

## **ONE PICTURE AND 1000 WORDS (APPROXIMATELY)**

Everyone always thinks of the lawyer standing up and speaking. Daniel Webster giving 12 hour arguments in the Supreme Court. Clarence Darrow arguing to a jury for two solid days. Perry Mason making some poor witness wet himself through the skilled use of his dominating eloquence. No more.

We are truly a visual society. In fact, we are a visual species. We have five senses, but clearly, if we have sight we rely on our eyes more than anything else. I have never taken a poll, but I would imagine that if we had to choose a sense to give up, very few would choose vision. People who have lost their vision (or never had it) experience a compensation in their other four senses to make up for that lack of vision. Again, I have never taken a poll, but I am not at all sure that the other senses compensate as much to make up for the loss of, say, one's sense of smell or even hearing. Vision is that important to us.

Now, think for a moment how we take in our information throughout the day. By and large, we do it visually - either through the television or on the internet.<sup>1</sup> And if we want to learn how to communicate concepts through visuals, you can't beat cable news.

If we watch cable news, we see not only the talking head in the middle, but stuff running up one side and across the bottom of the screen. Somehow we take it all in through our eyes. Sure, the talking heads are talking, but if you mute the TV, you can still kind of figure out what they are talking about, can't you? The reason is that the pictures they show will demonstrate the concept they want to convey and then they explain the concept through talking. In reality, cable news is just one big narrated PowerPoint slide show.

It used to be that these visuals did not exist on the nightly news. So does that mean Walter Cronkite did not communicate in the 60's? No, he did. But I am not sure he could use that same style today and hold anyone's attention long enough to convey a single concept. The fact is that we are no longer wired to effectively consume information through the spoken word alone. Even if we were, using visuals in addition to speaking is just simply more effective. Cronkite did it as soon as he could.

Here is a little demonstration of using a visual to communicate a concept:

This is the first paragraph of the model jury instruction for the justification of protection of property with deadly force (Tex. Penal Code Ann. § 9.42):

You are instructed that under our law a person is justified in using deadly force against another to protect land or tangible, movable property, if, under the

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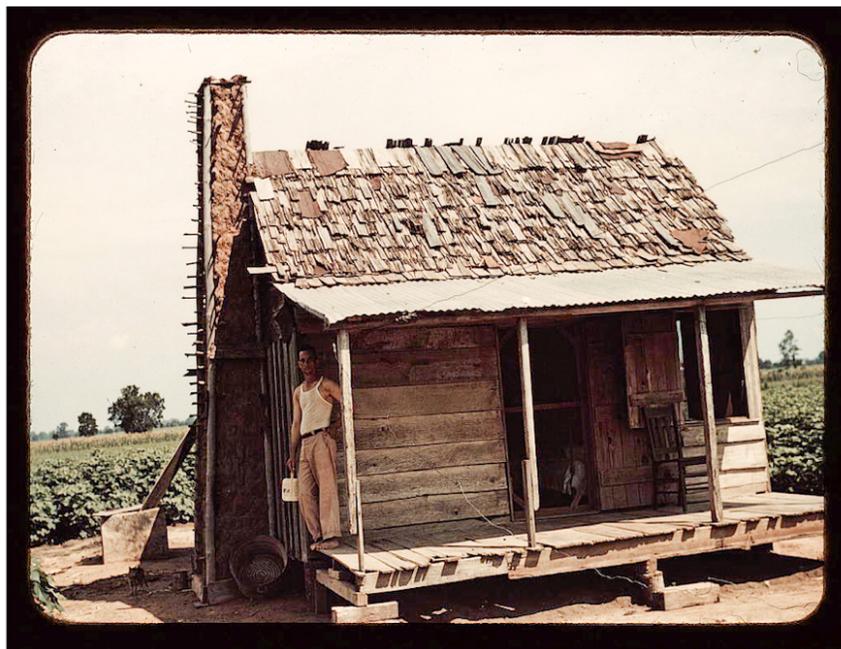
<sup>1</sup>Of course, I know there are those to get most of their news from talk radio. Thing is, by and large they probably would not do this if they had a choice. One listens to talk radio either while one is driving to work or during work while one is pretending to work. But once home, Rush Limbaugh gives way to Fox News.

circumstances as he reasonably believes them to be, such person would be justified in using force to protect himself against the unlawful force of another and when and to the degree he reasonably believes that his intervention is immediately necessary to prevent the other's imminent commission of arson, burglary, robbery, aggravated robbery, theft during the nighttime, or criminal mischief during the nighttime; to prevent the other who is fleeing immediately after committing burglary, robbery, aggravated robbery, or theft during the nighttime from escaping with the property and he reasonably believes that the land or property cannot be protected or recovered by any other means; the use of force other than deadly force to protect or recover the land or property would expose the actor or another to a substantial risk of death or serious bodily injury.<sup>2</sup>

OK. Now here's the challenge: find a non-lawyer who is not familiar with this defense and read it to them and then ask that person to say it back to you. Ask them what the concept was the words are trying to convey. If you want to really give the person a challenge, hand the definition to that person to read and talk the whole time the person is reading. Once they are done reading as best they can, ask what was the concept the instruction was trying to convey.

This second experiment - talking while the other person reads - is exactly what happens when we put a slide in a PowerPoint presentation containing the words of the defense. We put it up on the screen and start talking. The jurors then have to split their minds between reading the instruction on the screen and listening to what we are saying. The end result is they don't catch either one.

Now try this. Show this picture to the person:



<sup>2</sup>BERRY, GALLAGHER & McCLUNG, TEXAS CRIMINAL JURY CHARGES, § 3.1960 (James Publishing, 2008). This is only the first paragraph of the instruction and runs 163 mind-numbing words. The entire instruction is over 560.

As the person is looking at the picture, ask them what the phrase "A man's home is his castle" means to them. They will say that it means you are supposed to be safe in your home and you can protect it. Exactly. That's the concept. Tell them that the law agrees with them 100%. Tell them about deadly force to protect property. It will make perfect sense to them. They will immediately get the concept.

Finally, ask your person what he or she was thinking about when they were looking at the picture. See how many say they were picturing themselves in their own homes. When a person sees a bunch of legalese on a screen, they will be baffled and unmoved. When they see a man standing on the front porch of his home, they will picture themselves in his place. The issue will go from being purely legal to personal and emotional. Just like Fox News. And once they get it on this level, they will make that instruction work - legalese and all.

That is the lesson from cable news. They convey concepts that move people to think, speak -- and many times act -- through emotion. I can safely say that I disagree with about 95% of the substance and tone of cable news. But I do have to respect their methods.<sup>3</sup>

(photo courtesy of the Library of Congress)

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<sup>3</sup>Footnotes are kind of like that little runner thing that goes on the bottom of the screen of a cable news show. You can't help but to read it, right? Try reading it and listening to the talking head at the same time.