

MARYLAND POLICE TRAINING and STANDARDS COMMISSION

LESSON PLAN

COURSE TITLE: Investigation - **Domestic Violence and/or Sexual Assault Incidents**

LESSON TITLE: NON-FATAL STRANGULATION DOMESTIC VIOLENCE INVESTIGATIONS

PREPARED BY: James A. Durner

DATE: January, 2017

ADAPTED FROM:

TIME FRAME

Hours: 1.5 hours

PARAMETERS

Audience: entry-level or in-service

Number: varies

Space: classroom

PERFORMANCE OBJECTIVES

1. Define and explain the difference between the terms strangulation, choking, and suffocation.
2. Explain the term non-fatal strangulation.
3. Briefly explain what happens physically when an individual is strangled.
4. Examine the steps to be taken by a responding officer during an investigation into a call for service that includes an allegation/complaint by the victim that strangulation or a similar means of assault has occurred including but not limited to:
 - ▶ identification and documentation of any behavioral signs/symptoms that a victim may have suffered a non-fatal strangulation episode;
 - ▶ identification and documentation of any signs of VISIBLE INJURY, both to the victim and alleged assailant, that may have occurred during the incident;
 - ▶ the photographing and collection of any relevant physical evidence from the crime scene including photographs of the victim with/without injuries and the assailant with/without injuries if he/she is present at the scene;
 - ▶ statements made by either the victim or the assailant that do/do not corroborate that an act of strangulation occurred during the incident;
 - ▶ obtaining medical records of any examination or treatment given to the victim;

EVALUATION TECHNIQUE

1. practical exercise/example;
2. test questions;

5. Discuss the reasons why medical attention may be needed after a victim has been involved in an incident of non-fatal strangulation.
6. Explain the role of medical professionals, especially a forensic nurse, in the evaluation of an act of non-fatal strangulation.
7. Examine the questions to be asked of a victim who has survived an act involving non-fatal strangulation.
8. Discuss the role of non-fatal strangulation as a predictor of future violence between intimate partners.
9. Review the importance of writing a thorough and detailed report of an incident involving non-fatal strangulation including the responding officer's observations at the scene of a non-fatal strangulation incident.

INSTRUCTOR MATERIALS

OVERHEADS

VIDEO TAPES

SLIDES/POWER POINT

POSTERS

REFERENCE DOCUMENTS

EQUIPMENT/SUPPLIES NEEDED

EASEL PAD/STAND

OVERHEAD PROJECTOR

CHART MARKERS

VIDEO/DVR PLAYER

MASKING TAPE

VIDEO CAMERA

WHITEBOARD

COMPUTER

SCREEN

TELEVISION

STUDENT HANDOUTS

NEEDED

TITLE

Power point presentation – NON-FATAL STRANGUALTION INVESTIGATIONS

METHODS / TECHNIQUES

Lecture, discussion and practical examples.

REFERENCES/RESOURCES

“And Then He Choked Me: Understanding, Investigating, and Prosecuting Strangulation Cases,” by Allison Turkel, National District Attorney’s Association, American Prosecutors Research Institute, The Voice, Volume II, Number 1.

“Non-fatal Strangulation as Part of Domestic Violence: A Review of Research,” by Adam J. Pritchard, Amy Reckdenwald, and Chelsea Nordham, Trauma Violence & Abuse December 2015.

“On the Edge of Homicide: Strangulation as a Prelude,” by Gael B. Strack and Casey Gwinn, Criminal Justice, Volume 26, Number 3, Fall 2011, the American Bar Association.

“The Investigation and Prosecution of Strangulation Cases” Training Institute on Strangulation Prevention and the California District Attorneys Association, San Diego, California, www.strangulationtraininginstitute.com (2013).

“Response to Non-lethal Strangulation Report Review Checklist,” International Association of Chiefs of Police, IACP National Law Enforcement Leadership Initiative on Violence against Women www.iacp.org

“Courtroom Evidence: A Resource for the Prosecution of Domestic Violence Cases,” Pennsylvania Coalition Against Domestic Violence, (2013) available at www.pcadv.org

The Maryland Police Training and Standards Commission wishes to thank the Maryland Network against Domestic Violence [MVADV] for their assistance in reviewing and providing editorial comment on the material used to prepare this lesson plan.

Likewise, the Commission also thanks Ms. K. Tracy Yingling, RN, BSN, FNE-A/P, Forensic Services and LAP Coordinator, Carroll Hospital Center SAFE Program for her comments and assistance in reviewing and editing this lesson plan and its accompanying power point presentation.

GENERAL COMMENTS

During the past two decades, increasing attention has been paid to the **PROBLEM OF STRANGULATION** during domestic violence incidents by law enforcement officers, domestic violence victim service providers, prosecutors, medical professionals and academic researchers. While strangulation was previously recognized primarily as a way to commit homicide [or suicide], investigation of **NON-FATAL** incidents of strangulation within the context of domestic violence (and sexual assaults) has only recently attracted the attention of policy and law-makers, law enforcement officials and prosecutors.

When strangulation is used during a domestic violence incident, it is essentially a demonstration of power and control by an abuser over another individual’s life or death. The act of strangulation

demonstrates to a victim that his/her attacker can end the victim's life whenever the abuser chooses. Because strangulation is **typically accompanied by death threats, gasping for breath, loss of consciousness, and can result in a delayed death**, an incident involving **non-fatal** strangulation must be a critical concern for law enforcement first-responders who are called to the scene of domestic violence incidents.

Unfortunately, the lack of visible, external injuries and a misunderstanding about the significance of what that lack of visible injuries to a victim means by law enforcement first-responders who initially appear at domestic violence calls for service have led to the unintentional minimization of this type of violence. The failure to recognize the signs and symptoms of a **NON-FATAL STRANGULATION ATTACK** has often led to a less-than-thorough investigation by officers responding to a call for service that includes a victim's complaint of strangulation. Because a number of **non-fatal** strangulation victims may not exhibit visible physical injuries and frequently refuse to seek the type of medical treatment that can reveal internal injuries that substantiate the fact that a serious attack has occurred, a number of responding officers fail to recognize and respond to the seriousness of the victim's claim. From a law-enforcement viewpoint there is a lack of physical evidence of a crime. Instead of viewing the victim's claim of strangulation as an aggravated assault that could have resulted in serious injury or death, officers often tend to treat a claim of **non-fatal** strangulation as though it were a simple assault such as slapping, pushing or otherwise striking a victim, acts which often cause only minimal or no visible injuries.

Failure to conduct a thorough investigation and to write a complete and accurate report of the incident then results in prosecutors minimizing the seriousness of the assault. This frequently results in either inadequate prosecution in court, a plea agreement that indicates to the abuser that the "system" does not believe that his/her actions were that serious or, in other cases, a failure to prosecute an attack that could have resulted in death or serious injury to the victim. When inadequate or a lack of prosecution occurs victims of **non-fatal** strangulation attacks can frequently be exposed to future violence at the hands of their abusers which could result in serious injury or death.

This sample lesson plan has been developed to assist **law enforcement first responders** in investigating a claim of an attack by strangulation from a victim who may often show no visible sign of injury. While **NON-FATAL STRANGULATION** may occur during sexual attacks, it occurs more frequently during domestic violence incidents. This lesson plan is intended to supplement intimate partner violence investigation training that officers already receive from their agencies. It is hoped that this training will provide them with additional information which will help them recognize, thoroughly investigate and document in detail incidents in which a victim of intimate partner violence claims that he/she has been "choked" whether the victim shows any visible signs of injury or not.

Much of the material presented in this lesson plan has been included in a Report submitted to the Maryland General Assembly as required by House Bill 1371, passed during the 2016 legislative session.

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LESSON PLAN

ORIENTATION TO COURSE: NON-FATAL DOMESTIC VIOLENCE STRANGULATION INVESTIGATIONS

PRESENTATION GUIDE	TRAINER NOTES
<p>I. INTRODUCTORY SET:</p> <p>During the past two decades, increasing attention has been paid to the PROBLEM OF STRANGULATION during domestic violence incidents by law enforcement officers, domestic violence victim service providers, medical professionals, prosecutors and academic researchers. While strangulation was previously recognized primarily as a way to commit homicide [or suicide], investigation of NON-FATAL incidents of strangulation within the context of domestic violence (and sexual assaults) has only recently attracted the attention of policy and law-makers, law enforcement officials and prosecutors.</p> <p>When strangulation is used during a domestic violence incident, it is essentially a demonstration of power and control by an abuser over another individual’s life or death. The act of strangulation demonstrates to a victim that his/her attacker can end the victim’s life whenever the abuser chooses. Because strangulation is typically accompanied by death threats, gasping for breath, loss of consciousness, and can result in a delayed death, an incident involving non-fatal strangulation must be a critical concern for law enforcement first-responders who are called to the scene of domestic violence incidents.</p> <p>Unfortunately, the lack of visible, external injuries and a misunderstanding about the significance of what that lack of visible injuries to a victim means by law enforcement first-responders who initially appear at domestic violence calls for service have led to the unintentional minimization of this type of violence. The failure to recognize the signs and symptoms of a NON-FATAL STRANGULATION ATTACK has often led to a less-than-thorough investigation by officers responding to a call for service that includes a victim’s complaint of strangulation. Because a number of non-fatal strangulation victims may not exhibit visible physical injuries and frequently refuse to seek the type of medical treatment that can reveal internal injuries that substantiate the fact that a serious attack has occurred, a number of responding officers fail to recognize and respond to the seriousness of the victim’s claim. From a law-enforcement viewpoint there is a lack of physical evidence of a crime. Instead of viewing the victim’s claim of strangulation as an aggravated assault that could have resulted in serious</p>	<p><u>SLIDE # 2</u></p> <p><u>Instructional Background:</u></p> <p>Any report of a perpetrator placing his/her hand or arm around the neck/throat of a victim and squeezing is extremely lethal behavior and creates a grave risk of injury or death for the victim. The reality is that many times the perpetrator’s use of strangulation foreshadows an escalating use of violence and homicidal intent towards the victim. When the perpetrator makes the decision to place his hands around the victim’s neck, he has indicated his intent.</p> <p>Until fairly recently, law enforcement made little reference to strangulation. Most reports involving strangulation included it as only an incidental part of the domestic violence incident. Additionally, the majority of victims often did not report being strangled by their abuser. Where there was mention of strangulation, it was generally limited to a single comment of the victim saying they were “choked.” Law enforcement generally lacked the tools and techniques to separately document this type of injury. Victims of strangulation often lack the type of readily visible external injuries that law enforcement traditionally associates with domestic violence. The injuries may be internal or the external injuries are difficult to notice without specialized training. Additionally, strangulation can occur even if the victim can continue to breathe, resulting in victims and law enforcement under-reporting the incident.</p>

injury or death, officers often tend to treat a claim of **non-fatal** strangulation as though it were a simple assault such as slapping, pushing or otherwise striking a victim, acts which often cause only minimal or no visible injuries.

Failure to conduct a thorough investigation and to write a complete and accurate report which includes the details of the incident then results in prosecutors minimizing the seriousness of the assault. This frequently results in either inadequate prosecution in court, a plea agreement that indicates to the abuser that the “system” does not believe that his/her actions were that serious or, in other cases, a failure to prosecute an attack that could have resulted in death or serious injury to the victim. When inadequate or a lack of prosecution occurs victims of **non-fatal** strangulation attacks can frequently be exposed to future violence at the hands of their abusers which could result in serious injury or death.

This sample lesson plan has been developed to **assist law enforcement first responders in investigating a claim of an attack by strangulation** from a victim who may often show no visible sign of injury. While **NON-FATAL STRANGULATION** may occur during sexual attacks, it occurs more frequently during domestic violence incidents. This lesson plan is intended to supplement intimate partner violence investigation training that officers already receive from their agencies. It is hoped that this training will provide them with additional information which will help them recognize, thoroughly investigate and document in detail incidents in which a victim of intimate partner violence claims that he/she has been “choked” whether the victim shows any visible signs of injury or not.

TRAINING OBJECTIVES:

1. Define and explain the difference between the terms strangulation, choking, and suffocation.
2. Explain the term non-fatal strangulation.
3. Briefly explain what physically happens when an individual is strangled.

SLIDE # 3

4. Examine the steps to be taken by a responding officer during an investigation into a call for service that includes an allegation/complaint by the victim that strangulation or a similar means of assault has occurred including:
 - ▶ identification and documentation of any behavioral signs/symptoms that a victim may have suffered a non-fatal strangulation episode;
 - ▶ identification and documentation of any signs of VISIBLE INJURY, both to the victim and alleged assailant, that may have occurred during the incident;
 - ▶ the photographing and collection of any relevant physical evidence from the crime scene including photographs of the victim with/without injuries and the assailant with/without injuries if he/she is present at the scene;
 - ▶ statements made by either the victim or the assailant that do/do not corroborate that an act of strangulation occurred during the incident;
 - ▶ obtaining medical records of any examination or treatment given to the victim;
5. Discuss the reasons why medical attention may be needed after a victim has been involved in an incident of non-fatal strangulation.
6. Explain the role of medical professionals, especially a forensic nurse, in the evaluation of an act of non-fatal strangulation.
7. Examine the questions to be asked of a victim who has survived an act involving non-fatal strangulation.
8. Discuss the role of non-fatal strangulation as a predictor of future violence between intimate partners.
9. Review the importance of writing a thorough and detailed report of an incident involving non-fatal strangulation including the responding officer's observations at the scene of a non-fatal strangulation incident.

II. INSTRUCTIONAL CONTENT:

WHY INVESTIGATE NON-FATAL STRANGULATION?

Law enforcement officers who are the first to respond to and begin an investigation into a domestic violence complaint are usually trained to recognize and deal with the **obvious** injuries that intimate partner violence victims often suffer such as gunshot, stabbing and blunt force trauma wounds. However, these same first responders often lack appropriate training into how to recognize, respond to and investigate a type of assault that can be as life threatening as a gunshot, stab wound or one from blunt force trauma. **NON-FATAL STRANGULATION**, the one **tactic that many repeat abusers use during domestic violence incidents**, often goes **under-investigated by law enforcement first-responders** because it frequently **fails to leave any visible signs of injury**.

On a regular basis, a number of domestic violence victims report being “choked” by their abuser. In many of these cases there are **few visible injuries** or evidence available to enable the responding officer to corroborate that a “choking” incident has occurred. That lack of physical evidence causes many officers to treat these “choking” cases as minor incidents, much like they would a common assault such as a slap to the face where only minor discoloration may appear. Unfortunately, because most strangulation victims do not have **visible external injuries**, **non-fatal strangulation cases can be minimized or trivialized by not only law enforcement officers but by the medical, advocacy, mental health professionals and prosecutors who come into later contact with the victim**.

Because **non-fatal strangulation** has been recognized as an indicator of chronic intimate partner violence and has been shown to be a precursor to more serious physical attacks, including homicide, **it is critical that law enforcement first responders recognize, thoroughly investigate and document incidents in which a victim of intimate partner violence claims that he/she has been “choked” whether the victim shows any visible signs of injury or not**.

This lesson plan is intended to **provide law enforcement first responders with the information that they need to respond to, investigate and appropriately document those domestic violence calls in which a victim claims that he/she was “choked,”** thereby assisting the State’s Attorney in prosecuting the individual responsible for the attack.

SLIDES # 2 & 4

INSTRUCTOR NOTE:

This lesson plan focuses on **non-fatal** strangulation as it occurs during domestic violence incidents. Instructor may want to preface opening remarks by reminding students that incidents of **non-fatal** strangulation also occur during incidents of :

- ▶ sexual assault
- ▶ child abuse
- ▶ elder abuse.

While some of the same investigative techniques can be used during investigations into these incidents, investigation of these offenses may require additional training, experience and expertise.

Instructional Background:

Until fairly recently, law enforcement made little reference to strangulation. Most reports involving strangulation only included it as an incidental part of a domestic violence incident. Victims often did not describe being strangled by their perpetrator. Where there was mention of strangulation, it was generally limited to a single comment of the victim saying that they were “choked.” Law enforcement generally lacked the tools and techniques to separately document this type of injury. **Victims of strangulation often lack the type of readily visible external injuries that law enforcement traditionally associates with domestic violence.** The injuries may be internal or the external injuries are difficult to notice without specialized training. Additionally, strangulation can occur even if the victim can continue to breathe, resulting in **victims and law enforcement under-reporting or even not reporting the incident.**

WHY DEFINE NON-FATAL STRANGULATION?

The term “**CHOKING**” is often used **inappropriately** by both victims who have been strangled and those investigating **NON-FATAL strangulation** events to describe what has happened **when an individual has been strangled, but not killed**, during a domestic violence incident:

‘Choking’ is ACCIDENTAL.

[the windpipe is **ACCIDENTALLY** blocked [entirely or partly] by some foreign object, such as food]

STRANGULATION is INTENTIONAL!

[the normal breathing of an individual is **INTENTIONALLY** obstructed]

► **most** victims will report they were “choked” or “grabbed by the neck:”

- when **conversing with or quoting the victim** in an investigative report officers **use terms that the victim is most comfortable using or has used in describing the event;**
- when composing an investigative report and **not quoting** a victim officers should **use the term NON-FATAL STRANGULATION to describe the attack:**
 - correct terminology brings about more awareness to the seriousness of the act that has been committed:
 - ◆ aggravated assault/attempted murder;
 - **officers may have to testify to the difference between “accidental choking” and “intentional strangulation;”**

► **STRANGULATION:**

- occurs when **EXTERNAL PRESSURE IS APPLIED TO THE NECK UNTIL CONSCIOUSNESS IS ALTERED:**
 - **not** necessarily mean the victim has become completely unconscious:
 - ◆ can mean just lightheadedness;
 - **unconsciousness may occur within 10–15 seconds of the application of pressure on the neck:**
 - ◆ to the carotid arteries and/or veins;
 - **if maintained strangulation can cause death within 4-5 minutes;**

TRAINING OBJECTIVE:

2. Explain the term non-fatal strangulation.

SLIDE # 5

Instructional Background:

Advocates for victims of domestic violence have championed an effort to have law enforcement officers and other first responders to use the correct term “strangulation” when reporting or otherwise encountering an incident involving the **non-fatal** strangulation of a victim during intimate partner violence. Their position is based on the belief that the term “strangulation” conveys a more appropriate level of criminal intent than the term “choking.” Advocates believe that the term “choking” is viewed by many as a less serious act of assault than conveyed by the use of the term “strangulation.” They point out that even victims inappropriately use the term “choking” to describe the incident. As this section indicates, “choking” is an accident whereas “strangulation” is an **intentional assault capable of causing death.**

TRAINING OBJECTIVES:

1. Define and explain the difference between the terms strangulation, choking, and suffocation.

SLIDE # 6

▶ three types of strangulation:

- **MANUAL** [sometimes referred to as “throttling”]:
 - one/both hands used around victim’s neck;
 - other body part can be used:
 - ◆ forearm/knee/leg [e.g. chokehold]
- **LIGATURE** [sometimes referred to as garroting or hanging]:
 - cord-like object used to apply pressure to the neck;
- **POSTURAL**:
 - victim’s neck placed over an object and the weight of assailant’s body applies pressure to victim’s neck;

NOTE: Any of the above methods can be used in an act involving non-fatal strangulation;

▶ **CHOKING:**

- occurs when an **OBJECT MECHANICALLY BLOCKS the upper airway or windpipe (trachea):**
 - something gets in the airway and stops airflow **INTERNALLY:**
 - ◆ food/ some other object obstructs the airway;
- is **almost always accidental** unless an item is forcibly placed in the mouth [e.g. a gag] and then obstructs the airway;

▶ **COMPRESSIVE ASPHYXIA:**

- occurs when an **individual puts his body weight on the victim**, limiting the expansion of the lungs, which interferes with breathing;

▶ **SUFFOCATION:**

- process that halts or impedes respiration:
 - **can include choking, smothering, and compressive asphyxia;**

▶ **SMOTHERING:**

- mechanical **obstruction of airflow into the nose and mouth:**
 - e.g., putting a pillow over the victim’s nose and mouth or a plastic bag over an individual’s head;

▶ **ASPHYXIA:**

- occurs when **brain cells are deprived of oxygen:**
 - may result from a compromise of respiration:
 - ◆ lungs being deprived of oxygen;
 - ◆ cardiovascular compromise
 - ◆ brain is deprived of blood flow from a combination of problems in both systems;

[SLIDE # 6](#)

INSTRUCTOR NOTE:

Discuss the importance of using the correct terms to describe what has occurred to the victim of a non-fatal strangulation attack.

Officers may be asked to testify to their understanding of the difference between “choking” and strangulation in particular if they repeatedly use the term “choking” in their report when referring to an incident of non-fatal strangulation.

[SLIDE # 7](#)

- common clinical features/symptoms/signs:
 - pain;
 - anxiety;
 - altered level of consciousness;

WHAT HAPPENS WHEN SOMEONE IS STRANGLLED?

The inability to get oxygen is one of the most terrifying physical sensations an individual can experience. **The body has an automatic reaction when it is being deprived of oxygen and blood to the brain; it knows it is about to die if it does not change the situation immediately, which usually leads to an escalation of the violence by the victim.**

- ▶ **human brain needs a continuous supply of oxygen;**
 - without it, brain cells quickly malfunction and die:
 - brain cells do not regenerate;
- ▶ **two vital bodily systems that must work perfectly and in unison:**
 - **respiratory (breathing) system; and**
 - **cardiovascular (blood flow) system;**
 - multiple areas of vulnerability exist in both of these systems;
 - compromise of a single area can rapidly produce an extreme outcome;
- ▶ **when an individual is strangled, unconsciousness may occur within seconds and death within minutes [4-5 minutes];**
- ▶ individuals may lose consciousness by any of the following methods:
 - blocking the carotid arteries in the neck:
 - depriving the brain of oxygen;
 - blocking the jugular veins:
 - preventing deoxygenated blood from exiting the brain;
 - closing off the airway:
 - making breathing impossible;
- ▶ **pressure on both the carotid arteries and/or veins for 10 seconds may cause unconsciousness:**
 - if pressure is immediately released consciousness will be regained, usually within 10 seconds;
- ▶ **to completely close off the trachea (windpipe), 33 lbs. of pressure is required:**
 - **brain death will occur in 4–5 minutes if strangulation persists;**

SLIDES # 8, 9, 10 & 11

TRAINING OBJECTIVES:

3. Briefly explain what physically happens when an individual is strangled.

Instructional Background:

Sober and conscious victims of strangulation first feel terror and severe pain. *If strangulation persists, unconsciousness will follow.*

When a victim is strangled, he/she is at the edge of a homicide. Unconsciousness may occur within seconds and death within minutes.

Before lapsing into unconsciousness, a strangulation victim will usually resist violently, often producing injuries of their own neck in an effort to claw off the assailant, and frequently also producing injury on the face or hands of their assailant. These defensive injuries may not be present if the victim is physically or chemically restrained before the assault.

INSTRUCTOR NOTE:

For comparison purposes:

- 11 lbs. pressure will occlude (close) the carotids;
- 4.4 lbs. pressure will occlude (close) the jugulars;
 - trigger pull = 5 lbs. of pressure;
 - opening a can of soda = 20 lbs. of pressure
 - handshake of an average male = 80 lbs. of pressure;

MANUAL STRANGULATION and DOMESTIC VIOLENCE:

OVERVIEW:

- ▶ **strangulation is one of the most lethal forms of domestic violence:**
 - when a victim is strangled, even non-fatally, she/he is **at the edge of homicide;**
- ▶ **the body has an automatic reaction to being deprived of oxygen and blood to the brain:**
 - knows it is about to die if it does not change the situation **immediately:**
 - usually leads to escalation of violence by the victim;
- ▶ **suicide by manual strangulation is not possible:**
 - loss of consciousness and release of pressure occurs before death occurs;
- ▶ **gendered crime—virtually all abusers using strangulation are MALE;**
- ▶ **favorite tactic of experienced/repeat batterers; strangulation:**
 - often leaves no visible marks/injuries;
 - causes the victim terror/fear of dying when used:
 - profound/continuing psychological effect;
- ▶ **one of the best homicide predictors for victims of domestic violence:**
 - victims of prior attempted strangulation are **seven times more likely to become homicide victims;**
 - **abuse escalates over time, with strangulation typically occurring later in the progression of violence:**
 - death threats common among the women who had been strangled;
 - **nearly 90% of victims of non-fatal strangulation cases are repeat domestic violence victims;**
- ▶ essentially a live **demonstration of power and control over another individual's life or death:**
 - act of strangulation demonstrates to a victim that the assailant can end the victim's life whenever the assailant chooses;
 - **most abusers do not strangle to kill—they strangle to SHOW THE VICTIM THEY CAN KILL;**
 - once victims know this fact, they live under the power and control of their abuser day in and day out;
- ▶ **few strangulation victims seek medical treatment within 48 hours of the incident:**
 - essential for first responders to educate victim on danger of not receiving medical attention;

SLIDES # 12, 13 & 14

Instructional Background:

Women who have been non-fatally strangled by their intimate partners are substantially more likely to be killed by that same partner. Thus, non-fatal strangulation has become a precursor to death for these victims, and because non-fatal strangulation is difficult to find, see, and prove, non-fatal strangulation is often undetected by law enforcement officials.

Serious injuries, if not death, can occur from strangulation in a matter of seconds. The general clinical sequence of a victim who is being strangled is one of severe pain, followed by unconsciousness, followed by death. Even if a victim does not go through all 3 clinical stages, there can be severe harmful effects at each stage such as breathing /swallowing difficulty; nausea; neurological effects from a lack of oxygen to the brain; and, finally severe psychological problems because of the victim's near death experience.

TRAINING OBJECTIVE:

8. Discuss the role of **non-fatal strangulation as a predictor of future violence between intimate partners.**

SLIDE # 9:

Instructional Background:

Strangulation symbolizes an abuser's power and control; the victim is completely overwhelmed. . . vigorously struggles for air, and is at the mercy of the abuser. "A single traumatic experience of strangulation . . . [can] instill so much fear" in a victim that she can "get trapped in a pattern of control by the abuser."

- ▶ **a number of victims suffer INTERNAL injuries and have documentable [observable] SYMPTOMS:**
 - victims may suffer major **long-term emotional and physical impacts;**
- ▶ **visible injuries are not always present** on the skin even in homicidal strangulation and suffocation:
 - assailant can strangle someone to death or nearly to death with **no** visible/external injury;
 - **jurors expect to see visible injuries:**
 - only a small fraction of non-fatal strangulation cases have **photographs of victim injuries or lack of injuries;**
- ▶ lack of visible external injuries/lack of medical follow-up treatment and lack of medical training about strangulation among domestic violence prevention professionals, including law enforcement officers, has led to the minimization of this type of violence:
 - exposes victims to potentially serious health consequences, further violence, and even death;
- ▶ both **law enforcement officers and prosecutors** overlook symptoms of strangulation and **rely too heavily on the visible signs of strangulation:**
 - **miss opportunities for higher level of prosecution and for prevention of more severe victim abuse;**
 - **non-fatal strangulation assaults may not fit the elements of other serious assaults due to the lack of visible injury;**
- ▶ **non-visible signs of non-fatal strangulation often missed or overlooked by law enforcement officers and emergency room medical staff:**
 - battered women who have been strangled usually have a broad range of physical complaints but their visible injuries, if present, may not always appear serious;
- ▶ following a **non-fatal** strangulation incident victims suffer **psychological trauma** also:
 - **nightmares;**
 - **depression;**
 - **post-traumatic stress disorder;**
 - **suicide ideation;**
 - **intimidation;**
 - **fear of dying at hands of abuser;**

SLIDE # 14

Instructional Background:

Minimization is what makes strangulation one of the most dangerous forms of violence that occurs in domestic violence. Strangulation is minimized by both the victim and the professionals who respond to it including dispatchers, law enforcement officers, emergency medical technicians, emergency room personnel and later, prosecutors and judges. After being strangled, a victim may experience painful symptoms or even injuries such as difficulty breathing or lightheadedness or painful throat trauma yet will often fail to inform the responding officer or EMTs and/or will refuse emergency medical treatment. A victim's attitude may often cause responding officers and medical personnel to underestimate or doubt the victim's allegations of strangulation. The lack of apparent physical injuries may cause first-responders to further underestimate the allegations of strangulation. Consequently, many victims of strangulation do not receive medical attention, accounts of strangulation do not appear in police reports, officers do not collect evidence that can be used in subsequent trials and abusers go uncharged with and, thus are not held accountable for, what is a serious assault.

EXTERNAL/VISIBLE VICTIM INJURY – ABSENCE/PRESENCE:

ABSENCE of external/visible injuries:

50% - No visible injuries;

35% - Injuries too minor to photograph;

15% - Visible injuries;

- ▶ in non-fatal strangulation cases there **may not be any VISIBLE EXTERNAL injuries** on the victim:
 - **MINIMAL PRESSURE can still cause serious internal injuries;**
- ▶ injuries may /may not be present depending on **circumstances that include:**
 - body posture of victim;
 - element of surprise of attack;
 - demeanor of victim and attacker:
 - intoxication of victim;
 - presence of skin injury produced by the assailant depends on:
 - the surface area for application of the force;
 - the texture of the surface against the skin; and
 - the rapidity of loss of consciousness for the victim;
- ▶ even in **fatal** cases of strangulation, **it is possible there may be no signs of EXTERNAL injuries :**
 - **with fatal carotid compression, internal injuries are likely in the muscles and perhaps within the blood vessels:**
 - **external injuries are often completely absent even in homicidal assaults;**

PRESENCE of external/visible injuries:

- ▶ **DEFENSIVE SKIN INJURIES may be present on the victim's neck:**
 - **produced by the victim clawing at a choke hold on the neck;**

NOTE:

In law enforcement demonstration exercises, the person subject to the restraint rarely fights back. These types of demonstration are not indicative of what happens in a domestic violence incident. In demonstrations of lateral vascular neck restraint when trained as deadly force for police agencies and the military, external injuries are seldom present.

- ▶ may be **injuries on the assailant's face or body** from victim clawing at the assailant:
 - **DNA from the assailant may be found underneath a victim's fingernails;**

SLIDE # 15, 16, 17 & 18

Instructional Background:

This section of this lesson plan is intended to provide **first-responder** officers with knowledge that can be used to conduct an **EVIDENCE-FOCUSED investigation into a non-fatal strangulation incident** rather than relying solely on the statement or account of the victim or witnesses. Detailed and accurate observations of the victim's injuries and behavior after a non-fatal strangulation episode are critical to the prosecution of the case against the abuser, especially if the victim recants his/her account or refuses to testify. Nothing in this section is intended to replace professional evaluation of a non-fatal strangulation victim's physical condition by competent medical professionals including forensic nurses.

Instructional Background:

Even when signs or symptoms of strangulation are noticed, they can easily be misidentified as symptoms of other conditions. For example, subconjunctival hemorrhages can be diagnosed as pink eye; voice hoarseness can be attributed to a victim screaming during an argument with her partner; and hyperventilating may be a symptom of numerous pathological conditions secondary to a strangulation attempt. Thus, it is sometimes difficult for law enforcement and medical professionals to detect strangulation, especially when an abuser uses intimidation and control techniques to ensure the victim does not volunteer any information about the strangulation to these professionals.

COMMON EXTERNAL /VISIBLE INJURIES:

MANUAL STRANGULATION:

- ▶ **BRUISES** from the assailant's hands or fingers:
 - **sometimes fingerprints can be lifted** from the surface injuries on the victim's skin;
- ▶ **ABRASIONS** on the victim's skin **UNDER THE CHIN:**
 - related to the victim **wiggling the chin from side to side against the assailant's hand** in an attempt to get the chin under the stranglehold;
- ▶ **PATTERNED STAMP ABRASIONS may be created by a necklace:**
 - **necklace inside the stranglehold** becomes deeply indented into the skin;
- ▶ **BLUNT FORCE IMPACT INJURIES created by punching/slapping the victim's neck and face:**
 - **sometimes overlie the strangulation injuries;**

LIGATURE STRANGULATION:

- ▶ Ligature strangulation ordinarily should **PRODUCE A HORIZONTAL BAND AROUND THE NECK:**
 - shows constriction of the skin;

Note: While it might be possible to affect a strangulation by ligature by lifting a victim up off the floor using only the ligature, this would require a number of conditions, such as victim unconsciousness;

- ▶ in **SUICIDAL HANGING LIGATURE ABRASIONS SHOW A DEFINITE UPWARD TRACK SOMEWHERE AROUND THE CIRCUMFERENCE OF THE NECK, OFTEN JUST BEHIND ONE EAR:**
 - indicates the direction of force to be head-to-toe;

SUFFOCATION:

- ▶ in **suffocation, where the mouth and nose is forced closed:**
 - **may be INCISED TOOTH MARKS on the INNER mucosal SURFACES OF THE UPPER/LOWER LIPS:**
 - **not** generally present in victims who have no teeth;
 - tooth marks, when present, may be associated with lip swelling;
- ▶ may be **VISIBLE PATTERNED SKIN ABRASION OVER THE NOSTRILS OR SYMMETRIC ABRASIONS ON THE UPPER LIP BELOW THE NOSTRILS:**
 - show that the nose was pinched closed with great force;

SLIDE # 18

Instructional Background:

A **basic** knowledge of the anatomy of the neck is critical to adequately understand the clinical features of a strangled victim.

The larynx is "made up of cartilage, not bone, and consists of two parts: the thyroid cartilage. . . and the tracheal rings." The carotid arteries, "the major vessels that transport oxygenated blood from the heart and lungs to the brain," are at the side of the neck where a person would check for a pulse during cardio-pulmonary resuscitation (CPR). The jugular veins transport deoxygenated blood from the brain back to the heart. A victim of strangulation will lose consciousness if her carotid arteries are blocked, depriving the brain of oxygen; if the jugular veins are blocked, preventing deoxygenated blood from exiting the brain; or if the airway is closed, causing the victim to be unable to breathe.

Pressure does not need to be severe as long as it is prolonged. The force required to compress the jugular veins is less than the force necessary to compress the carotids, and that is less than the force required to constrict the airway. The amount of force necessary, however, varies from person to person, "depending on [the] development of neck muscles and the surface area for the application of force."

▶ **LINEAR ABRASIONS and/or TAPE ADHESIVE RESIDUE ACROSS THE FACE OR WITHIN THE HAIR:**

- suffocation done with duct tape;

INTERNAL INJURIES:

▶ **identified by a medical professional:**

- emergency medical treatment should be offered;
- diagnostic tests may be necessary:
 - x-rays;
 - MRIs;
 - Pulse oximetry [measurement of oxygen level in blood];
 - carotid Doppler [ultrasound to detect narrowing of carotid];
 - CTA neck [angiogram of blood vessels of neck/head];
 - various blood tests;
 - CAT scans;
 - laryngoscopy;

▶ **minimal** pressure on the neck can cause serious **[INTERNAL]** injury:

- swelling of airway structures has been known to occur up to 72 hours post-injury;

▶ internal injuries may not be present for up to 36-72 hours after an act;

▶ common internal injuries include but are not limited to:

- damage to the trachea [windpipe]/larynx including fractures:
 - unstable airway/airway obstruction;
- swelling of neck tissue which may impede breathing/swallowing;
- larynx/vocal chords damaged;
- fractured hyoid bone;
- lung damage if victim vomited during incident;
- miscarriage;
- brain damage;
- cervical spine injuries;
- blood clots;
- artery dissection [tears in the arteries];

▶ victims of strangulation, especially those repeatedly strangled, may acquire Traumatic Brain Injury (TBI) caused by blows to the head, shaking of the brain or Anoxic Brain Injury (AnBI) caused by loss of oxygen to the brain:

- may result in irreversible psychological and physical damage;
- can lead to acute ischemic stroke, multisystem organ failure, thyroid storm, ringing in the ears, seizures;

▶ follow-up investigation necessary to document and record;

▶ forensic nurse, if available, can serve as an evidentiary resource;

[SLIDES # 19, 20, 21 & 22](#)

INSTRUCTOR NOTE:

The listing and description of the various diagnostic tests and potential internal injuries have been included in this lesson plan to reinforce the fact that not all strangulation injuries are visible. These facts also **reinforce the need to recommend professional medical intervention to the victim of a non-fatal strangulation incident.**

Instructional Background:

Because two complex systems (respiratory and cardiovascular) are involved, functional vulnerabilities exist in many areas—alone or in combination. Functional changes may be temporary and resolve when the compromising force is removed. Examples include compression of the airway, the chest, a blood vessel, or a nerve. Forces may damage structures that will require treatment and/or time to heal. Examples include fractures, tears, ruptures, or crushing of airway or blood vessel structures. These injuries may pose an immediate threat to life. Bleeding and swelling deserve special emphasis. Even minimal force may cause bleeding and/or swelling in the injured tissue.

The great risk is that both bleeding and swelling can progress (often slowly) and not cause obvious problems until the airway is blocked or a vascular disaster occurs. Functional changes in a strangulation case may include damage to the voice box (larynx)

	<p>and/or the hyoid bone. (<i>Note:</i> The hyoid bone is the only bone in the body that is not directly connected to any other bone; it aids in tongue movement and swallowing.) Bruising (contusion) and bleeding (hemorrhage) are common in strangulation cases, as well as swelling (edema). Swelling is something that should be of grave concern given that it may not be apparent until hours after the strangulation occurs. These findings may develop with as little as 22 pounds of pressure to the neck. The temporary blockage or closing of the blood vessels (occlusion) requires 33 pounds of pressure, and fracture of the hyoid bone requires 35–46 pounds of pressure.</p> <p>Various combinations of functional changes may occur, leading to severe trauma to the upper airway. For example, the airflow can be compromised, the voice box fractured, and facial and neck swelling can be evident. Air can escape from the air passages and leak into the soft tissues (subcutaneous emphysema). These injuries can be very dangerous to a patient and may lead to death.</p> <p>Damage to the carotid arteries may occur, which compromises the blood flow to the brain. The use of frontal force—anywhere from 5.5 to 22 pounds—may result in arteries being compressed against the neck bones. When a single carotid artery is compressed or blocked, there may be neurologic findings on the opposite side of the body. These findings include weakness, numbness, and tingling. When both carotid arteries are compressed or blocked, the result is rapid loss of consciousness. Any damage to the carotid arteries may result in compromised blood flow to the brain.</p>
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Law Enforcement Response to Non-fatal Strangulation:

Every day law enforcement agencies across the country receive a constant stream of 911 domestic violence calls where victims report being threatened, pushed, slapped, kicked, punched, “choked”, stabbed, or even shot. Some agencies report that as many as 40% of all 911 calls are domestic-violence related. By the time officers respond, victims may already be recanting, minimizing, or simply unaware of the seriousness of their assault, especially if strangulation is involved, in which case the victim may be suffering from anoxic brain injury. Victims may be traumatized by the incident, embarrassed, or afraid of the abuser or the police. **It is imperative that law enforcement first responders be prepared to respond to the challenges of investigating a domestic violence call that involves non-fatal strangulation.**

One of the challenges for law enforcement officers who respond to calls for intimate partner violence is that this type of crime is happening between people who are (or were) in an intimate relationship. Because of that emotional bond, the fact that they have children together, or because they live in the same house, **officers may have a tendency to downplay what is happening because they may have been to the house before or they may have talked to these individuals before. They also may have had this particular victim recant and minimize prior incidents that they conducted. Officers become very frustrated with this behavior** and while in the past officers may have been tempted to minimize their response, **that attitude has now been replaced for the most part with a better understanding of why victims of domestic violence may not wholeheartedly agree to leave their violent partner.** Despite their sometimes frustration, most law enforcement first responders have become better prepared to respond to incidents of intimate partner violence.

In particular, in Maryland, given the extensive use of the Lethality Assessment Program by law enforcement agencies, officers are prepared to make an assessment of the seriousness of a domestic violence incident and the need for the victim to contact and make use of domestic violence victim provider services. In light of increased entry-level and in-service law enforcement training into the dynamics of domestic violence and the use of such protocols as LAP, many officers now believe that they have the opportunity to immediately assist a victim of intimate partner violence in obtaining services that may positively impact the victim.

TRAINING OBJECTIVE:

4. Examine the steps to be taken by a responding officer during an investigation into a call for service that includes an allegation/complaint by the victim that strangulation or a similar means of assault has occurred including:
 - ▶ identification and documentation of any behavioral signs or symptoms that a victim may have suffered a non-fatal strangulation episode;
 - ▶ identification and documentation of any signs of VISIBLE INJURY, both to the victim and alleged assailant, that may have occurred during the incident;
 - ▶ the photographing and collection of any relevant physical evidence from the crime scene including photographs of the victim with/without injuries and the assailant with/without injuries if he/she is present at the scene;
 - ▶ statements made by either the victim or the assailant that do/do not corroborate that an act of strangulation occurred during the incident;
 - ▶ obtaining medical records of any examination or treatment given to the victim;

Law Enforcement Officer's Initial Response:

When an officer responds to the scene a domestic violence call where someone is lying on the floor with an open bleeding wound, has been shot, is otherwise seriously injured or is deceased, it is relatively easy for the officer to gauge the seriousness of the situation. However, it is much more difficult to grasp the significance of a victim's statement that he/she was 'choked,' especially when the victim is standing without difficulty, talking freely to officers, and has no visible injuries. To many law enforcement professionals it is just another family /domestic disturbance.

Without a basic understanding about the physical and medical effects of strangulation, law enforcement officers may not necessarily view strangulation as one person trying to end another person's life; they may often view the incident as simply a non-consequential "disturbance" between a couple or a simple assault in which the perpetrator "grabbed" the victim around the neck during a fight. While to many, it may just be another family disturbance, **it is critical that law enforcement officers have an understanding that an incident involving non-fatal strangulation is not just another assault.** They need to understand that **strangulation is one of the most accurate predictors for the subsequent homicide of victims of domestic violence.**

- ▶ In Maryland, the Lethality Assessment Program has helped to open the door to that realization by requiring the responding officer to ask the question *"Has he/she ever tried to choke you?"*
 - if the victim indicates that his/her intimate partner "choked" him/her during the event the responding officer should:
 - contact and, if possible, refer the victim to a domestic violence victim service provider; and
 - conduct an investigation into the assault as though a weapon had been used to attack the victim;
- ▶ **understand the signs and symptoms of non-fatal strangulation, observe, identify and accurately record/document them;**
- ▶ **be aware of the seriousness of invisible injuries:**
 - **non-fatal** strangulation assaults typically elude standard evidence collection methods due to the internal or subtle nature of many strangulation injuries;

SLIDES # 23, 24 & 25

INSTRUCTOR NOTE:

Unless a law enforcement agency has a specialized unit on call for immediate response to domestic violence incidents, **a uniformed patrol officer will most likely be conducting the preliminary investigation into an incident involving non-fatal strangulation.** While follow-up investigations may be provided by domestic violence specialists, the preliminary investigation into non-fatal strangulation incidents is critical to any subsequent prosecution. This portion of the lesson plan is focused on the preliminary investigation that will be conducted by the uniformed officers who first respond to the incident.

Instructional Background:

Non-fatal strangulation cases are inherently difficult to prosecute because in many cases victims do not present with visible injuries, frequently recant their accounts of the strangulation incident and/or refuse outright to testify against their abuser. With no visible injuries, law enforcement officers and emergency room medical staff frequently do not acknowledge or investigate allegations of non-fatal strangulation so that evidence is not collected nor documented.

▶ **level of injuries and symptoms depends on many factors including:**

- method of strangulation;
- age/health of victim;
- whether the victim struggled to break free;
- whether the victim was under the influence of alcohol and/or drugs;
- size and weight of the perpetrator; and
- amount of force used;

▶ **be critically observant of and specifically document:**

- domestic violence **VICTIM:**
 - **BEHAVIOR:**
 - ◆ **confusion:**
 - ♣ report he/she was standing up one minute, then simply woke up on the floor and didn't know why;
 - ◆ **difficulty in communication;**
 - ◆ **involuntary urination/bowel movement;**
 - ◆ **signs of paralysis/facial or eye lid drooping:**
 - ♣ may appear to be under the influence of drugs/alcohol or appear to have stroke-like symptoms; ;
 - ◆ **voice changes/hoarseness;**
 - ◆ agitation due to hypoxia (deficiency in the amount of oxygen reaching body tissues, including the brain):
 - ♣ symptoms of hypoxia or asphyxia (a lack of oxygen to the brain) will likely cause victim to be restless or hostile at the scene;
 - ◆ **appear to have a mental health disability or developmental disability;**
 - ◆ evidence of unconsciousness includes:
 - ♣ **loss of memory;**
 - ♣ **lapse in time or location;**
 - ♣ unexplained bump on the head;
 - ♣ bowel or bladder incontinence;
 - ♣ **impairment of cognitive, behavioral, neurological, and physical functioning;**
 - ♣ **may appear to have a mental health developmental disability which may be symptoms of brain injury;**

However, **EVIDENCE BASED**

prosecution that depends on the completeness and accuracy of a first-responder's investigation into the incident is an answer to the problem of victim recantation and the lack of prosecution.

Because the victim frequently does not have any visible injuries the allegations that an abuser grabbed, squeezed, or crushed the victim's throat with his hands or a ligature are often overlooked or ignored. Despite the frightening description of events by the victim, the lack of medical examination and treatment for the victim and the fact that the act of strangulation is not accurately recorded in detail in the police report the abuser is not charged with this crime of assault and is therefore not prosecuted in court.

Evidence based prosecution, also known as victim-less prosecution, uses independent corroborative evidence to prove the elements of a crime without relying on the victim's testimony just as homicide cases are prosecuted

The types of evidence of strangulation that can be collected by a first-responder/investigating officer include: the 911 call tape to the dispatcher; photographs of the victim, crime scene and assailant, if present; other physical evidence; medical evaluation forms and expert testimony which may include the observations of the victim's physical condition/behavior and demeanor by the first-responders on the scene and emergency medical staff.

◆ PTSD symptoms caused by a fear of death or coercive control exerted upon them:

- ♣ fear/anxiety;
- ♣ mistrust;
- ♣ hostility/irritability/angry outbursts;
- ♣ agitation/aggressiveness;
- ♣ unwillingness to talk about the incident;
- ♣ emotional numbness;

● VERBAL RESPONSES:

- ◆ inability to concentrate/focus;
- ◆ confusion;
- ◆ memory loss;
- ◆ difficulty speaking /slurred speech/appearance of intoxication;

● PHYSICAL CONDITION:

- ▶ PHOTOGRAPH CONDITION OF VICTIM WHETHER INJURIES ARE VISIBLE OR NOT;
- ▶ critical for trained first responders to look for other signs of injury such as subtle injuries around the eyes, under the eyelids, nose, ears, mouth, neck, shoulders, and upper chest area to include but not be limited to:
 - ◆ skin redness or red marks especially on face, neck, upper chest area;
 - ◆ cuts/scratches including defensive injuries;
 - ◆ thumbprints/handprints/ligature mark;
 - ◆ tiny red spots (petechiae) that arise from increased venous pressure;
 - ◆ complaint of sore throat/difficulty swallowing;
 - ◆ complaint of headaches;
- physical state of the crime scene;
- conduct and responses of the alleged suspect if one is on the scene of the incident;
- ▶ observe, accurately record/document and, if warranted, pass on to professional medical staff any observations/information about the victim's physical condition and behavior;
- ▶ screen for invisible symptoms when strangulation is suspected:
 - be prepared to make referrals to experts (e.g., emergency medical staff, forensic nurse examiners, etc.);

On-scene Evidence:

The following list represents a number of suggested practices by law enforcement investigators experienced in conducting investigations into **non-fatal strangulation incidents:**

- ▶ photograph and sketch the scene;
- ▶ if an object was used to strangle the victim, locate, photograph, and collect it:
 - If possible, ask the victim where the object came from:
 - this may indicate intent;
- ▶ determine if there is blood on the victim, on the walls, or along/at the bottom of the stairs, if nearby:
 - obtain samples for comparison;
- ▶ confiscate victim clothing that is torn or ripped during the incident
 - could support pulling, dragging, and/or a struggle;
- ▶ **accurately measure the size of the injury or injuries:**
 - use a tape measure/ruler;
- ▶ **collect writings or journals by the victim that records or documents past similar events;**
- ▶ collect any lists of “household rules” created by the suspect;
- ▶ identify any property damaged during the incident:
 - photograph and collect if there is anything significant;
- ▶ **if the suspect has fled the scene obtain a recent photograph of the suspect, if available from the victim:**
 - have victim identify photograph as the suspect’s photograph;
 - document identification of the suspect by the victim;
 - submit the photograph as evidence per procedure;
- ▶ **photograph every visible injury including areas where there is a complaint of pain but no visible injury:**
 - when an injury does appear, the initial photograph can corroborate that there was not a pre-existing condition;
- ▶ **Do not allow victim to “clean up,” including removing /applying make-up prior to responding to a medical facility:**
 - if FORENSIC NURSE available to conduct evaluation of victim **clean up of any kind will reduce potential for:**
 - TOUCH DNA;
 - fingerprints;
- ▶ if **victim refuses medical treatment request victim to remove makeup at scene:**
 - **take photographs before and after makeup is removed:**
 - first photo to show victim as when officer arrived;
 - second may capture additional injuries that may have been disguised by makeup such as petichaie;

SLIDES # 26 & 27

Instructional Background:

Cases brought to court that rely solely on victim testimony may place the victim in greater danger, and this practice may cause the case to fail if the victim refuses to testify. An **EVIDENCE BASED** investigation and prosecution is the best way to counter this possibility.

Photographs and physical evidence are essential elements to evidence-based prosecution in domestic violence strangulation cases. They are **important for providing context to a judge and jury**. Pictures of overturned furniture, holes in the walls, bodily fluids on the floor and walls **may show how dangerous and frightening an assault may have been**.

Additionally, no matter how minimal, photographs of visible physical injuries may show a judge and jury what a victim went through during the attack. In some cases, a victim may have fingerprints on his/her neck or the markings of a ligature used during strangulation.

Ripped clothing, etc. also help to establish context for a judge and jury.

- ▶ the following photographs of the victim should generally be taken: [use a female officer as appropriate]:
 - **Distance photo**—one full-body photograph of the victim from a distance will help identify the victim/location of the injury;
 - **Close-up photos**—multiple close-up photographs of the face and neck area (front, back, and sides) at different angles will make it easier to see the injuries clearly:
 - Specific areas to photograph include:
 - ◆ surfaces of both ears;
 - ◆ under the chin;
 - ◆ the inner surface of the upper and lower lips;
 - ◆ the soft palate;
 - ◆ the inside of the cheeks;
 - ◆ under the eyelids; and
 - ◆ the eyes (looking up, down, medial, and lateral);
 - **Follow-up photos**—taking **follow-up photographs of the injury 24, 48, and 72 hours later to document the injuries as they evolve over time and maximize documentation:**
 - recommended that officers also take photos of the victim when the injuries have cleared;
- ▶ **use video camera to capture a raspy voice, difficulty swallowing, coughing, pain exhibited by the victim, and/or drooling;**

Medical Evidence:

One of the best methods for collecting evidence from a non-fatal strangulation victim is through a **medical examination**. **Properly trained medical personnel, including a forensic nurse, can provide not only potentially life-saving emergency medical treatment for the victim but can also evaluate any internal/external physical injuries and diagnose any symptoms that a victim may exhibit from the non-fatal strangulation assault.** Those professionally documented symptoms and injuries can then be available for use as **evidence during the assailant's subsequent trial.**

In addition, the medical examination may also yield some potentially exculpatory evidence. Part of the treatment and documentation process may reveal the victim has used intoxicants. It may also indicate the victim inflicted some of her own injuries in an effort to stop the abuser.

The **first-responder officer should:**

- ▶ **strongly encourage victims to seek medical attention especially if there is difficulty breathing/swallowing or visible injuries/pain:**
 - educate the victim about the seriousness of strangulation;
 - **victim may have internal injuries that later cause complete airway obstruction, up to 72 hours after event;**

SLIDES # 28 & 29

Instructional Background:

Because strangulation may not leave visible injuries, medical evaluations by emergency room personnel that detail strangulation symptoms and internal injuries may be only way to indicate that a victim was strangled.

Statements to medical personnel are non-testimonial when the statement is made for the primary purpose of obtaining medical treatment.

However, when a statement to medical personnel is elicited for the primary purpose of future litigation or at the direction of police, the statement may be considered testimonial. In *Green v. Maryland*, 22 A.3d 941 (Md. Ct. App. 2011), the victim of sexual assault was treated at a hospital. After her release, **the police sent her to a sexual assault specialist for a second examination.**

- **summons EMS if:**
 - (1) the victim requests medical attention;
 - (2) if the officer observes symptoms or injuries that indicate the need for medical attention;
 - (3) if it appears that strangulation has occurred;
- if EMTs determine a lack of objective symptoms to support internal injury, **a medical examination may prove helpful to assess the victim's health and document any visible injuries and/or symptoms:**
 - **medical documentation is persuasive evidence;**

NOTE:

If strangulation injury occurred within the last five days, it is recommended that a FORENSIC NURSE conduct a medical evaluation of the victim.

- ▶ **identify any medical treatment recommended or obtained:**
 - obtain a copy of the emergency medical services response report;
 - **obtain medical/dental release from victim;**
 - **obtain hospital/emergency room examination and treatment records;**

USE OF FORENSIC NURSES:

Since hospitals routinely screen patients for intimate partner violence some facilities with SAFE/SANE programs have chosen to **use their forensically trained nurses** to evaluate patients once they are identified by other nursing or medical staff [usually emergency room staff] as being victims of domestic violence, in particular strangulation;

Forensic nurses are medical professionals who have been specially trained to gather evidence using various court-sanctioned techniques:

- ▶ historically used during sexual assault cases;
- ▶ identification of strangulation is a standard part of the sexual assault assessment:
 - expanding assessment and documentation to other victims of strangulation usually does not require additional education on the part of the SANEs, depending on what the baseline education included:
 - ◆ training for staff on strangulation that presents outside the scope of sexual assault, such as with young people who play the "choking game" is often included in forensic nursing training;

The *Green* court found that a medical report from the sexual assault specialist, and the statements contained therein, was inadmissible testimonial evidence because the report was conducted at the request of police and was not "for treatment purposes." The report of her initial treatment was admitted with limited redaction. The second report was not for the purpose of health assessment. To the contrary, the second report was prepared with the objective intent of gathering evidence for future prosecution, so the second report was deemed testimonial and was inadmissible at trial.

[SLIDE # 30](#)

TRAINING OBJECTIVE:

6. Explain the role of medical professionals, especially a forensic nurse, in the evaluation of an act of non-fatal strangulation.

INSTRUCTOR NOTE:

The Code of Maryland Regulations (COMAR 10.27.21.04A) spells out the duties of a SAFE nurse.

INSTRUCTOR NOTE:

Numerous forensic nurse examiner (SAFE/SANE) programs have alternate light source photography capabilities and should be utilized where possible (Mercy, GBMC, Carroll, Northwest):

- must be requested by law enforcement

- ▶ proficient in follow-up examinations, taking photographs, and interpreting medical records.
- ▶ can document the symptoms and visible injuries of the victim for legal evidence:
 - forensic medical documentation can very strongly support the victim, law enforcement officers, and prosecutor in holding an offender legally responsible;
- ▶ may use assessment skills, alternate light sources, specialized photography techniques, body diagrams, and forensic narratives to enhance the evaluation and documentation of findings;
- ▶ many law enforcement agencies/prosecutors have worked closely with forensic nurses to interpret medical records; understand offensive, defensive, accidental, and/or intentional injuries; document follow up injuries; and/or testify in court as experts;
- ▶ forensic nurses should be educated in in history-taking surrounding a patient's IPV experience, not just as a one-time incident, but rather any violence that occurred across the life of the relationship and its impact on the patient's health;

NON-FATAL STRANGULATION CHECKLIST:

- ▶ **successful prosecutions of domestic violence cases, especially those involving strangulation and similar assaults, hinge on the first-responder-officer's preliminary investigation skills:**
 - **observations made and recorded;**
 - questions asked of the victim;
 - **evidence collected** both at the scene and during any subsequent medical examination;
- ▶ successful prosecution of an abuser/assailant without the willing cooperation of the victim can occur if a first-responder collects the correct information and evidence **[EVIDENCE BASED PROSECUTION]**;
- ▶ in non-fatal strangulation cases the first responder's focus even when there are no visible injuries should be on accumulating enough evidence and information to prove that the abuser's conduct occurred:
 - **if the victim statement/interview is the crux of the case, her/his testimony will be the primary evidence obtained:**
 - little effort will be made to identify and collect corroborating evidence;

INSTRUCTOR NOTE:

The following checklist included in this lesson plan is intended to be used as a guide for first-responders who are investigating domestic violence calls for service [or sexual assault cases] in which victims state that they were "choked," "grabbed by the throat" or otherwise strangled or suffocated by their assailants. This guide has been developed from a variety of sources and while every attempt has been made to include as many indicators of strangulation and suffocation as possible this guide may not be all inclusive.

Slides # 21 & 22 provide an edited version of the material contained on the checklist.

NON-FATAL STRANGULATION ASSESSMENT/REPORT CHECKLIST

BEFORE PROCEEDING: OBTAIN MEDICAL ATTENTION FOR THE VICTIM!

- Look for injuries behind the ears, around the face, neck, scalp, chin, inside the mouth, jaw, on the eyelids, shoulders, chest;
- Look for redness, abrasions, bruises, scratch marks, scrapes, fingernail marks, thumb-print bruising, ligature marks, petechiae, blood in the white of the eye, swelling, and/or lumps on the neck.
- Take photographs of the victim at the scene, if possible.
- Do **not** allow the victim to “clean up,” including removing or applying make-up, prior to responding to a medical facility, in particular if a FORENSIC NURSE will be available to conduct an evaluation of the victim. Clean up of any kind will reduce the potential for TOUCH DNA or fingerprints.
- Look for neck swelling (it may not be easy to detect). Ask the victim to look in the mirror to assess any swelling. Take photos of the neck even if you do not see injuries or swelling as they may appear later:
 - ◆ forensic nurses may use a tape measure to assess neck swelling;
- Injuries may be easily concealed with makeup, long hair, and/or clothing.

REMINDER: A STRANGULATION VICTIM MAY NOT HAVE ANY VISIBLE INJURIES!

NON-VISIBLE/NON-OBSERVABLE INJURIES	VISIBLE/OBSERVABLE INJURIES
<ul style="list-style-type: none"> ● neck pain/swelling ● jaw pain ● scalp pain (from hair pulling) ● sore throat ● difficulty/pain when swallowing ● tongue injury ● vision changes (spots, tunnel vision, flashing lights) ● light headedness ● headache/head “rush” ● ears ringing ● weakness/numbness of arms or legs ● nausea/vomiting ● loss of consciousness (how long?) ● loss of/lapse of memory ● dizziness/fainting or lightheadedness ● change in mental status: <ul style="list-style-type: none"> ◆ disorientation ◆ combativeness ◆ “spaced out” ● shock 	<ul style="list-style-type: none"> ● swelling of neck or face ● redness on neck/throat ● red spots (petichiae) on face/neck due to burst blood vessels ● pulled out/missing hair ● skull fracture/concussion ● unable to/difficulty breathing or hyperventilation ● ptosis (droopy eyelid) ● droopy face ● raspy or hoarse voice due to narrow airway/broken trachea ● coughing ● swollen lips or tongue ● inability to speak ● lip injury ● bruising/hemorrhaging: <ul style="list-style-type: none"> ◆ may be difficult to see on darker skinned victims ● scratch marks/scrapes/abrasions: <ul style="list-style-type: none"> ◆ sometimes made during “defensive” maneuvers by victim ● bloody/broken nose ● fingernail impressions ● red eyes due to burst capillaries in whites of the eyes ● involuntary urination or defecation ● seizure

RECOMMENDATIONS

- When no injuries are apparent and the victim is able and willing, ask the victim to look in a mirror, if available, to obtain her perspective of her current appearance and/or injuries. Ask the victim to point out any differences from her “normal” appearance.
- Remind the victim to notify officer working on her case if injuries appear or if she seeks additional medical care:
 - ◆ some bruises/marks may be delayed in developing;

REPORT CONTENTS

GENERAL REPORT INFORMATION

- Is the relationship of the parties identified?
- Is there a valid protection order in place?
- Are the events that took place pre and post strangulation documented?
- Was information about previous incidents (strangulation, domestic/sexual violence, threats, stalking), including frequency, documented?
- Were all witnesses interviewed and documented?
 - ◆ children may be present during non-fatal strangulation incidents;
- Was medical attention provided?
- Is the scene(s) concisely described/diagramed and processed?

NON-FATAL STRANGULATION SPECIFIC INFORMATION

- Has strangulation occurred in the past?
 - ◆ Was it reported to the police?
 - ◆ When? To What agency?
- Identify the exact crime scene - where the strangulation took place, e.g. on bed, on floor, etc., and process it:
 - ◆ multiple crime scenes may need to be processed and evidence identified/secured.
- Was there a struggle between the victim and suspect?
 - ◆ did the victim scratch/hit or otherwise make contact with the suspect by which a transfer of evidence may have occurred?
- What was used to strangle the victim (one hand, two hands, forearm, other body part, ligature, etc.)?
- Were other weapons involved?
- Did the strangulation take place from the front or from behind?
- Was the victim wearing jewelry?
- Was the suspect wearing jewelry? Gloves?
- Is the suspect right or left handed, if known?
- How long did the strangulation last?
 - ◆ Ask the victim to close her eyes and go through the assault with you while you look at your watch to determine the approximate length of time.
- How many times was the victim strangled during this incident?
 - ◆ Multiple strangulations may have occurred during the incident:
 - Were different methods used to strangle the victim during the incident?
- Determine the amount of pressure that the suspect used if manual strangulation was used:
 - ◆ ask the victim to describe on a scale of 1-10 with 10 being the most pressure the perpetrator's grip;
- In an attempt to further determine the perpetrator's grip, ask the victim (one at a time) if during the strangulation she/he could:
 - ◆ scream; ◆ talk; ◆ breathe (intermittently or otherwise)
- Was the victim also smothered?
- Was the victim also shaken while being strangled?
- Was the victim's head pushed into a wall, floor, or other surface? Was there property damage?
- Did the victim attempt to protect him/herself?
- What was the emotional state of the victim (what did they report they were thinking and feeling)?
- Did the suspect say anything to the victim before/while/after the strangulation occurred?
- Did the victim say anything to the suspect before/while/after the strangulation occurred?
- What was the suspect's demeanor before, during and after the incident?
- Did the victim describe what the suspect's face looked like during the incident?
- Why and how did the suspect stop strangling the victim?
- Are all crimes that co-occurred with the strangulation documented (sexual assault, kidnapping, property damage, etc.)?

ON-SCENE VICTIM INTERVIEW:

“The first sign of a traumatic injury to the victim who is reporting that he/she has been strangled [“choked,” had their throat grabbed, etc.] may begin with SYMPTOMS that the victim does not realize are significant. Such victims may not volunteer the information that they are “hurting.”

If the correct questions are asked, first responders may be able to identify a traumatic injury that is not readily apparent. Identifying these symptoms may also be an indicator that the victim needs medical attention even though he/she is declining it. Non-fatal strangulation is the type of assault where victims need to be educated about what has happened to them. It is important to ask the victim a series of questions designed to elicit specific information about her SYMPTOMS and internal injuries to determine if they are consistent with someone having been strangled. These questions include:

- ▶ How does your neck feel? Do you feel any pain when you move it or when it is touched? Describe the pain and when it occurs.
- ▶ Do you have pain anywhere else? Describe the pain.
- ▶ Are you having any trouble breathing now? Is your breathing any different than before the incident?
- ▶ Do you have asthma or a history of breathing troubles?
- ▶ Did you experience any visual changes? What did you see? (Indicators of a lack of oxygenated blood to the brain)
- ▶ How does your throat feel? Describe it in your own words.
- ▶ How does it feel to swallow? Describe it in your own words.
- ▶ Are you having any drooling problems?
- ▶ Does your voice sound any different since the assault? Have victim describe difference in own words. Record victim’s voice if possible.
- ▶ Was there any coughing after the assault? Is the coughing still occurring? Describe it.
- ▶ How did you feel during and after the assault? Did you feel any dizziness/lightheadedness?
- ▶ Did you faint or lose consciousness? Describe how that happened.
- ▶ If the victim lost consciousness have the victim explain why he/she believes that they were unconscious?
 - gap in time;
 - waking up on floor;
 - bump on head from unknown cause, etc.
- ▶ Did you lose control of any bodily functions? (e.g. urination or defecation)
- ▶ Is it possible you are pregnant? How far along? Any problems since the assault?
- ▶ Did you feel nauseated or did you vomit? Describe.

SLIDES # 31, 32 & 33

TRAINING OBJECTIVE:

7. Examine the questions to be asked of a victim who has survived an act involving non-fatal strangulation.

Instructional Background:

An accurate and detailed statement from the victim of a non-fatal strangulation incident can be critical to the prosecution of the abuser. The account of a domestic violence victim given to law enforcement officers generally falls within the legal realm of “hearsay” evidence, i.e. a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted. Hearsay is generally inadmissible at trial, unless an exception applies; however, a victim’s statement can provide prosecutors with a wealth of information that may be vital to the successful prosecution of an abuser.

Because domestic violence is a very personal crime, with few outside witnesses, prosecutors often need to rely on the victim’s prior, out-of-court statements to friends, family, or police about the abuse. However, to use a victim’s prior, out-of-court statement a hearsay exception must apply [e.g. present sense impressions; excited utterances; a then existing mental, emotional or physical condition, etc.]. The State’s Attorney handling the case will determine if a hearsay exception may exist. Because of the possibility that a hearsay exception may exist this reinforces the incentive for first-responders

If strangulation is detected officers need to **DOCUMENT:**

- ▶ **method used by the assailant to strangle;**
- ▶ **duration [approximate or otherwise] that event lasted:**
 - clock may have been visible at outset of incident;
 - radio/television may have been on at outset of event;
- ▶ **when did symptoms appear:**
 - immediately upon regaining consciousness;
 - later – what time;
- ▶ **victim's experience of the event in victim's own words:**
 - what led to the event;
 - threats made prior to/during/after event;
 - presence of others during event:
 - children;
 - witnesses;

Domestic Violence History:

- ▶ details of event may provide probable cause for arrest:
 - critical evidence for prosecution;
- ▶ as part of the responding officer's preliminary investigation, he/she should ask the victim to describe/recount the **abuser's known prior history of domestic violence:**
 - helps assess risk of future violence;
 - establishes any pattern of abuse;
 - supports there is a credible threat; and
 - documents the victim's level of fear;
- ▶ **prior domestic violence history can be established through:**
 - previous domestic violence calls for service to law enforcement agencies by the victim;
 - previous medical treatment for injuries sustained during unreported domestic violence incidents;
 - previous calls to or meetings with domestic violence victim service providers;
 - **history of abuse may also substantiated by:**
 - a statement by the victim regarding prior admissions and apologies from the defendant, especially those **documented in any texts, e-mail, social media, letters, notes, cards or messages from abuser;**
 - a statement by the victim regarding any **"house rules" for the victim to follow that the abuser may have written and displayed in the house;**
 - a **victim's diary or a log of history of abuse by the defendant;**

to non-fatal strangulation incidents to obtain an accurate and detailed account of the incident from the victim.

As a practical matter, issuing a subpoena compelling a victim of domestic violence to testify against her/his abuser may place the victim at greater risk of harm. This is particularly true if the abuser faces only minor sentencing for his/her act. In order to protect against further violence from an abuser, a victim who is subpoenaed to testify against his/her abuser may be hostile or uncooperative on the stand, which would work against the prosecution's case. A complete and accurate incident report may provide information that will counteract the victim's anti-prosecution court room demeanor.

SLIDE # 34

Instructional Background:

As part of a complete investigation into a non-fatal strangulation domestic violence incident, the investigating officer should consider obtaining as much information as possible regarding the abuser's past domestic violence history with the victim.

Maryland Rules:

Rule 5-404 Character Evidence not admissible to prove conduct; exceptions; other crimes.

- (b) Evidence of other crimes, wrongs or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It **may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, common scheme or plan, knowledge, identity or absence of mistake or accident.**

	<p>In domestic violence cases, the use of social media and various electronic messaging may be key parts of an abuser’s domestic violence history. Abusers now regularly use technology to control, threaten, stalk, and harass their victims. Even if the victim blocks the abuser from his/her personal pages, the abuser is often able to continue to monitor and harass the victim because the abuser and victim typically share the same online networks of friends and family. Electronic communications, such as email and instant messages, are evaluated on a case-by-case basis as any other document to determine whether there has been adequate foundational showing of its relevance and authenticity. While courts may be hesitant to accept evidence from social media sites, case law is evolving quickly to embrace the introduction of this type of evidence.</p> <p>Authentication is a particularly important Rule of Evidence in domestic violence prosecutions. Abusers often use technology to maintain control over victims. In particular, abusers regularly use social media and GPS to monitor and track their victims, either during the relationship or when the relationship ends. So, evidence of technology abuse can be a key to successful prosecution. But authenticating electronic evidence is complicated because such evidence is easily falsified or altered, which has resulted in unclear guidance for authentication standards. In fact, in some cases the defendant has manufactured electronic and social media evidence to make it appear as though the victim is lying or is otherwise not credible. Thus, investigators and prosecutors in domestic violence cases should be ready to address the issue of authentication.</p>
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- a victim's or defendant's **phone records to show contact with the victim** including copies of the recordings of calls from jail;
- **notes, cards, emails, faxes, and letters from the abuser including those sent from jail;**
- statements of family members, including any children present during the assault for corroboration of the assault and/or history of the relationship.

▶ prior history information may also be helpful to the State's Attorney in charging, sentencing, bail hearings, probation revocation hearings, and for impeachment purposes at trial;

911-TAPE of call:

- ▶ often overlooked evidence;
- ▶ potentially **valuable** piece of prosecutorial evidence:
 - made by victim after being attacked [often immediately]:
 - usually victim's **first account of what has occurred:**
 - ◆ scared/traumatized/still in danger;
 - **abuser may still be present/threat to victim;**
 - **may indicate victim injury:**
 - hoarseness;
 - coughing;
 - difficulty breathing;
 - may/may not be considered "hearsay exception" depending on non-testimonial nature of call:
 - ***Washington v. Davis*, 547 U.S. 813, (2006);**
[supported by *Michigan v. Bryant*, 562 U.S. ____ (2011)]

***Washington v. Davis*, 547 U.S. 813, (2006) :**

A 911 operator ascertained from Michelle McCottry that she had been assaulted by her former boyfriend, petitioner Davis, who had just fled the scene. McCottry did not testify at Davis's trial for felony violation of a domestic no-contact order, but the court admitted the 911 recording despite Davis's objection, which he based on the Sixth Amendment's Confrontation Clause. He was convicted. The Washington Court of Appeals affirmed, as did the State Supreme Court, which concluded that, inter alia, the portion of the 911 conversation in which McCottry identified Davis as her assailant was not testimonial. **Statements are non-testimonial when made in the course of police interrogation under circumstances objectively indicating that the primary purpose of interrogation is to enable police assistance to meet an ongoing emergency. They are testimonial when the circumstances objectively indicate that there is no such ongoing emergency, and that the primary purpose of the interrogation is to establish or prove past events potentially relevant to later criminal prosecution.** McCottry's statements identifying Davis as assailant were not testimonial. Washington Supreme Court ruling upheld.

SLIDE # 35

Instructional Background:

The collection of 911 tapes as vital evidentiary material is sometimes overlooked during domestic violence investigations. In incidents of non-fatal strangulation they may contain critical evidence that can be presented at trial. Emergency response 911 tapes are evaluated for admissibility based on a balancing test, which requires judges to balance the relevancy of the evidence with the possible prejudicial effect it may have on the jury. Emergency response 911 tapes are often admitted as a present sense impression exception under the hearsay rules, provided the prejudicial value does not outweigh their probative benefit.

See: *Washington v. Davis*, 547 U.S. 813, (2006)

IDENTIFYING THE DOMESTIC VIOLENCE AGGRESSOR:

As many law enforcement officers know from experience, one of the more significant challenges facing them when they respond to some domestic violence calls for service is determining which party is the principal/primary, physical aggressor and who is true victim. In non-fatal strangulation cases, it is more likely that victims will use self-defense to stay alive. Because victims fear for their lives, they may protect themselves by pushing, biting, scratching, or pulling the suspect's hair. Depending on the method of strangulation being used, the suspect may be the only individual with visible injuries.

For example, if the suspect is strangling the victim from behind and using a chokehold, the victim may protect herself by biting the suspect on the arm. If the suspect is manually strangling the victim from the front (face to face), she may push him away, scratch him, or pull his hair.

To identify the **principal/primary physical aggressor**, officers should consider the following factors:

- Height/weight of the parties;
- Who is fearful of whom;
- Details of statement and corroboration;
- History of domestic violence, assaults, or criminal history;
- Use of alcohol or drugs;
- Whether either party is subject to a restraining order or on domestic violence probation;
- Pattern evidence;
- Injuries consistent with reported statement;
- Hair, blood, or fiber on the hands, or evidence of epithelia cells after strangulation (fingernail scrapings);
- Signs of symptoms of strangulation; and
- Signs of offensive/defensive injuries;

SUSPECT INTERVIEW:

- ▶ officers investigating a non-fatal strangulation **should always** attempt to interview the suspect if available:
 - exculpatory statements may be helpful to investigating officer:
 - opportunity to support for, or discredit the story;

SLIDES # 36 & 37

Instructional Background:

As occurs in any domestic violence incident, first-responders typically attempt to identify the primary aggressor in the incident. While it would seem to be obvious when a victim is claiming that he/she was strangled that the primary aggressor can be readily identified, the lack of visible injuries to a victim can complicate an officer's investigation. In **non-fatal** strangulation cases, it is more likely that victims will use self-defense to stay alive. Because victims fear for their lives, they may protect themselves by pushing, biting, scratching, or pulling the suspect's hair. Depending on the method of strangulation being used, the suspect may be the only individual with visible injuries. For example, if the suspect is strangling the victim from behind and using a chokehold, the victim may protect herself by biting the suspect in the arm. If the suspect is manually strangling the victim from the front (face to face), she may push him away, scratch him, or pull his hair.

This section provides some steps that an officer can take in attempting to identify the primary aggressor in a domestic violence incident including a non-fatal strangulation episode.

SLIDES # 38 & 39

Instructional Background:

While remaining mindful of *Miranda* and its progeny, investigators should always attempt to interview the suspect. Any story is better than NO story! Any statement from an offender is better than no statement. Even exculpatory statements are helpful as they provide the investigator an

► examples of **possible** defenses that abusers may use are:

SELF-INFLICTED injuries:

- if the victim has readily apparent visible injuries, the suspect may claim the victim self-inflicted the injuries because the victim is vindictive for some reason:
 - victim inflicts own injuries and then contacts law enforcement in an effort to make the suspect suffer;
- interviewing officer may:
 - investigate/then eliminate potential reasons for the victim to fabricate a claim of non-fatal strangulation;
 - consult with forensic personnel/medical personnel knowledgeable about strangulation to explain how the victim's injuries are the result of the defendant inflicting them or the victim defending against the defendant's attack;

victim LIKES to be strangled:

- victim and defendant engage in strangulation as a consensual activity usually intertwined with some type of sexual activity:
 - location of occurrence and absence/presence of any sex toys/bondage tools/erotica/ other related instruments can be useful in defeating this defense:
 - reasonable expectation that if the strangulation was consensual activity, victim would not be reporting it;

injury was an ACCIDENT:

- suspect claims the strangulation occurred through some mistaken action/some form of seemingly innocent explanation for the injuries or victim claim:
 - suspect was trying to calm the victim and his hands—that were meant to be placed on her shoulders—accidentally slipped to the neck, etc.;
- detailed account of incident can defeat this defense:
 - is the conduct described by suspect consistent with the injuries received by the victim?
 - when accidental there is usually an apology after the accident; Was there any indication of this?

Suspect acted in SELF-DEFENSE/MUTUAL COMBAT:

- may be combined in some form with the other defenses:
- suspect claims he/she was using force to combat or defend against attack by the victim;
- victim recants/gives this as explanation for what occurred:
 - "Everything I told the officer was correct, except it all occurred after I attacked the defendant."

opportunity to conduct further investigation and find support for, or discredit the story. The suspect interview will provide prosecutors clues regarding the probable defense which will assist them in presenting their case at trial. In the event the offender changes his story or defense at trial he will be forced to explain the discrepancies.

Experience has shown that abusers rarely take responsibility for their actions; they overwhelmingly attempt to shift the blame for their actions to their victims. In some instances they will inflict injuries on themselves with the intent of blaming the victim and claiming self-defense for their actions. In other cases they claim that the victim was a willing participant in the act.

REPORTING/Documenting Non-fatal Strangulation Incidents:

- ▶ **special attention should be paid to the vocabulary/terms used when officers report/document non-fatal strangulation incidents:**
 - **most victims continue to report they were ‘choked’ or grabbed by the neck:**
 - **reporting that a victim was ‘grabbed by her neck and forced into the wall’ does not provide sufficient detail for a prosecution for strangulation;**
 - **when report writing the proper terms are strangled/strangulation/near-fatal strangulation, and non-fatal strangulation to describe what happened to the victim;**
 - **historically the public , including medical experts, law enforcement officers, prosecutors and judges referred to non-fatal strangulation assaults as “ATTEMPTED STRANGULATION.”**
 - **incorrect belief that strangulation meant death:**
 - ◆ **that the best medical evidence of strangulation is derived from post mortem examination (autopsy) of the body**
 - ♣ **ability to examine all of the tissues of the neck, superficial and deep and track the force vector that produced the injuries.**
 - **thinking went, if victim survived, must not have been strangulation but only “attempted” strangulation;**
 - **any intentional effort to apply pressure to the neck in order to impede airflow or blood flow should be viewed assault by strangulation:**
 - **assailant did not “attempt” the assault:**
 - ◆ **the assault was completed;**
 - **when unconsciousness, urination, defecation and/or petechiae is/are present:**
 - **near-fatal or near-lethal strangulation has occurred and the victim suffered a severe, life-threatening injury;**
 - **case should be investigated as an attempted homicide or aggravated assault case;**
 - **open-ended questions, followed with phrases such as ‘and then what happened?’ or ‘what happened next’ are the best options when taking victim/witness statements;**

SLIDES # 40, 41, 42

TRAINING OBJECTIVE:

9. Review the importance of writing a thorough and detailed report of an incident involving non-fatal strangulation including the responding officer’s observations at the scene of a non-fatal strangulation incident.

Instructional Background:

The importance of a first-responder’s incident report has been repeatedly stressed in this lesson plan, in particular as regards the terms that are used to describe the assault. The officer’s report which contains his/her observations of the physical appearance of the victim and his/her behavior/demeanor becomes the basis for the evidence based prosecution.

FIRST RESPONDER AS "EXPERT" WITNESS:

- ▶ **first responders** [patrol officers] should **note their experience/training regarding domestic violence/strangulation in police reports:**
 - similar to expertise outlined in other criminal arrests:
 - driving under the influence;
 - controlled dangerous substance arrests;
 - concealed weapon arrests; etc.

EXAMPLE:

REPORT INTRODUCTION

I have been a patrol officer for ____ years. During that time, I have investigated more than ____ domestic violence cases. In many of those cases, victims have reported to me that they had been strangled.

I have received training in domestic violence and, in particular, the medical signs and symptoms of strangulation. Based on my experience and training, I know strangulation can cause serious injury. Unconsciousness can occur within seconds. Death can occur within minutes. The symptoms and injuries as reflected in this investigation are consistent with someone being strangled. The elements of an assault are present, i.e. intentionally causing physical injury to another person, and related offenses.

Based on the my observations of the physical condition and behavior of the victim at the scene of the incident and my investigative interview with the victim which are noted in this report I encouraged the victim to seek medical attention which the victim did at _____. The results of that medical evaluation and treatment are included in a supplement to this report.

I also encouraged the victim both to continue to log symptoms and injuries that may develop from this incident and seek support from a domestic violence victim service provider.

SLIDE # 42

Instructional Background:

On occasion, law enforcement officers are qualified as "expert" witnesses, i.e. a witness who possesses scientific, technical or other specialized knowledge beyond that possessed by a layperson and whose testimony will assist the trier of fact to understand the evidence or to determine a fact in issue; a witness qualified as an expert by knowledge, skill, experience, training or education who may testify thereto in the form of an opinion or otherwise.

To qualify as an expert, an individual must have specialized knowledge beyond that of the average layperson in an area or field that will assist the trier of fact in determining an issue in the case. The specialized knowledge must be based on the expert's educational background or practical experience. If the issue involves a matter of common knowledge, expert testimony is inadmissible. Whether the expert meets the requisite level of expertise is a finding of fact to be made by the trial court.

Follow-up Investigation of Non-fatal strangulation:

In some agencies follow-up investigations of non-fatal strangulation cases may ordinarily be conducted by an investigator rather than the officer who first responded to the scene of the domestic violence call; if this is not the case then the officer conducting the follow-up investigation should, at a minimum:

- ▶ **re-photograph** the victim:
 - follow-up photographs taken 2–3 days after the incident can provide critical evidence of bruising/other injury that was not visible at the crime-scene or hospital immediately after the assault;
- ▶ **re-interview** the victim/witnesses:
 - victims often give more detailed statements after they have had a chance to calm down and reflect on what occurred;
 - additionally, it will usually become clear during the re-interview of the victim whether the victim will testify at trial willingly or be reluctant to testify against, the abuser:
 - prosecutor should know the relationship status of the victim when deciding how to proceed at trial;
- ▶ **obtain** medical treatment records, forensic nurse reports, etc.;

New Evidence:

After a suspect is arrested, new evidence may be able to be collected if the suspect remains incarcerated:

- ▶ suspects will frequently call victims from the jail to apologize/harass/threaten/intimidate them:
 - obtain audio copies of phone calls made from suspects who are in jail;
- ▶ if released, suspects will often violate protection orders in an attempt to persuade their victims to drop charges;

SLIDE # 43

Instructional Background:

The follow-up investigation may be critical in domestic violence cases. Such investigations should be focused on an **EVIDENCE BASED** prosecution, i.e. how to prove the case without the participation of the victim.

The most important pieces of evidence at trial are often follow-up photographs taken 2–3 days after the incident. Follow-up photographs can provide far more powerful evidence of the true violence than initial on-scene photographs. Since most bruises are not visible for days after a violent assault, follow-up photographs must be central to every investigation.

Additionally, victims experience voice changes in 45–80 percent of non-fatal strangulation cases. Based on anecdotal evidence and the medical literature, it is important to tape record or video tape a follow-up investigation to document voice changes for later evaluation by medical experts and to corroborate the victim’s allegations. Many digital cameras today also have a video feature; use this feature to capture a raspy voice, difficulty swallowing, coughing, pain exhibited by the victim, and/or drooling.

Re-interviewing the victim and witnesses is as important as taking follow-up photos. Victims often give more detailed statements after they have had a chance to calm down and reflect on what occurred. On the other hand, it will

Current Maryland Law:

- ▶ Currently, **non-fatal strangulation** is normally prosecuted, in Maryland, under the Criminal Law Article (CR) §3–203 which states, in part:
 - (a) A person may not commit an assault.
 - (b) **Except as provided in subsection (c) of this section, a person who violates subsection (a) of this section is guilty of the misdemeanor of assault in the second degree** and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$2,500 or both.
- ▶ in rape cases, **non-fatal strangulation** is subject to prosecution **under CR §3–303** which states, in part:
 - (a) **A person may not:**
 - (1) **engage in vaginal intercourse with another by force, or the threat of force, without the consent of the other; and**
 - (2) (i) employ or display a dangerous weapon, or a physical object that the victim reasonably believes is a dangerous weapon;
(ii) suffocate, strangle, disfigure, or inflict serious physical injury on the victim or another in the course of committing the crime;
(iii) threaten, or place the victim in fear, that the victim, or an individual known to the victim, imminently will be subject to death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping;
 - (iv) commit the crime while aided and abetted by another; or
 - (v) commit the crime in connection with a burglary in the first, second, or third degree.

be very clear in the follow-up investigation if the victim is still with, or reluctant to testify against, her abuser. The State’s Attorney should know the relationship status of the victim when deciding how to proceed at trial.

SLIDE # 44

INSTRUCTOR NOTE:

Maryland law currently does not treat strangulation as a separate assault offense. As Maryland law indicates strangulation is a misdemeanor second degree assault except in specifically defined cases involving strangulation during sex offenses.

(d) (1) Except as provided in paragraphs (2), (3), and (4) of this subsection, a person who violates subsection (a) of this section is guilty of the felony of rape in the first degree and on conviction is subject to imprisonment not exceeding life.

(3) A person who violates subsection (a) or (b) of this section is guilty of the felony of rape in the first degree and on conviction is subject to imprisonment not exceeding life without the possibility of parole if the defendant was previously convicted of violating this section or § 3–305 of this subtitle.

(e) If the State intends to seek a sentence of imprisonment for life without the possibility of parole under subsection (d)(2), (3), or (4) of this section, or imprisonment for not less than 25 years under subsection (d)(4) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.

CR §3–305 which states, in part:

(a) A person may not:

- (1) engage in a sexual act with another by force, or the threat of force, without the consent of the other; and
- (2) (i) suffocate, strangle, disfigure, or inflict serious physical injury on the victim or another in the course of committing the crime;
- (ii) threaten, or place the victim in fear, that the victim, or an individual known to the victim, imminently will be subject to death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping;
- (iv) commit the crime while aided and abetted by another; or
- (v) commit the crime in connection with a burglary in the first, second, or third degree.

(d) (1) Except as provided in paragraphs (2), (3), and (4) of this subsection, a person who violates subsection (a) of this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment not exceeding life.

(3) A person who violates subsection (a) or (b) of this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment not exceeding life without the possibility of parole if the defendant was previously convicted of violating this section or § 3–303 of this subtitle.

III. EVALUATION AND CLOSURE:

1. Non-fatal strangulation is best defined as:

- a. the mechanical obstruction of air flow through the nose and mouth;
- b. the internal blocking of a person's airway/windpipe;
- c. the blocking of oxygen flow to a person's lungs when another person's weight is placed on the person;
- d. external pressure applied to a person's neck until unconsciousness occurs;**

2. In most cases, it only takes 10 – 15 seconds of pressure on a person's neck to render that person unconscious.

- a. True;**
- b. False;

3. BRAIN death by strangulation will normally occur within:

- a. 1-2 minutes of pressure to the neck;
- b. 4-5 minutes of pressure to the neck;**
- c. 7-9 minutes of pressure to the neck;
- d. 10-12 minutes of pressure to the neck;

4. Which of the following is FALSE:

- a. it takes approximately 33 pounds of pressure to close off a person's trachea;
- b. it takes approximately 11 pounds of pressure to close off a person's carotids;
- c. it takes approximately 4.4 pounds of pressure to close off a person's jugulars;
- d. it takes approximately 80 pounds of pressure to render an adult male brain dead;**

5. Which of the following statements is FALSE:

- a. incidents of non-fatal strangulation during domestic violence incidents are high predictors of future incidents of violence;
- b. strangulation is a favorite tactic of repeat batterers because strangulation frequently does not leave visible injuries and can cause the victim long lasting psychological trauma;
- c. few victims of non-fatal strangulation seek medical assistance within 48 hours of a non-fatal strangulation incident;
- d. when most abusers strangle their domestic partner they are attempting to kill them;**

INSTRUCTOR NOTE:

These questions are offered as samples of questions that can be used to test a student's knowledge of some of the material contained in this lesson plan and accompanying power point presentation.

6. Which of the following statements is TRUE:

- a. only approximately 15% of non-fatal strangulation victims show visible signs of injuries following an attack involving non-fatal strangulation;**
- b. because of the amount of pressure required to strangle a person there are almost always visible external injuries to a victim of non-fatal strangulation;
- c. if visible injuries are present on a non-fatal strangulation victim's neck an investigating officer can presume that they were made by the abuser during the attack;
- d. internal injuries to a non-fatal strangulation victim rarely occur because if such injuries were present the victim would be in obvious distress and require immediate medical attention;

7. When responding to an incident in which an individual claims that he/she was "choked"/"grabbed by the neck" by an attacker, the responding officer(s) should be observant for which of the following:

- a. victim has a raspy voice or difficult speaking or swallowing;
- b. victim is lightheaded, dizzy or unsteady on his/her feet;
- c. victim's memory about the incident is not clear even though he/she is clearly upset about what has happened;
- d. the victim appears disoriented, combative or appears "spaced out";
- e. only a, b, and c because d may be the result of alcohol or drug intoxication;

f. a, b, c and d are all symptoms of non-fatal strangulation;

8. When conducting an investigation into an incident involving non-fatal strangulation an officer should do all of the following EXCEPT:

- a. observe and specifically document the physical condition including visible injuries or the lack of visible injuries and the behavior of the victim after the officer arrives on the scene;
- b. be aware that the lack of visible injuries does not mean that the victim has not sustained serious internal injuries and therefore needs medical attention;
- c. advise the victim of an attack involving non-fatal strangulation that since they do not have any visible injuries that there is no need to seek professional medical attention;**
- d. observe and document the demeanor and physical appearance of the alleged attacker if present at the scene;

9. If strangulation is detected the investigating officer should document in his/her incident report as specifically as possible which of the following:

- a. the method used by the assailant;
- b. an estimate of the amount of time the strangulation event lasted and how the victim arrived at that estimate;
- c. when the symptoms/signs of injury first appeared to the victim;
- d. the details of the victim's experience in his/her own words including any threats that were made prior to or during the event;
- e. the names of any witnesses, including children, who were present when the attack occurred;

f. all of the above;

10. An assailant's domestic violence history is critical information that an officer should include in his/her investigation of a non-fatal strangulation incident. Which of the following is NOT relevant information regarding an assailant's domestic violence history:

- a. any victim statement regarding an apology from the assailant regarding previous domestic violence incidents especially those contained in emails, letters or other correspondence from the assailant;
- b. records of phone calls made to the victim from the assailant while incarcerated for previous domestic violence offenses;
- c. any "house rules" that the assailant may have written and posted in the home or otherwise given the victim which are required to be obeyed;
- d. a journal or diary maintained by the victim that describes previous incidents of domestic violence abuse by the assailant;

e. all of the above can be used to help establish an assailant's domestic violence history;

11. Forensic nurses can be an invaluable tool during an investigation into a non-fatal strangulation for all of the following reasons EXCEPT:

- a. they are medical professionals trained to gather evidence using various court-sanctioned techniques;
- b. they are proficient in follow-up examinations, taking photographs and interpreting medical records;
- c. they can testify in court as expert witnesses regarding certain medical records and facts;

d. they are obligated to provide only information to the investigating officer that supports the victim's claim that he/she was strangled;