

Friday, November 14. 2008

**Applying t'ai chi to trial lawyering.**

Â Â INTRODUCTION When I told t'ai chi Master BenÂ Lo that, time permittingÂ in the morning,Â I sometimes circle the courthouse where I am scheduled and conclude with t'ai chi, he asked if some people think I am crazy. I told him of my temporary police detention last June, when I was a suspected t'ai chi terrorist. He suggested that I not practice t'ai chi in airports. Of course, practicing t'ai chi is anything but crazy. It is the Supreme Ultimate. Â The editor of a state criminal defense lawyers association newsletterÂ recently solicited articles. In the ongoing spirit of my applying t'ai chi to criminal defense and everything else I do, I submitted the following article that incorporates material from my previous blog entries with some additional ideas and realizations: Â MAINTAINING CALM IN THE EYE OF THE STORMÂ Â Consider being in trial against the most underhanded prosecutor you have ever battled against or, perhaps worse, a prosecutor with a reputation for fairness acting the complete opposite. Add to that a judge who merely wants to move the case along, even if that means only allowing the span of a lunch hour to review a mountain of Jencks material. Complete the picture with a bunch of lying witnesses fingering the wrong person, your client. Â Â What is the most powerful way to approach such a state of injustice? Critical ingredients are calm, non-anger, and fearlessness. To go to battle in a state of mental and physical limpness will amount to a limp performance. To go to battle tense, stiff, or angry will give the opponent a huge area of the defense to push against and to topple, and will close off the channels of energy and strength. To be mindfully calm, on the other hand, gives the opponent nothing to push against, and gives one tremendous strength. Â Â In the West, for too long the power of calmness has been underrated, perhaps as a hallmark of laziness, weakness, and the antithesis of non-stop capitalism. The transcendental meditation craze that particularly flourished in the 1970sÂ helped make calmness a normal goal. Today, yoga is widely embraced as a way to reach calm. Over a decade ago, I chose the tai chi path. Â Â Soon after joining the Maryland Criminal Defense Attorneys Association in 1991, I met the late Victor Crawford, who had a law office in Rockville. By then, he had been practicing the Chinese internal martial art of tai chi for many years. Vic was no touchy-feely, woolly-headed new-ager, which intrigued me all the more about what drew him to tai chi. Curiously, one of Vic's main teachers did not fit that mold either; he is Robert Smith, who, while working with the CIA in Taiwan in the 1950sÂ became the first Western student of a legendary tai chi master named Cheng Man Ch'ing. Eventually, at my request, Vic gave me the names of some local tai chi teachers, with a note that I was about to embark on a journey that would open amazing doors. The doors tai chi opened were many. For trial battle, tai chi has provided me the best anchor for powerful calmness that I have found. Â Â Â At first glance, t'ai chi might look like overly-simple slow-moving calisthenics for those who do not want to, or cannot, break a sweat. In reality, this martial art involves slow movements, a soft body, and an emptied mind on the one hand, and mindfulness, strength, and quick reflexes on the other, which all are critical to effective trial battle. The physical movements of tai chi better prepare practitioners to be calm and powerful at all times. Tai chi is suitable both to make strong people stronger and to reverse weakness in the unhealthy. Â Â When applying t'ai chi to trial work, the practitioner neither chases an opponent's power nor hides from it. Instead, the practitioner uses the opponent's power and energy to the best advantage, while seeking to sense the opponent's strategy and planned attack, to give the opponent nothing to push against, to find the opponent's weaknesses, and to neutralize the opponent. This fighting aspect of tai chi is called pushing hands, or, better still, sensing hands, because the idea is to keep the opponent close enough to be able to sense the opponent's strategy, next move, strengths and weaknesses. The phrase sensing hands also is more apt than pushing hands, because the most accomplished tai chi practitioner uses mind energy over physical energy to win a battle. Â Â Â Assisting in sensing the opponent's strengths, weaknesses and strategy is to remember that all people are interconnected and seek to minimize pain and to manage their fears. A Western-developed approach utilizing this realization is psychodrama, which is a powerful method developed by psychotherapist Jacob Moreno to apply roleplaying, reverse roleplaying, and deep introspection to resolving conflicts and to figuratively crawl under the hide of one's opponent and others. Psychodrama is heavily incorporated into the Trial Lawyers College in Dubois, Wyoming, and local attendees of the TLC sometimes gather to apply psychodramatic techniques to prepare for trial, sometimes with the assistance of Don Clarkson, a local psychological therapist who is one of the premiere practitioners of psychodrama. Â Â Â Related to the approach of neither chasing nor hiding from an opponent, t'ai chi master Benjamin Pang Jeng Lo once said: "Normally we think that if [our opponent] has 100 pounds of force or power, I better have 150. But then if I get 150 pounds of force, he may have accumulated more himself. Or there'll be somebody else with more. So next time it will be my 150 against his 200. Then I'll need to go to 250. . . and still, there's always going to be somebody with more than me. So I need to reverse my approach. I need to take my own power down to 0. Then there's no chasing or spiraling. Nothing can change. If he has 100, I have 0. If he has 150, I have 0. If he has 200, I still have 0, on and on, whatever he has, I'm always beneath it, it doesn't change or affect me. I'm not chasing his attributes, or competing, or catching up, or exceeding him. That's Taijiquan.â€•

<http://www.rimtaiji.com/BenLoTeaching.htm> Â Â A student of the famous Sun Tzu reaches the same destination through

the following path: "Sun Tzu's ideal military leader is calm in the midst of chaos, being able to even appear chaotic to deceive his enemy. The ultimate skill is separating oneself from the stresses of everyday life. Thus, a strong leader's response does not correlate and follow with the stimulus, which in effect, is quite impressive to his or her people and to the competition. With this ability, one can think clearly without influences corrupting the process in bringing about the best solution. He or she has inner peace in a world of perpetual turbulence. How many times do you find yourself so wrapped up in present worries, you can't seem to think clearly, and that the decision was made based primarily from the tension?" — "The Sun Tzu Way." • <http://sonshi.com/sun-tzu-way.html>. — — An essential ingredient to reaching calm is to overcome one's fears. Tai chi master Cheng Man Ching spoke of tempering our fears in terms of imagining that we are practicing tai chi while balanced atop a narrow pointed cliff. To not eliminate one's fears while atop the cliff is to guarantee certain death. Eliminating fear also calls for keeping and tempering the fearlessness of a child filled with wonder and living in the moment, as detailed in the Zen story of the man and the two tigers: A man is chased in the wilderness by two tigers, only to be forced off a cliff, hanging for life from a vine. One tiger waits above and the other waits below for a human meal. Two field mice gnaw away at the vine. The man sees a wild strawberry growing from the side of a cliff, reaches for it, tastes it, and -- with his life hanging in the balance -- thinks of how delicious the strawberry tastes. — — This power of being in the moment -- and finding and savoring the nearby wild strawberries during even the most trying times — — has no substitute. Ironically, those who welcome battling in the eye of the storm have the best opportunity to reach a state of calm. Nothing tests one's ability to reach calm more than the most dangerous situations. — — The extraordinary power of tai chi for our daily battles is accurately captured by an Australian tai chi practitioner, who says: "As one famous taiji teacher (Cheng Man-ching) once put it, drawing on the Taoist image of the soft overcoming the hard, water and air are amongst the softest of Nature's elements, yet massed wind (cyclone) or water (tidal wave) can overcome the hardest thing! The taiji practitioner if properly trained is able to harness or access realms of psychophysical energy (qi) unavailable through mere muscular exertion. Another leading taiji exponent (Bruce Kamir Francis) once compared the power capable of being generated by the internal versus the external arts to that of the atomic energy of Quantum physics that results from splitting the atom, as compared to Newtonian, mechanical energy." [http://www.fwbo.org.au/toowoomba/tai\\_chi\\_chuan.html](http://www.fwbo.org.au/toowoomba/tai_chi_chuan.html). — — — When approaching trial battle with a tai chi angle, the goal is not to beat the other side. Instead, the goal is to harmonize an imbalanced situation for the client. If the opposing side can be spared harm during the harmonization process, that is all for the good. If the harmonization necessitates inflicting severe damage on the other side, figuratively, the lawyer needs either to be ready to inflict such damage if need be and within the rules of professional conduct, or to leave the battle to a replacement lawyer. — — The concept of applying tai chi calmness and strength to trial battle is not at all a fanciful intellectual leap. At the initial level, tai chi is a physical exercise geared towards strong calmness and physical health. As one progresses with tai chi — — which is a form of Chinese boxing -- the physical exercise becomes a way to harmonize and strengthen one's mind and spirit to be ready for any challenge and to keep one's wits even when the proverbial unfed vicious tiger is lunging at the practitioner. In fact, one key tai chi move is called — — "embrace tiger, return [the tiger] to mountain." • One cannot fully and successfully know and battle adversity without first embracing it, rather than fleeing it. — — A huge gap exists between knowing how to be powerfully, patiently and fearlessly calm on the one hand, and executing those principles on the other. The best way to reach the state of powerful calmness is to practice constantly and to reach a state of mindful relaxation throughout the day, night, week, and years. — — BIBLIOGRAPHY The following resources expand upon the themes of this article: — — — "Being a Tai Chi Bear in an Otherwise Stressful Court," • Jon Katz. <http://tinyurl.com/5tdb2n>. — — "Tai chi and the five integrities," • Kenneth van Sickel. <http://tinyurl.com/5k9akj>. — — Tai chi video: <http://tinyurl.com/6ct7p4>. — — Tai chi links from a Maryland tai chi school: <http://wuweitaichi.com/links.htm>. — — Overview of psychodrama: <http://tinyurl.com/5kusgg>. — — Jon Katz. — —

Posted by Jon Katz in Criminal Defense at 00:00