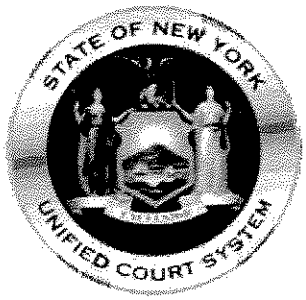

The New York State Office of Court Administration

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".

POST-SEPARATION PARENTING OF MEN WHO BATTER

Lundy Bancroft

KEY CONCEPTS

- Domestic violence is underreported, not overreported, in divorce and paternity
- Family court orders play a critical role in enabling or impeding children's recovery

KEY CONCEPTS

- Domestic violence perpetration is a leading indicator of child abuse perpetration
- The primary risks to children from batterers post-separation are psychological ones.

KEY CONCEPTS

- There is an established profile of men who use violence against intimate partners.
- A majority of intractable custody disputes involve histories of domestic violence.

KEY CONCEPTS

- Commonly accepted measures of credibility can be misleading in cases involving domestic violence allegations.
- The court needs access to extensive information of specific kinds.

KEY CONCEPTS

- The mother needs to take steps to keep her children safe post-separation.
- Some family courts criticize or punish battered mothers for their appropriate protective efforts.

THE BATTERER IN FAMILY COURT

- Denial, minimization
- Accusations against the mother of mental health problems, substance abuse, and unfit parenting.

THE BATTERER IN FAMILY COURT

- Accusations of mutual abuse.
- Will tend to outperform the mother in psychological testing.

THE BATTERER IN FAMILY COURT

- Will commonly present as the more “friendly parent.”
- Will not seem capable of the kind of cruelty or abuse he is being accused of.

THE BATTERER IN FAMILY COURT

- Good under observation.
- Curry favor with the children.
- Can gain power from children's emotional starvation.
- Can sometimes be cunning.

Post-Separation Risks

- Abduction
- Homicide
- Stalking

Post-Separation Risks

- Litigation for custody or unsupervised visitation
- Ongoing damage to mother-child relationships
- Physical risk to mother during exchanges and at other times

Post-Separation Risks

- Physical, sexual, or psychological abuse of child (retraumatizing)
- Rigid and authoritarian parenting (retraumatizing)
- Neglectful, inconsistent, and unsafe parenting

Post-Separation Risks

- Exposure to domestic violence in father's new relationship
- Learning attitudes and behaviors that lead to domestic violence perpetration or victimization
- Aligning with the batterer, "identifying with the aggressor"

Post-Separation Risks

- Sabotage of healing relationships, such as professional therapy or psychoeducational groups.
- Ongoing damage to sibling relationships.

ELEMENTS OF GOOD PARENTING

- Healthy values and attitudes in general
- Respect for children
- Kindness to children
- Parenting skills
- Not abusing substances
- Not perpetrating domestic violence
- Having good mental health
- Being responsible

NEEDS OF CHILD WITNESSES

- Secure relationship to non-violent parent.
- Safe exchanges.
- Not to be retraumatized.
- Few (or no) changes of home per week.

Custody Assessment

- **Elements of proper investigation:**
  - **Thorough history taking from beginning of relationship**
  - **Interviews with personnel, and review of records, from schools, medical, and law enforcement**
  - **Interviews with witnesses**
  - **Interviews with former partners of parents (especially of alleged abuser)**

Custody Assessment

- **Elements of proper investigation:**
  - **Testing credibility of interviewees**
  - **Watching your personal reactions and biases carefully**
  - **Cautious interviewing of children**
  - **Telephone records, emails, diaries, other sources of evidence**

Custody Assessment

- Investigation vs. clinical assessment
- Spectrum vs. typology assessment of risk
- Testing credibility of statements
- Pros and cons of making recommendations

Custody Assessment

- Dangerousness
- Level of past involvement
- Primary caretaker
- Undermining of maternal authority

Custody Assessment

- Level of psychological cruelty
- History of involving the children
- Level of control and entitlement
- Substance abuse

Custody Assessment

- Mental health
- Warning signs of child abuse
- Escalation
- Motives for seeking custody / expanded contact

Custody Assessment

- Myths and realities regarding allegations of parental alienation in domestic violence cases.
- Myths and realities regarding allegations of child sexual abuse in domestic violence cases.

Custody Assessment

More considerations….

- How to best promote children's healing
- How to best promote mother-child relationships
- How to best promote sibling relationships
- How to best promote mother's healing
- How to best promote father's reform, acceptance of responsibility for his actions

Visitation Tiers

- Supervised visitation center
- Professionally-supervised off-site
- Mutually acceptable lay supervisor

Visitation Tiers

- Brief unsupervised day visits
- Longer unsupervised day visits
- Overnights (generally not recommended)

Additional Visitation Concepts

- Burdens of proof
- Go back into greater restrictions as needed
- Extensive contact rarely best unless the batterer makes extensive changes

“Solutions” That Don’t Work

- Telling the parents to “learn to get along for the good of the children.”
- Dismissing the mother’s concerns.
- Telling the mother that the abuser has changed.
- Treating both parents harshly.

Solutions That Do Work

- Creating strict visitation conditions for the batterer.
- Taking the mother’s concerns seriously.
- Periodic reviews of compliance with court orders.

Solutions That Do Work

- Using specialized domestic violence services for the batterer, the victim, and the children.
- Improving communication with other courts and with child protection.

Solutions That Do Work

- Requiring batterers to pay for supervised visitation, children's therapy, and mother's legal fees.
- Impede batterers' ability to use frequent court dates as an abuse strategy.

Solutions That Do Work

- Ask batterer programs to provide reports that evaluate meaningful indicators of change.
- Focus on children's healing and recovery.

Common Assessment Errors

- Inadequate understanding of impact of battering on mother's parenting
- Using typologies to assess risk to children (as opposed to using a "spectrum" approach
- Conclusions or recommendations not following from the evidence

Common Assessment Errors

- Lack of specialized domestic violence and child abuse training and supervision
- Over-interpretation / misinterpretation of psychological testing data; failure to seek "convergent validity" (APA Guidelines)
- Strong influence of personal feelings about the alleged batterer

Common Assessment Errors

- Over-interpretation/misinterpretation of observations of children and statements made by them
- Use of psychological theories that are not applicable to abuse or trauma
- Failure to perform thorough investigation, over-reliance on clinical assessment

Common Assessment Errors

- Assuming that children's emotional and behavioral problems are caused by the interparental conflict
- Using parental alienation theories to account for allegations of child abuse or domestic violence
- Using parental alienation theories to account for children's desire to avoid contact with an abusive parent

NECESSARY AREAS OF KNOWLEDGE FOR A CUSTODY INVESTIGATOR

- Parenting assessment (skills, values)
- Cultural and racial knowledge and awareness
- Child abuse and neglect, incl. sexual abuse
- Child development
- Domestic violence, incl. impact on children
- Mental health
- Substance abuse
- Dynamics of divorce, incl. impact on children

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Hector Valle, 4/20/2007