

Thursday, April 10, 2008

Connecting with our clients, with their fears, and ours.

Rather than Charles Manson causing Alfred Hitchcock the most fear, it was getting stopped by the police for speeding. See Hitchcock at minute 3:38 of this video. Numerous potential criminal clients' first words to me include: "This is my first time seeking a lawyer. I'm not sure what I am supposed to discuss," as if there exists some generic script or information checklist suitable for every lawyer and client and every situation. Perhaps a script is wanted to avoid the unknown of no script, and the fear of what happens once the potential or actual client stops talking and the lawyer gives his or her perspective (or perhaps quotes the lawyer's consultation fee). Deep and active listening through our eyes, ears, and intuition, of course, is critical for us to understand and relate to our clients, so that we may enable them to make informed decisions, so that we may battle powerfully as a team with them, so that we may empower and comfort our clients, and so that we may build trust with them. As we understand our clients better, we are able to better humanize them to judges and juries, thus making it harder for them to do harm to people they can relate to than to those who seem entirely different from the judges and jury members. How can we sufficiently listen to and hear our clients without giving plenty of time and attention to our clients? How do we sufficiently listen to them if we insist on keeping control of the conversation, including how long it lasts and who talks when? How do we sufficiently relate with our clients without getting together in informal surroundings, be it their home (which can help us learn much more about our clients), taking a walk on a warm day, or breaking bread together (and, for our incarcerated clients, once in awhile to visit without any files, and to just talk as two people, rather than as attorney and client)? How can we do that if we do not bill our clients enough money for us to give them the time they need and deserve (except for when we consciously bill pro bono or low bono; in all instances, clients need to receive the same service as if they had paid in full)? How do we explain the importance of devoting and charging for this time to potential clients who want to bargain on our attorney fees (I often tell them that I am sure they can find a lawyer charging less money if they want to pay less than my fee quote)? It is easier to understand our clients' fears that we share with them. I have dealt with so many hundreds of cops and so many dozens of courtrooms and jail visiting area that I have no fear of them in and of themselves. Most of my clients still do, and I need to keep that in mind even when their negative effect on me is minimal, other than to feel an uncomfortable feeling in the pit of my stomach often in relating them to the rampant oppression that they often cause. Cops know how fearful most people are of them, and they take advantage of the situation. Once, a very experienced criminal defense lawyer even told me he was scared when stopped for a moving violation, even though the cop apparently was not acting menacing. A client of mine was all nervous at a license suspension hearing where I advised him that the matter was likely to be dismissed seeing that his court case had been dismissed; when my premonition of dismissal came to fruition, in the hallway, he gave me a bear hug, as if I had done something miraculous that was not miraculous at all; he could now go on with his life, without the fear of the unknown of his case. Who would have known that even Alfred Hitchcock, the master of suspense, was so fearful of even being stopped by a cop for speeding that he refused to drive? In the above-displayed YouTube interview with Tom Snyder at 3:38 minutes, Hitchcock has no explanation for such fears other than cowardice. Perhaps his cowardice led him to make suspense films in the first place; to face his fears. Perhaps that also is why his films are so popular, aside from his cameo appearances near the beginning of each film. During trial, it is particularly critical to stay abreast of our clients' feelings and fears over the unfolding events. Sometimes defendants act out to their own detriment at trial, at times by making outbursts, whether they are intelligible or not. When clients know we are in tune with their feelings and fears, and that we are trying to give them harmony amidst such feelings and fears, they are less likely to act to their detriment. Of course, by hearing and empathizing with our clients' fears, we risk discovering and revisiting some of our own; it is a necessary occupational hazard. Jon Katz.

Posted by Jon Katz in Criminal Defense at 00:00