosive issues one after the other. Or, a case is presented and Gerry creates a stunning opening statement that can win the case by itself. Another case and he cross-examines the opposing expert until that witness is actually testifying for Gerry’s client. In dozens (or is it hundreds) of Nights with Gerry, he fields any and all questions, no holds barred for an hour and a half or two hours. His responses are informative, witty, incisive, and reflect both wisdom and knowledge. In addition, he is a multi-talented artist. He is a writer of fiction, non-fiction and poetry. He is an accomplished painter

and photographer.

Gerry Spence is the embodiment of the characteristic that we call spontaneity in psychodramatic parlance. One of Gerry’s greatest gifts to TLC was his sharing the secret of how one can achieve spontaneity through personal work and development via psychodrama.

J. L. Moreno, originator of psychodrama and related action methods, defined spontaneity as an appropriate response to a novel situation, or a new response to an old situation. Spontaneity is delineated by novelty and appropriateness. Spontaneity is the catalyst of creativity.

Spontaneity is the natural state of mind of the young child. Children are unfettered creative geniuses when it comes to exploring and learning about the world into which they have been thrown. Instead of fostering their spontaneity, however, society tends to curb it. As children, we received the injunctions, instructions, directives, commands, warnings, cautions, and admonitions that everyone gets from parents, teachers, law school, employers, and all others who hold authoritative influence over us. We get many messages on how we are expected to

act. These messages are often mixed or contradictory and create anxiety and confusion. We are told how to perceive the world and what to expect from it. Everywhere we go we experience constraints, prescriptions, proscriptions and inscriptions.

In addition, children learn from their life experiences. Many of these experiences bring pain because life is difficult

and children are at a disadvantage in understanding what has happened to them and why. In terms of Eric Berne’s Transactional Analysis theory, children get many “I’m not O.K.” messages. Children are subject to many absolute, arbitrary authority figures. Most people experience and internalize much more emotional pain than is generally recognized by those around them.

Having lost what was natural in childhood, how do we regain spontaneity?

Many activities foster, enhance and generate spontaneity. Any time that we are passionately involved in a cause or an activity, we are experiencing and exercising spontaneity. Creative and artistic endeavors of all kinds foster spontaneity. And then there is psychodrama. Psychodrama is the one method that was specifically developed to increase spontaneity. In point of fact, psychodrama emerged from the *Stegreiftheater*, the Theater of Spontaneity¹ that Moreno founded in Vienna in the early 1920’s. Indeed, Moreno labeled some of the early applications of psychodrama “spontaneity testing” and “spontaneity training” (Moreno, 1953). Moreno believed that any application of psychodramatic techniques could increase the spontaneity of those participating,

One psychodrama, one therapy session, one improvisational theater experience will not free us of toxic influences from the past. The elements that took our spontaneity away or buried it are complex and have occurred over a long period of time and therefore cannot be corrected in one or two sessions as a protagonist.

The most profound impact, however, is found in what we call personal psychodrama. Psychodramatic reenactment allows one to examine all the directives and rules that one has absorbed from early childhood and to reformulate or even jettison those that are no longer productive in one's life. Psychodrama frees the horse from useless and hobbling impediments of the past to run stronger and more freely. Personal psychodrama is an excellent and powerful way of working on the horse.

While psychodrama is the only method of personal exploration and understanding explicitly based on a theory of spontaneity-creativity, it is far from being the only method that can achieve self-understanding and increase spontaneity. During the time when the Human Potential Movement was in full swing, many approaches were readily available. There was Transactional Analysis, Gestalt Therapy, the T-Group method and other approaches of the National Training Laboratories, and the Rational-Emotive Behavioral therapy of Albert Ellis as well as many others. There are still pockets of these methods available in many localities. Many TLC alumni have gotten involved in Improvisational Theater, another effective method of increasing spontaneity. All individual and group psychotherapy methods also involve better understanding of ourselves and our behavior.

We hear many alumni of the Trial Lawyer's College say that TLC and psychodrama have changed their lives. They are no doubt sincere, and to some extent correct. However, working on the horse is not a one-time activity. It is an undertaking that requires commitment and dedication. One psychodrama, one therapy session, one improvisational theater experience will not free us of toxic influences from the past. The elements that took our spontaneity away or buried it are complex and have occurred over a long period of time and therefore cannot be corrected in one or two sessions as a protagonist. The first protagonist experience is an effective and meaningful beginning but nonetheless it is merely the first step of what will need to be a long journey. It involves exploring the vast worlds of our inner experiences, finding the conserves, those experiences that interfere in the free flow of spontaneity in our ongoing lives. These often involve the unresolved and heretofore unexpressed pains that we have collected in childhood experiences. It is not easy. It takes time.

Because the world delivers assaults to our creativity and spontaneity every day we live, even if we have fully dealt with our traumas from childhood, the world will continue to present us with more challenges to maintaining our spontaneity and therefore our commitment to such work needs to be ongoing. The potential for human growth is nearly unlimited.

The personal psychodrama available through the Trial Law-

yer's College is necessarily quite limited. Even with President Jude Basile's mandate of a day of personal psychodrama at regional seminars, and with several days made available during the TLC Ranch experience, only a small percentage of the students actually take the protagonist role, and fewer still have more than one opportunity to do personal work.

And that is as it should be. The Trial Lawyer's College mission is centered on trial skills. Many alumni have found that the most effective way of combining personal work with the development of good psychodramatic skill is through psychodrama training programs that are available throughout the country. Since personal exploration is an integral aspect of training as a psychodrama director, these workshops meet both needs of lawyers who want to be competent in the application of psychodramatic techniques in their practices.

SUMMARY

At the Trial Lawyer's College, lawyers are shown two distinct ways of making use of the psychodrama method. One is as an avenue for personal development; the other is as a way of preparing for trial. Both these applications have had a powerful and continual effect on TLC alumni and their practice of the law. We read on the list serve of many trial successes for which psychodrama is given credit.

Those who have committed themselves to serious personal psychodrama work report that it now informs everything that

they do. They make statements like "I talk differently to clients on the phone and in the office." "I relate to my secretary and paralegal differently and we are all happier for it." "I relate to my wife/husband and children differently. I see things differently. It has made me a better person." Others proclaim greater spontaneity and creativity, and less fear and anxiety. Training makes the use of psychodrama with clients and witnesses easier and more effective. True competence in both the TLC method of trial lawyering and the psychodrama method make a uniquely effective lawyer. [®]

ENDNOTES

- 1 *Stegreiftheater* was also the original source improvisational theater, another source of spontaneity training.

REFERENCES

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