

## PROLOGUE

**SOMETIMES YOU KNOW** when you've reached your breaking point. Mine came on September 5, 2000, at approximately seven in the evening. I was a felony prosecutor in the Domestic Violence and Sex Crimes Unit of The Bronx District Attorney's office.

A few hours earlier, I had been sitting at my desk, daydreaming. I was facing away from the door and looking out my window into a parking lot below. I had just come back from a biking trip with my father—a week in the vineyards of Burgundy. I was thinking that the South Bronx was the furthest place in the world from where I had just been with my father when my supervisor opened the door — he never knocked. I spun my chair around to face Alvin Yearwood, now Judge Yearwood, a man with a booming voice and an even larger presence. He told me of an autistic six-year-old who had witnessed his sister's murder that morning. "Go to the four-six to interview the boy," he ordered, using cop-speak to direct me to the Forty-Sixth Precinct. "Get as much as you can from him. Without this kid, we have nothing." Indeed, the furthest place in the world from the vineyards of France.

I crossed 161st Street to The Bronx County Criminal Court Building and picked up a police placard that gave me temporary license to park illegally. I also picked up the keys for the "homicide car," a glamorous name for a stripped-down burgundy Chevy Lumina with sticky vinyl seats, plastic floor coverings, and the distinctive smell of rot, which was interesting given that there was nothing organic whatsoever in the vehicle. I got behind the wheel, gagging over the smell of a balled-up bag of

days-old, half-eaten “US Fried Chicken” that was shoved behind the passenger’s seat. I put the key into the ignition, rolled down the windows, and backed out. Riding shotgun was David Staton, a fellow assistant DA, who briefed me on the way to the precinct house.

At all times, day or night, even on holidays, a member of The Bronx DA’s office is on homicide duty. This so-called “homicide assistant” is given a pager, and for 24 hours — 9 AM to 9 AM — is on call in case anything needs to be done about a killing. This includes interviewing witnesses and suspects, drafting search and arrest warrants, writing up cases, and going to crime scenes.

I’d heard all kinds of horror stories about what people saw on homicide duty: Bodies melting from the heat. Brains splattered on walls and across concrete. A retarded child suffocated after his siblings duct-taped his entire head and then tied him to a chair in the closet because he was ruining their drug orgy. They hid him there for days until neighbors called the police about the stench. Nine years later, the ADA who was at the scene still can’t forget the sight of the boy’s eyeballs coming out with the tape as his face was unwrapped by the medical examiner.

Homicide Duty meant long, wakeful nights, whether you were called out to a crime scene or simply waiting to be and, today, the dubious honor had fallen into David Staton’s lap. Dave and I worked together many times over my five years in the office. During my first year at the office, he was one of the people who helped train me: The first case that I ever took to trial, I inherited from him. He was a tall, thin black man with a sweet, dimpled smile and a gentle disposition. I never detected in him any of the grit or sarcasm so common among ADAs. I liked and trusted him. Like so many people born and raised in New York City, Dave couldn’t drive. For him, this may have meant sometimes sleeping at the office when he was on call so that a detective could drive him to a crime scene. Having been raised in the suburbs, I had been driving since I was fifteen, so the honor fell on me and Dave began to debrief me as I drove.

David told me that he’d arrived at this day’s crime scene about 1:00 PM and saw “a young Hispanic female with multiple stab wounds about her face and chest, one of her eyes gouged out, and her head practically hacked right off her neck.” The murder weapon, a 12-inch kitchen knife, lay on her chest. He described it all precisely and using clinical, detached ter-

minology. It was the way we learned to talk in the DA's office. It was the way we distanced ourselves from what we were looking at. David elaborated on what Alvin had already told me. The only witnesses to the murder were the victim's newborn infant and her six-year-old autistic brother, whom she was watching that day. The suspect was the father of the baby and he had fled after committing the murder.

Within 10 minutes, we arrived at the precinct with our telltale briefcases.

The D.A.'s office is not like the law firms of today where business casual is the norm. We were in court almost daily and wore suits as a matter of course. They were a uniform recognizable in The Bronx no less than the uniforms of the police department. The desk sergeant barely glanced at our black suits and shiny shoes before shooting his thumb over his shoulder, directing us up the staircase to the detective squad. Detectives Kevin Leonard and Daniel Withers, handling the case, were standing by the door.

The squad office, like in most precinct houses I'd seen, was a large room crammed full of gray metal desks. The cinderblock walls were a similar dingy shade and in bad need of a repaint. About half the lights were out and large-size Dunkin Donuts coffee cups were poking out of every available nook and cranny. Snapshots of the gapped-toothed children of cops were taped to blotters and nearby filing cabinets, incongruous in the company of mug shots, lineup photos, and wanted posters. Since none of these detectives had the luxury of having his own desk, faces from different families sat side by side on the tabletops so you never knew who belonged to whom. One kid taped to the side of a push-button phone with no cord was giving me the thumbs-up.

I had worked with both detectives Leonard and Withers in the past. Leonard used to tell me he'd been with the police department "since your boss Elisa Koenderman was still little Elisa Spittola." Withers and I went back to some of my first cases in the office. We had started off on the wrong foot after an argument about what crimes to charge against someone. The debate ended with my saying, "Don't tell me how to be a lawyer and I won't tell you how to be a cop." But we soon called it a truce and I came to consider him a friend. Withers, a very handsome, muscular guy with a sandy crew-cut and a goatee, was the constant brunt of

jokes by his co-workers who seemed obsessed with his ass. It was always entertaining to be around him. I was relieved that both these men were on the case. They were smart, easygoing, funny, and devoted to their work.

Leonard showed me to a free desk where I could spread out my papers and then briefed me. The victim was a young stripper named Esmeralda DeJesus. She got into an argument with her son's father, Dennis Lopez, or baby-fatha' as they called such relationships in The Bronx. They had broken up a week earlier and were fighting because Dennis didn't want Esmeralda stripping anymore. He had also just discovered that she had a new boyfriend and was working as a call girl on the side. I guess he didn't take the news so well.

He took a kitchen knife from the cutlery drawer and showed her exactly how he felt about her new career move. First he stabbed her under the chin where the knife came up through her jaw and out of her mouth. Next he stabbed her in the cheek, the eye, and the forehead, four times in the chest and, finally, he slit her throat. "Great set-up for an EED [extreme emotional disturbance] defense," Leonard said. After the stabbing, Dennis ran out of the apartment, leaving his infant child and Andy, the victim's mentally impaired six-year-old brother—my sole eyewitness—alone with the body.

I put down my briefcase and took out the grape Blow Pop I had brought from the office for six-year-old Andy. Three years of working with children had taught me to arm myself with all kinds of bribes and entertainment. I went into the interview room where Andy waited with his appropriately hysterical mother and a neighbor. Andy, a thin child with unruly dark hair and wide eyes, sat in his mother's lap, placidly watching the tears leak out of her eyes. The walls of this office were blank except for the reflective side of a two-way mirror.

I explained to Andy's mother who I was, that I would be handling her daughter's case, and that I needed to speak to her son. She stared numbly at me. Her neighbor touched my arm to get my attention. I looked down and saw that she had two thumbs on her left hand and had manicured the nails of both with an iridescent pink polish. She saw me stare and hid her hand, as if out of habit, as I quickly looked away. She quietly told me that it was okay to take Andy.

I knelt down, showed the boy the lollipop, and told him he could have

it if his mother said it was okay. The mother nodded and I gave Andy the pop, taking his hand and pulling him out the door. He tripped along behind me, looking back toward his mother. We went into the next room where the two-way mirror was papered over with newspaper so that you could not see into the room where Andy's mother was sitting. Each precinct was required to have a room dedicated to interviewing juveniles. In the forty-sixth precinct detective squad, for some inexplicable reason, this was the room. It was dark and damp, the paint peeling off the walls. There were no pictures, books, drawings, or toys: nothing that would lead you to believe that this room was dedicated to children. All the lights were out except for one, a flickering halogen bulb. It was an interrogation room.

WHEN I STARTED in the Domestic Violence and Sex Crimes Bureau after two years at the DA's office, I had never interviewed a child before. At the time, I had no nieces or nephews or children. I had no idea how to talk to children or how to deal with them. I had no knowledge of what age meant in relation to maturity level. I spent my first year as an ADA working on misdemeanors, small-time drug cases, larcenies, fare-beats (or turnstile jumpers), and the like. My second year was spent only indicting cases. I knew nothing about the laws relating to sex crimes and/or children. Frankly, I was uneasy around kids. I liked them, but like an unfamiliar animal, I did not know how to approach them. Now, I was finding myself in situations where I had a few short hours to get a child to like and to trust me, and to be willing to speak to me about the unspeakable.

The law in New York presumed that a child under 12 (it was lowered to 9 after I left the office) cannot be sworn. This presumption can only be rebutted by proving that the child understands the difference between the truth and a lie, understands the importance of the truth and can articulate it. I had children under 5 who could be sworn and children as old as 10 who could not. But Andy not only did not know the difference between the truth and a lie, he didn't know what grade he was in. He did not know his own birthday or his address or telephone number. He did not know all of his colors or how to spell his name. Andy only knew the very simplest of things, like his name and his mother's name. And he knew his sister's name and that she was dead.

As I did with most children, I began by speaking to the boy about

school. We talked about his teachers and his friends. He told me that he liked school and that he had lots of friends, but beyond that he was unable to tell me much of anything. His speech was slurred and difficult to follow, his vocabulary extremely limited.

If a child who is the only witness to a crime cannot be sworn, the case has to be thrown out unless what he says is corroborated by another person or by some other compelling evidence. All of us who handled cases involving children came across situations where a child was clearly abused and totally credible, but the case had to be dismissed because there was no one or nothing to back up the story. I understood the importance of Andy being swearable, but I also understood that it was not going to happen. We would have no viable witness to the homicide except for the defendant—and supposing that we could find him, the odds that he was going to talk were slim.

About 10 minutes into the interview, Andy's mother started wailing. The boy got up from the bench and pulled aside a torn piece of the paper on the two-way mirror. He looked toward me as he held the paper back. I could just see his mother through the small opening. "She crying because she love her and she dead. She dead and there was blood and her neck was like this," Andy said, drawing his finger across the side of his neck. "You see, she love her. And she dead now and baby has no mommy." Andy's hand was shaking. He dropped his lollipop.

I picked up the candy, taking Andy's hand. "Let's go wash this off," I said quietly. I wanted to hold him. Of all things for him to be able to understand, I wished that he could not understand this. The boy returned to the room where his mother sat, climbing into her lap and resuming his placid stare. When you are six years old and your mother is crying, does anything else matter? I went to Detective Leonard's desk and put the lollipop down. "The interview is over," I told him.

As I walked away, I skidded on a pickle chip that someone had dropped off a Quarter Pounder(r). It left a streak on the dirty floor. There were gum-wrappers all over the place. A group of detectives was standing around ribbing each other about beer guts and girlfriends. A tall, thin detective with military cropped hair and glasses pointed to the candy I'd just put down. Turning red, he yelled: "What the hell is this?"

"That, sir," I said, "is the lollipop that I gave to a six-year-old boy. He

just watched his sister get stabbed to death this morning. Her head was barely attached to her neck and her right eye was gouged out and he was alone in the apartment with her for about a half hour. He dropped it on the floor. I told him I would wash it but this place is too fucking filthy to get anything clean. I just slipped on a pickle chip on your god-damned floor, so calm the fuck down.”

And with that, I picked up my briefcase and left. I got into the car and backed away from the precinct. Crossing the Grand Concourse on the way back to work, I ran over the meridian. I hadn’t even seen it. I went back to the office. It was 7:00 PM. Everyone was gone. I sat in my office and cried.

I SPENT THREE years as a felony assistant in the Domestic Violence and Sex Crimes Bureau of The Bronx District Attorney’s office, one of approximately 400 Assistant District Attorneys working in the midst of an area of America with the highest crime and poverty rates. I began at the office at the age 25, straight out of Fordham Law School and life in an affluent New York suburb with my father the doctor and my mother the professor.

I interviewed for DVS when I was first hired, but wasn’t accepted into the elite unit until my third year at the office. This book is essentially about my experiences in combating crimes against women and children during my three-year stint with DVS. Most DVS attorneys don’t last much longer. The literal and emotional battles, both won and lost, eventually destroy you. I was far from the first person to tell my chief that I just couldn’t handle it anymore. I will not be the last. I began with a burning desire to be part of the safety net, to prosecute criminals who terrorize the most defenseless among us. How and why I finally had to stop is the unusual psychological tale of this book.

There are ways to try to survive this job and I used them all during my work at

DVS. I compartmentalized. I kept all personal feelings under wraps. I retreated into writing poetry.

Once as a child I heard my father, an oncologist, make a joke about a sick person. I was horrified. “How could you say that?” I said.

“Because sometimes, Sarena, if you don’t laugh, you’ll cry.”

My father's personal struggle with years of treating so many cancer patients wasn't totally clear to me until he published his own book of poetry a few years ago. Likewise, I kept my own turmoil buried deep within while I forced myself to get through each day. You can imagine what the jokes were like in the Domestic Violence and Sex Crimes Bureau: "What do you call a woman with two black-eyes? Nothing, you already told her twice." I'm not proud of it, but I will admit that I laughed at some things that weren't funny. My father was right. You have to. But, quite frankly, most of it wasn't funny at all. And I did not understand the full depths of my own trauma until years after I left the DA's office. I am still learning.

As an attorney dealing with these cases, I had to separate myself as much as I could. People deal in different ways: therapy, drinking, sports. For me, it was poetry along with a bit of the others thrown in. You talk to victims and you tell them that your job is to "assess the strength or weakness of the case." Your decision about what to offer has to be based upon an objective view. You leave the emotional support to someone else by sending these people to the crime victim advocates for counseling.

My breaking point came when I could no longer separate myself from my work, when I began to hug my victims, when I lost the ability not to cry. I knew I was in trouble when I sent a wedding gift to the mother of one of my smallest victims, a woman I had become particularly attached to, the kind of personal relationship you are sternly warned against for both the victim's benefit and your own. My department had a high burnout rate for a reason.

This book is an account of my years as a felony assistant in the Domestic Violence and Sex Crimes Unit of The Bronx District Attorney's Office. It is a memoir of my times there, and a tribute to the assistant district attorneys and their support staff, the physicians, social workers, crime victim advocates, and cops who do what I believe is truly God's work. It's also a look at the darker side of the system: those who lose track of the fact that the job is supposed to be about doing justice and those that forget that not everyone is guilty or that all guilt is not created equal. It's also about those victims who themselves aren't so innocent or sympathetic—but you do your job anyhow.

In reflecting on these cases, I attempt to be as accurate as possible, with the exception of the names of the victims and their families who, even



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if their cases are public record, are entitled to their privacy. Often, I don't use the real names of defendants either, even if convicted, because I am discussing matters that are not part of the public record. In rare instances, when the case was publicly reported and I am only discussing my observations or matters of public record, I do use real names of defendants. Dialogue is based upon my best recollections, while opening statements, summations, direct and cross-examinations are from my notes and actual court transcripts. I have edited these transcripts only to eliminate portions that wouldn't make sense without having witnessed the entire trial as well as areas that are redundant. Otherwise, I have done my best to maintain them in their original form. Names and descriptions of other individuals and my colleagues are generally accurate except in the rare instances where I don't have something positive to say.

