



The New York State Office of Court Administration

Attorney for the Child Contracts

**In collaboration with
The Appellate Division, Fourth Department
present**

**ATTORNEY FOR THE CHILD
DOMESTIC VIOLENCE TRAINING
ROCHESTER, NEW YORK**

2012

This project was supported by subgrant No. VW 11562641 awarded pursuant to a S.T.O.P. Violence Against Women Formula Grant Program administered by DCJS, the New York State administering office. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the state or the U.S. Department of Justice, Office on Violence Against Women.

THE BATTERER AS PARENT

**Lundy Bancroft
Tanya J. Conley, Esq.
Stephen Weisbeck, Esq.**

October 2, 2012

THE APPELLATE DIVISION, FOURTH DEPARTMENT
in conjunction with the
THE OFFICE OF COURT ADMINISTRATION
ATTORNEY FOR THE CHILD CONTRACTS
presents:

THE BATTERER AS PARENT

October 2, 2012

RIT Inn & Conference Center
Rochester, NY

- 8:30 a.m. REGISTRATION AND MATERIALS DISTRIBUTION
- 9:00 a.m. WELCOME
Rachel Hahn, Esq.
Coordinator, OCA Attorney for the Child Contracts
- 9:10 a.m. *The Impact of Domestic Violence on Family Dynamics*
Lundy Bancroft
Family Issues Specialist
- 10:30 a.m. Break
- 10:45 a.m. *Post-Separation Parenting: Evaluating Batterers' Behavior and Assessing Parenting Plans*
Lundy Bancroft
- 12:00 n. *Ethical Considerations for Attorneys for Children in the DV Context*
Lundy Bancroft
Tanya J. Conley, Esq.
Director of Training and Appeals
Legal Aid Society of Rochester
Stephen Weisbeck, Esq.
Director of Attorney for the Child Program
Legal Aid Society of Rochester
- 12:50 p.m. Conclusion

The Appellate Division, Fourth Department has been certified by the New York State Continuing Legal Education Board as an Accredited Provider of continuing legal education in the State of New York from March 2, 2011 to March 1, 2014. This program has been approved for a total of four (4.0) credit hours, of which three (3.0) hours can be applied toward the skills requirement, and one (1.0) credit can be applied toward the ethics and professionalism requirement. This program is suitable for experienced and newly-admitted attorneys.

LUNDY BANCROFT

Lundy Bancroft has twenty years of experience specializing in interventions for abusive men and their families. He has authored four books in the field, including *Why Does He Do That*, the recently published *Should I Stay or Should I Go*, and the national prizewinner *The Batterer as Parent*. Lundy is a former Co-Director of Emerge, the nation's first counseling program for men who batter, and was involved in over 2000 cases as counselor and clinical supervisor. He has also served extensively as a custody evaluator, child abuse investigator, and expert witness. Lundy appears across the United States as a presenter for judges and other court personnel, child protective workers, therapists, law enforcement officials, and other audiences. He is the creator of the "Co-Counseling Alliance" approach to emotional healing. His blog is called "Healing and Hope".

BIOGRAPHY - TANYA J. CONLEY

Tanya Conley is a Supervising Attorney and Director of Appeals and Training in the Attorney for the Child Program at the Legal Aid Society of Rochester. She represents children in custody/visitation, abuse/neglect, Person in Need of Supervision and Juvenile Delinquency matters. She previously worked for three years as a Senior Attorney at the Legal Aid Society in Syracuse, where she represented battered women in all areas of civil litigation. In 2003 she broadened her practice to engage in full time attorney for children work, although she continues to represent battered women in a *pro bono* capacity through the Volunteer Legal Services Project of Monroe County. She also is an adjunct Professor of Law, teaching “Domestic Violence and the Law” at the Syracuse University College of Law.

BIOGRAPHY - STEPHEN R. WEISBECK, ESQ.

Steve is a graduate from the University at Buffalo Law School. He worked briefly at a matrimonial firm and a Legal Aid Office in Long Island representing parents in Family Court. In 1995, he joined the Juvenile Rights Division in New York, and worked as an attorney for the child in the Bronx office for the next five years. For the past twelve years, he has worked as an attorney for the child at the Legal Aid Society of Rochester, where he currently serves as the Director of the Attorney for the Child Program.

A STORY OF EMOTIONAL INJURY AND RECOVERY IN CHILDREN EXPOSED TO DOMESTIC ABUSE

(Excerpted from *When Dad Hurts Mom: Helping Your Children Heal the Wounds of Witnessing Abuse* by Lundy Bancroft, G.P. Putnam, 2004.)

Mariel dreaded each fight that would break out between her parents. She would wish she could magically sail to a warm island, with no sound but the wind blowing in the trees and the birds singing. The mounting tension between Mom and Dad, the voices growing louder, Dad's rage and Mom's panic more palpable with each passing second, all felt so familiar to her that she could almost act out the scenario herself. Yet her heart raced each time, because the ending was unpredictable. Sometimes the yelling would be followed by one parent or the other storming away and slamming a door, and then an hour or two of thick tension would pass, after which life went on as if nothing had happened. Other times Dad would call Mom crude, demeaning names, or they would both yell mean things at each other, and Dad would scatter a pile of papers into the air with an enraged sweep of his arm and yell, "You're going to be sorry if you don't shut up!" Once, two or three years earlier, and then again only a few weeks ago, Dad had shoved Mom hard, leaving her trembling and choking back her rage.

Mariel was 11 years old, and she had two younger brothers, Joel who was 8 and a half and Marty who was 5. She worried about the boys, because they would get upset when their parents would have loud fights, with Marty sometimes crying and shaking. She was also disturbed by how filled with hatred Joel seemed at times, such as the night a couple of months earlier when he had said to Mariel, "We're big enough now, let's plan a way to kill Dad." A couple of weeks later, he had said to her, "I mean it Mariel, if he makes Mom cry one more time, I am going to beat his brains in with my baseball bat while he's sleeping." Marty had overheard what Joel said, and started to have violent nightmares.

One night Mariel woke up out of her sleep to hear her parents fighting in their bedroom. "I'm sick of this, Kaleigh," her father was yelling, "it's been weeks! I don't want to hear any more of your fucking excuses about how your head aches or you're too tired. I know you've got something going with that guy you work with -- I'm not an idiot, you know! That's why you don't want it with me anymore! You're all kissy and lovey-dovey with the children, but you don't give a shit about me, do you? Well I'm out of here, you fucking bitch. By the time I get back here tomorrow, I'd better not find you here, or you'll be sorry. You can go sleep under a bridge for all I care." Mariel could then hear drawers opening and slamming, and the sound of glass smashing, followed by her father's car screeching out of the driveway. She quickly went to comfort her brothers, and she found Marty pale and trembling. Her mother did not come out of her room. Mariel stayed with Joel and Marty and eventually fell asleep in Marty's bed with him, drifting off into a night of haunted dreams that left her drained and pale.

The children were woken by their mother at the usual time, and the preparations for school followed the normal routine, but Mom was off in another world. Her lip seemed to quiver slightly when she spoke. As she was saying good-bye to the children, she told them, "Don't get on the bus

after school. I'm going to pick you up."

That afternoon, Mom arrived at the school with a car full of packed suitcases. The children were startled. "We're going to stay at Aunt Sheila's for a few days," she explained. "We need to take a little trip, because she needs me to help her with some things." But it was obvious to the children that they were fleeing because of the previous night's fight. They sat in stunned silence during much of the two-hour drive.

During the days that they stayed at their aunt's house, the children heard Mom crying several times. One day she left them in Sheila's care for several hours, saying that she had some errands to run. (But in fact she was going to court to obtain an order removing their father from the home because of his threats.)

A few days later -- once Kaleigh received confirmation from the police that Felix had been served the protective order -- they drove back home and resumed their daily routine. Only Dad wasn't there anymore. Mom explained to them, "We need some time apart to work things out so that we won't fight so much." They wanted to know how long Dad would be away, but she had to tell them that she didn't really know. "A few weeks maybe, or a couple of months, " she said evasively. Marty cried for his father at bedtime every evening for the next several days.

Mariel and Joel both felt a flood of relief, bordering on elation. "I can't believe that fucker is finally out of here!," Joel said to his sister, "I hope we never see him again. I hate him." Mariel responded with sharp disapproval, "Don't talk about Dad like that. You don't hate him, you love him." Joel shot back at her, "Love him?? You're crazy! All he ever does is yell at people and put them down. It's much better without him. Don't be stupid."

For a few days, the house was peaceful. They spoke to each other in soft voices, they snuggled close on the couch to read stories, they watched movies without interruptions. They felt happy.

But happiness began to have its price. Mariel worried about how her father was doing, and she felt guilty for being so happy about his absence. Joel started to feel that his resentments towards Dad had driven him away (though this belief might seem illogical to an adult). And Marty sometimes wanted everything back the way it was, simply because that was the life he was familiar with.

For several weeks, Felix made no effort to see the children, or even to contact them by telephone. He felt too bitter and upset, and would tell friends and relatives, "They all ganged up against me together. She has brainwashed the children to think everything is my fault."

Joel made a point of saying to Mariel, and to his mother, "Who cares if he calls? He should go to hell." But in reality he felt abandoned by his father, and worried that maybe Dad hated him for taking his mother's side. Marty cried less often for Dad than at first, but began instead to talk incessantly about him, turning him into an almost mythical figure: "Daddy is a pilot now, he flies

all over the world"; "Daddy is going to come for us one day and take us to meet the President"; "Daddy had to do some really important secret work, and they're going to pay him tons of money."

With Felix out of the house, Mariel's relationship with her mother became better in some ways and more difficult in others. Mom was noticeably more patient and less grouchy. She would even smile and laugh sometimes, and the attention she paid the children was more focused than they could remember in many years. But Mariel was put off by her sense that Mom was starting to act less like a troubled friend who needed Mariel's support and assistance, and more like -- well, more like a *mother*. She was imposing more discipline, and she was keeping her private thoughts more to herself, confiding in other people instead of Mariel. Mariel wasn't sure she liked this change. She didn't want her mother to have a kind of authority that Mariel wasn't used to, and she felt somewhat pushed away emotionally. Yet at the same time her mother seemed more present and loving. The changes left Mariel feeling confused.

After two or three months had gone by, the relaxed and cooperative atmosphere in the home began to deteriorate. The children's complicated and often contradictory emotions about their parents' separation began to erupt in various ways. Back when their father was still living at home, the children had for years stuffed away their bitterness, sadness, and fear about the abuse of Mom that they heard and saw, and the times when dad targeted them directly for his unkindness. This backlog of distress was now tightly interwoven with their upset and guilt about the recent changes. And now that Dad wasn't in the home anymore, and with Mom visibly stronger and happier, the children felt safe to let loose demons they had been keeping tightly caged. Mariel, who for years had been hypermature, like a second mother in the house, started regressing into whining and demanding. She wanted help choosing her clothes in the morning, complained that she didn't understand any of her homework, and became unable to fall asleep without her mother. Marty couldn't settle down at night, convinced that a monster was going to come to the house to kill them all. The slightest disappointment or frustration would send him into sobs or tantrums.

The direction that Joel was taking was perhaps the most worrisome. Since roughly three years earlier, he had shown a tendency to pick up certain aspects of his father's conduct, particularly the swearing and yelling. But he had rarely exhibited that behavior when Dad was around, since he was afraid of being punished. With Dad now out of the picture, though, Joel felt emboldened, and he not only became more frequently mouthy and defiant, he also developed an array of new ways of being disrespectful to his mother, most of which looked hauntingly similar to Felix's style. He would, for example, mimic his mother's voice to insult her when she was angry, call her "stupid idiot," and scold her like a small child when he didn't feel catered to -- such as times when she sent him to school with lunches that weren't his favorite.

In a peak of frustration one day, Kaleigh yelled at her son, "You're turning out just like your father!" Joel shot back, "Fuck you!". Kaleigh was so shocked by her son's vulgarity that she slapped him across the face. Joel was deeply hurt by his mother's words, and by being hit, but he was determined not to let his emotional wound show, and instead became even more superior and demeaning.

Kaleigh felt overwhelmed by her children's unexpected emotional and behavioral backsliding. Her own recovery could have been a full-time job, but she had to support her children economically and care for them on top of everything that was stirring inside of her. Her inner turmoil was following a trajectory similar to her children's; her initial elation and sense of freedom from getting away from Felix was giving way to rage, sleeplessness, and anxiety about the future. *Both Mom and children were, in short, experiencing how distance from trauma can create a space to begin feeling its true impact, a natural stage in the healing process.*

No one had provided Kaleigh a map to the terrain she was crossing, and she made numerous errors as she worked her way through, such as time she slapped Joel. She could be grouchy and short-tempered with the children, and sometimes blamed them for not being more appreciative of how hard she had been fighting to get the three of them into better circumstances. There were days when she felt that she couldn't listen to the three of them cry at bedtime anymore, or squabble with each other all afternoon, and would yell at them to snap out of it. At times she drifted off into her fear and bitterness about her years with Felix, and about having to be the healer of the psychological harm to the children that he had left in his wake.

But she didn't give up. She would apologize to her children when she needed to, and work hard to do better the next day. She told Joel she was wrong to slap him, and that he was *not* just like his father. At the same time, she kept setting limits with her children, requiring them to behave respectfully toward her and guiding them to overcome the negative attitudes they had absorbed from Felix. She began rebuilding a social life for herself so that she had people to talk with about the hard but satisfying life of a single mother building a life of freedom. And her tenacity bore fruit; by the time they had been out from under Felix's heavy hand for five or six months, they were starting to get back toward calm and closeness. Healing was unfolding as it should.

About nine months after the separation, Felix suddenly reappeared, demanding to have the children on weekends and a couple of evenings during the week. Kaleigh resisted, since the children were now doing so well, and Felix took the matter to court. Kaleigh explained to the judge that the children were recovering well from their exposure to his abusive behavior but still needed more time of peace and quiet, and that Felix had vanished for almost a year, so she didn't see why it was so urgent to him now to have so much time with the children. She also asked that his visits with the children be supervised. Felix responded that Kaleigh's allegations of abuse were completely trumped up as a way to keep him away from the children because she was upset that Felix had a new girlfriend. He said that she had actually been the one with the abuse problem, and claimed that Kaleigh had hit him several times and used to hit the children. He said that the reason he had stayed away for nine months was because she had completely turned the children against him and he had "given up hope," but that now he wanted to try again to prove to his children that he was not the monster she was telling them he was. He told the judge he would be happy to pay child support; "I of course want to contribute to my children financially, I'm their father." The judge was impressed at Felix's commitment to be an involved father, and made no issue of the fact that Felix hadn't sent any support during his absence.

Felix was granted unsupervised visitation On Tuesday and Thursday afternoons, with

overnights on alternate weekends. The judge said, "I don't know whether to believe these abuse charges, but anyhow that has nothing to do with the children. The children need to have close relationships with both of you. I'm not going to deny Felix the opportunity to be back in their lives."

The children were happy that Felix had returned to them. For the first few months he put a great deal of energy into making the visits fun, and was much more patient with the children than he had been when the family was together. Joel went from despising his father to declaring that his father was a great person; "He's really changed, Mom, he's completely different from how he was before." Felix explained this transformation to his children by telling them that he had just needed to get away from the stress of the terrible relationship he and Kaleigh had shared. Felix's new partner, June, was kind to the children, and was very impressed by what a great father Felix was. June was disgusted that Kaleigh would try to restrict the children's contact with him, and that she would call during visits to check up on how they were doing.

All three of the children regressed emotionally and behaviorally as contact with their father resumed. Joel returned to imitating his father's disparaging and bullying behavior toward his mother, and Mariel drifted back into bottling up her feelings and looking after her younger brothers. Marty resumed having trouble falling asleep at night and biting his nails during the day. Kaleigh complained to the court of these effects, but the court social worker told her that the children were just struggling with the transitions in their lives, and that they felt caught in the middle between the two warring parents. She said that they were probably reacting largely to Kaleigh's hostility toward Felix rather than to feelings of their own, since they obviously loved their father and were eager to see him.

As the months went by, the children began to come home with distressing reports about certain aspects of their visits. They would report that Felix had made an insulting comment to his new partner June, or Mariel would express upset that her father had punished Marty too harshly and that he would call Joel a "spaz" when they played whiffle ball. One night Marty cried at bedtime, telling his mother that when they were on visits, Felix and June would make "mean jokes" about Kaleigh, and that Mariel and Joel would laugh about the jokes, "but they make me feel sad."

When Kaleigh would ask the children to explain more about any of these events, they would clam up. They felt loyal to their father, and they also worried that if they revealed the worst aspects of his behavior they would lose him again. They were swayed further by his steady stream of spending on them, buying them boom boxes, dirt bikes, and other expensive enticements, and taking them on costly outings to restaurants and amusement parks.

After several months of growing closer to her father, Mariel began to pull away again, and after a year or so told her mother that she wished she didn't have to go on visits with him at all, "because he says mean things to the boys or to June, and sometimes he makes fun of me, like about being so skinny." Yet Mariel would never skip a visit, and Kaleigh became increasingly convinced that she was afraid to leave her younger brothers alone with their father.

Kaleigh did not want to speak badly about the children's father to them, but she also could

tell that they needed help in making sense out of their conflicted feelings, the strong affection they held for him that collided with his periodic selfish or mean actions. Watching Mariel become once again burdened, seeing Joel taking up the role of mini-abuser that he had overcome, wincing as Marty descended back into insecurity, Kaleigh felt anguished. Would her beloved children be able to get through this next phase, which seemed as hard as any they had faced? Was she going to lose her closeness with them, as they drifted off into secret-keeping about their visits?

Kaleigh found herself in a quandary about how to guide her children through these treacherous waters. It was clear that, at least for now, the court was not going to permit her to restrict her children's exposure to Felix's abusiveness and manipulation, and to the reawakening of traumatic memories which his current behavior caused them. Kaleigh wished urgently to protect her children, and began searching in every direction she could think of for an avenue that was open to her.