
Section 1: Theory & Research

Non-clinical Psychodrama: Lawyers and the Psychodramatic Method

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This article describes what happened when non-clinical psychodrama was introduced into Gerry Spence's Trial Lawyers College, a post-graduate training program for trial lawyers. Psychodrama was first utilized to give the students of this program an introduction to personal growth and development. Role training as the method of teaching trial skills came next. A number of innovative applications of psychodramatic method and techniques to both training and practice evolved as the College's instructors became more familiar with the psychodramatic method. The author describes these innovations and presents the events that occurred as an argument for greater use of psychodrama beyond psychotherapy and the mental health field.

KEYWORDS: Non-clinical psychodrama; psychodrama; role training; re-enactment interviewing; lawyers.

INTRODUCTION

As many as 1500 trial lawyers have been exposed to psychodrama through Gerry Spence's Trial Lawyers College, an organization providing post-graduate training to trial lawyers. Psychodrama was incorporated into the curriculum of The Trial Lawyers College because Spence had taken part in the human potential movement of the 1950s, 1960s, and 1970s, and recognized that those experiences had significantly informed his unique approach to the practice of trial law. Although Spence's original idea of introducing psychodrama at the Trial Lawyers College was to expose the students of his College to a powerful approach to self-understanding and the development of personal potential, the staff and students of the College have gone far beyond this goal by developing unique and creative ways of utilizing the psychodramatic method in both training and their work. This article describes some of the ways in which trial lawyers make use of psychodrama and psychodramatic techniques.

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HISTORY

While most people, including psychodramatists, express surprise at the idea of lawyers making use of psychodrama, the notion goes back at least to 1959, when Howard Sacks, then on the faculty of Northwestern University Law School, published an article in *Group Psychotherapy* on the use of psychodrama and role playing to develop the social skills of law students.

More recently, in 1978, John Ackerman, then the Dean of the National College for Criminal Defense, a post-graduate lawyer training organization, introduced seminars into the curriculum of that agency that were in actuality personal and professional growth events. It was at these seminars that Spence had the opportunity of observing Don Clarkson's skill as a director of psychodrama. When Spence, one of the most prominent and successful attorneys in America, fulfilled a long-term dream in 1994 by establishing the Trial Lawyers College, through which he hoped to pass along to younger lawyers his unique approach to the profession, he chose to give his student lawyers an experience of psychodrama as a prelude to their training. He engaged Clarkson and myself to provide that experience.

I had not previously met Spence, and had little idea what the Trial Lawyers College involved. Spence expressed two ideas with respect to his college for lawyers that resonated strongly with me. The first was the notion that for the lawyer, a trial is a matter of telling a story, the story of what the lawyer's client had experienced. The second was his conviction of how important it is for lawyers to understand themselves, especially their emotional reactions, at the deepest level. I was struck by these concepts because for years I had been telling psychodrama students, mostly from the mental health professions, that a psychotherapist has two instruments, a method and oneself, and that it is crucially important to know them both thoroughly. I have also held that the psychodrama director's first responsibility is to help protagonists tell their stories. I often add that if this is done well, the therapy will automatically follow.

When I learned that the College primarily involved teaching the skills related to the five stages of a trial, I immediately thought that role training might be of value to it. I offered to volunteer some time to the College. Initially, Clarkson and I had been engaged to conduct personal growth sessions for three days at the beginning and two days at the end of the 31-day training. Over the next several years, I was present for most of the entire month-long event.

INTRODUCTION OF ROLE TRAINING

In its early years the Trial Lawyers College, abbreviated and referred to as T.L.C. by students and staff, occupied the full month of August. The first three days and the last two were devoted to psychodramatic personal growth work. Initially, influenced by conventional stereotypes of lawyers and the prevailing lawyer jokes, I was concerned how lawyers would respond to psychodrama. I imagined that they might revolt and refuse to take part. My apprehensions soon dissipated. The students of The Trial Lawyers College, all

lawyers with five to twenty or more years of practice behind them, after some initial shock became thoroughly engaged in the psychodramatic process, appreciated it, and were eager to participate in our sessions. They proved to be more enthusiastic and willing to engage in self-exploration than many of the mental health professionals to whom I have introduced psychodrama. I discovered that by and large these trial lawyers cared deeply for their clients and often went beyond what might be considered the call of duty to help obtain justice for them. I agreed with Sacks (1959) that these lawyers could be called practitioners of one of the helping professions.

During the second year, when I was present for most of the month, I observed what was being taught and how it was presented. I discovered that the College consisted of plenary sessions in which one of the five basic phases of trial—jury selection, opening statement, direct examination, cross examination, and closing statement—were introduced and discussed. Following this, Spence or another demonstrated his particular approach to the trial phase under consideration. The class of 48 students next divided into six groups of eight students, each with one or two instructors who then led skill-training sessions. The standard procedure in the skill-training session called for each student to perform for a short time and then receive a critique from the group. Considerable emphasis was given to ensuring that each member of the group got equal time. The instructors were Spence's colleagues, some of the most famous trial lawyers in the country.

After the second year, the executive committee of the College decided to bring back some of the star students from the first two years as "junior staff," and I was invited to teach them the rudiments of role training prior to the third year of the College. During that year's Trial Lawyers College, this new staff of about a dozen men and women lawyers were able to introduce some of the concepts of role training into the skill training sessions. Although they were far from mastering the role training method after only a few days of training, they initiated important changes. Instead of the previous procedure of allowing students to perform uninterrupted for ten minutes, instructors intervened whenever they thought the performance could be improved, and through use of one or more psychodramatic techniques such as role reversal, mirroring, or soliloquy, helped students immediately enhance their performances. Unused to the interruptions, students initially resented the interventions. However, they quickly recognized that this new method made their training sessions much more spontaneous, alive, and interesting. Rather than the traditional format of noting the positive and negative points of a student's performance, the entire class became engaged in helping the student improve the presentation. Competition was minimized and cooperation maximized. Psychodrama, in the form of role training, had entered the Trial Lawyers College classroom.

Since that time, the T.L.C. staff has become comprised mostly of lawyers who have attended the College and who additionally attend a week of staff training each year. The length of the Trial Lawyers College was shortened in 2000, and is now 24 days long. In addition, the College presents five or six three-day seminars

in various parts of the country, a weeklong seminar dealing with death penalty cases, and two weeks of seminars for those who have graduated from the basic program. Because lawyer staff is not financially compensated, most can serve for only a few events per year. As a result, the College requires a large number of staff, and over 100 graduates have attended staff training sessions.

PSYCHODRAMATIC ENACTMENT AS WARMUP

While teaching a session on opening statement, two staff members, Ken Goldberg and Cyndy Short, had one of their students take the role of the client and psychodramatically set the scene of the major event in the case. This simple action precipitated a number of evolving changes in teaching methodology. Setting the scene helped the student connect with emotional elements of the case, and resulted in an immediate improvement in performance. In psychodramatic terms, the action warmed the student up to an improved delivery of the opening statement. The performance tended to be more detailed, and engaged the audience to a much greater degree.

This event set off a number of experiments in using psychodramatic techniques to warm the performer up to the specific trial skill being taught. Trainers often had the student reverse roles with the client. The trainer would then interview the student to warm the student up to the thoughts and feelings of the client. This technique improved student's performance in all five trial skills.

PSYCHODRAMATIC ENACTMENT IN CASE PRESENTATION

Real cases, presented by the students, are utilized in both staff demonstrations and in skill training sessions. In the early years students were invited to present a "fact pattern," a term used in legal education which means just what it suggests, the facts of a case that are expected to emerge in the testimony of witnesses. Facts are statements by clients and witnesses, records, pictures, artifacts, and so forth. In a spontaneous moment, Spence asked me to direct an enactment of some critical scene in a case with the student who offered it in the role of the client. Everyone present immediately realized how much more effective the enactment was compared to the recitation of a fact pattern. Subsequently, enactment became the standard way of presenting a case.

In the early years of the College, the curriculum included a process of analyzing a case, referred to as "brainstorming." The facts in the fact pattern were classified as good facts or bad facts, and further subdivided into those that were absolute and those that allowed interpretation. Everyone present was encouraged to give their ideas on how the facts could be analyzed and organized on behalf of the client.

The psychodramatic version of brainstorming developed when Jude Basile, one of the senior lawyer staff trainers, in conjunction with Katlin Larimer, one of the TLC psychodramatists, originated a psychodramatic approach to case presentation during a focus group that they had engaged to assess one of Basile's cases. The new process elicited a tremendous amount of information that proved invaluable to the lawyer as he was planning his trial presentation. Larimer and

Basile brought their new creation to the Trial Lawyers College staff, where it has evolved into a process called "Discovering the Story," now widely used by College graduates in their everyday work.

PSYCHODRAMA IN TRIAL PREPARATION

Students who had the opportunity to do reenactments in the role of a client or other witness reported that the experience was of tremendous value to them. The activity had given them new insights into the client and the events of the trial, and an emotional connection that invigorated their presentations in trial. Soon we had reports of the graduates of The Trial Lawyers College using role reversals in a variety of ways to prepare their cases for trial. The lawyers were putting themselves into the roles not only of client, but also of friendly and hostile witnesses. Some lawyers reported putting themselves in the roles of all those in the courtroom—jurors, judge, adverse counselors, even the bailiffs and court reporters—in order to look at the trial and themselves through the eyes of the significant actors in the courtroom. Others also took their clients into the courtroom before trial, having them explore the intimidating site and sit in the chairs of all the important players. The more familiar clients are with the setting, the less anxious and more at ease they will be during the trial.

PSYCHODRAMA TO OBTAIN INFORMATION

From the beginning, lawyers who had experienced psychodrama began applying reenactment to their cases. One took the family he represented in an automobile accident case to the scene of the event, and asked them to replay their actions and report their experiences. He obtained critical new information useful to the case.

In 1996, a Trial Lawyers College graduate asked me to work with several clients whom he thought could benefit from a psychodramatic experience. We spent one day working with the families of four men who had died through negligence on the part of others. Both the family members and the eight staff members of the law firm attended what became a grief workshop. We discovered that it indeed had been helpful to the families emotionally, but even more so to the staff, who learned more about the situations they were dealing with, and about the emotional impact on the survivors. The relationships between the clients and law firm staff were greatly improved.

Thus psychodramatic trial consultation was born.

THE LAWYER AS PSYCHODRAMA DIRECTOR

Greatly impressed by the way in which psychodramatic reenactment generates so much valuable information, students of the Trial Lawyers College began asking if it was all right for them to direct reenactments with their clients. There were really two questions: Is it legal for someone not credentialed as a psychotherapist to direct psychodrama? Is it ethical? The first question arises because psychodrama has so often been defined as a method of psychotherapy

or of group psychotherapy. If that narrow a definition of psychodrama were accurate, then it would probably be improper, indeed illegal, for a lawyer to direct psychodrama. We know, however, that the psychodrama literature is replete with reports of non-clinical applications of the method. Jim Enneis, the founder of the St. Elizabeth's Hospital psychodrama program, pointed out to me at conference in 1976 that psychotherapy was merely a function, not a definition of psychodrama.

Psychodrama can actually be most accurately described as a method of communication that can be used for a number of functions, one of which is psychotherapy. The lawyers had no desire to conduct psychotherapy with their clients. They wanted to use psychodrama to learn more clearly and effectively what had happened to the client. In short, they were interested in using psychodrama to get information, not to treat emotional problems. The problem was resolved when we realized that anybody who was in a position to ask another person to "Tell me what happened," was equally entitled to ask that person to "Show me what happened." Psychotherapists and lawyers are both in that position by virtue of their respective professions. "Show me what happened" is, of course, the essence of psychodrama.

Competence is probably a more important question than permission. The lawyers who want to use psychodrama are encouraged to seek training in the method, and many of them have done so. At present, there are at least six lawyers who have become Certified Practitioners, and one who has gone on to become a Trainer, Educator, and Practitioner. Lawyers are also cautioned to enlist the aid of a trained psychodramatist if they have clients who have experienced serious emotional trauma.

REENACTMENT INTERVIEWING

To help distinguish the use of the psychodramatic method by lawyers, we are using the term "reenactment interviewing," a concept introduced by Drew in an article published in 1993, in which she advocates the use of psychodramatic techniques in phenomenological research. Phenomenological research is concerned with experience and meaning, as opposed to empirical research, which has prediction and control as its goal. "The crucial act for phenomenologists is describing human experience," Drew states. She further writes:

Both psychodrama and phenomenological research unfold layers of meaning and awareness that may previously have been hidden. More simply, both phenomenologists and psychodramatists help participants tell their stories. However, psychodramatists have at their disposal strategies that make the process of unfolding and revealing experience easier and more productive than traditional interviewing. These strategies are not only appropriate for data collection in phenomenological research, but produce data which have extraordinary depth. (p. 347)

Phenomenologists, psychodramatists, and lawyers all are heavily invested in discovering stories. For phenomenologists, it is the story of the research participant; for psychodramatists, it is the story of the protagonist; and for lawyers, it is the story of the client. Each learns more from reenactment interviewing than from traditional face-to-face, seated interviewing.

CONCLUSION

I have long been an advocate of the use of psychodrama beyond the mental health field. In that respect, I have used psychodrama method for organizational development, in medical education, and in the English literature classroom. In every case, this wonderful method has added an important new dimension to the activity involved. At the very least, action enlivens activities that otherwise easily become dull and boring. In the educational situation, role training reduces competition and increases cooperation and collaboration.

Work with the lawyers of The Trial Lawyers College has been exceptionally rewarding and fulfilling. Although not every lawyer who comes to The Trial Lawyers College appreciates psychodrama, enthusiasm, respect for, and appreciation of psychodrama have been extremely high. In addition, the staff and students of The Trial Lawyers College have been incredibly creative in finding innovative ways to use both method and techniques. They have reinforced strongly my long-held convictions that psychodrama is indeed the road to spontaneity—creativity and that psychodrama is for everybody.

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