

Investigation and Prosecution of Strangulation Cases

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Every day police departments across the country receive a constant stream of 911 domestic violence calls where victims report being threatened, pushed, slapped, kicked, punched, stabbed, stalked, shot, and choked. Some agencies report that as many as 40% of all 911 calls are domestic violence related. Depending on the study, 30%-60% of domestic violence victims are strangled by their partner during a domestic violence assault. By the time officers respond, victims are often already recanting, minimizing, or are simply unaware of the seriousness of their assault, especially if strangulation is involved. This article will touch on a few key elements of the investigation and prosecution of strangulation cases. Our goal is to emphasize how much effort it takes to properly investigate and prosecute these life-threatening assaults.

In the past, victims, perpetrators, police officers, prosecutors, judges, and medical personnel often minimized “choking” cases. The lack of visible injury and inadequate training caused the entire criminal justice system to unintentionally treat non-fatal strangulation cases (as we now call them) as minor assaults with little or no consequences. An officer arriving to find a victim with two black eyes might quickly focus on the visible injuries, and if the victim says she was also choked and there are no visible injuries, the officer may not even follow up on the allegation of a strangulation assault.

Today, it is unequivocally understood that strangulation is one of the most lethal forms of domestic violence and should be a felony in most cases.

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I. The Investigation

The mindset of all domestic violence responders should mirror the philosophy of the prosecutor: How can we prove this case without the participation of the victim? Successful prosecution of domestic violence strangulation cases hinges on the responder's collection of evidence to prove the case even without the victim's testimony. Most strangulation cases involve corroborating evidence, but law enforcement must fully understand the kinds of evidence that exist.

Most law enforcement protocols today have developed specialized domestic violence reporting forms or checklists. We strongly support such reporting forms if they are a supplement to the narrative report. In those jurisdictions utilizing a law enforcement protocol for the investigation of domestic violence cases,¹ officers arriving at the scene conduct a thorough investigation and prepare written reports describing all incidents of domestic violence involving the victim and perpetrator, as well as documenting individual crimes, such as a strangulation assault, committed by the perpetrator. Some jurisdictions across the country are also including lethality assessments within their domestic violence reports.²

Special attention should be paid to the vocabulary when properly prioritizing strangulation assaults. While most victims will report they were “choked” or grabbed by the neck—and it is important to use words the victim is most comfortable using—responders need to acknowledge the seriousness of the abuse that is actually occurring. “Choking” is accidental. Strangulation is intentional. Choking means having the windpipe blocked entirely or partly by some foreign object, like food. Strangulation means to obstruct the normal breathing of a person or blood flow to the brain. For report writing, the proper term is “strangulation.”

Officers should use words such as “strangled,” “near-fatal strangulation,” (when petechiae, loss of consciousness and/or urination/defecation is present) and “non-fatal strangulation”

to describe what happened to the victim. By using the correct terminology, more awareness is brought to the seriousness of the crime that has been committed, and we can slowly begin to change how the criminal justice system treats strangulation cases. Use of the proper terminology will also produce more felony prosecutions. In a recent study conducted in Minnesota, when officers used the word “strangled” as opposed to “choked,” and described how the victim was strangled, more cases were prosecuted as felonies.³

If there is evidence to suggest the victim was strangled and her life was threatened, the case should be considered and investigated as if it were an attempted homicide or aggravated assault case. If the case is treated seriously from the time the 911 call is made, everyone involved, including the victim, will treat it seriously as well.

When officers respond to a domestic violence scene and the incident includes strangulation, the victim's subtle signs and symptoms become very important. Learning how to identify, document, and understand these signs and symptoms requires special training.

The Training Institute on Strangulation Prevention has created an excellent investigations checklist that can be downloaded from the Resource Library at www.strangulationtraininginstitute.com. We also have an excellent, free on-line course for law enforcement officers that is available on our website. In addition, we teach a multi-day course on the investigation and prosecution of strangulation assaults. For more in-depth training, join us at one of our specialized courses held in San Diego every year.

Review Every 911 Call

Emergency 911 tapes should be reviewed on every case. They accurately capture the victim's emotional state and often include (1) statements about the incident; (2) the domestic violence history in the relationship; (3) the victim's physical condition; (4) the suspect's level of intoxication

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and/or use of drugs; (5) the presence of witnesses; (6) the presence of weapons; and (7) the existence of protective orders. The 911 call is a microphone into the violent incident and often records statements from children, witnesses, and/or the abuser, and often the victim's voice changes from a strangulation assault.

The Victim Interview

When contacting a victim of domestic violence, always look for evidence she may have been strangled. If the victim survives a strangulation assault, she may have been strangled to the point of unconsciousness and likely suffered some level of brain injury. Evidence of unconsciousness includes loss of memory, an unexplained bump on the head, and bowel or bladder incontinence. The victim may also report that she was standing up one minute, then simply woke up on the floor and did not know why. Symptoms of hypoxia or asphyxia (a lack of oxygen to the brain) will likely cause the victim to be restless or hostile at the scene. The victim may appear to be under the influence of drugs or alcohol, or appear to have stroke-like symptoms. Evidence of temporary or permanent brain injury may include problems with memory, inability to concentrate, headaches, anxiety, depression, and/or sleep disorders. The victim may be embarrassed or minimize the incident, and she will likely be traumatized from the attack. These factors can dramatically impact how the victim tells her story. It is common in such situations for the victim's story to be jumbled or confused. Trauma-informed interview techniques are crucial. Don't expect the victim to describe this near-death experience chronologically. Expect inconsistencies; expect gaps in her memory. Her failure to remember is corroboration of the assault!

The level of injuries and symptoms depends on many different factors, including the method of strangulation, the age and health of the victim, whether the victim struggled to break free, whether the victim was under the influence of alcohol and/or drugs, the size and weight of the perpetrator, and the amount of force used. Therefore,

it is important to ask the victim a series of questions designed to elicit specific information about her symptoms and internal injuries that are consistent with someone being strangled. Even when victims exhibit injuries from strangulation, the injuries will likely appear minor and limited to the point at which pressure was applied. It is important for investigators 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. If injuries are present, look for redness, scratches, red marks, swelling, bruising, or tiny red spots (petechiae) that arise from increased venous pressure.⁴

Simply reporting that a victim was "grabbed by her neck and forced into the wall" does not provide sufficient detail for a prosecutor to walk into a courtroom and prove the case. The strangulation investigation checklist includes the following:

- Ask the victim to describe how she was assaulted.
- Document the victim's description of the assault, including the location and positions of each individual involved.
- Using a wig head or mannequin, ask the victim to physically demonstrate how she was strangled. Photograph the demonstration.
- Determine if the victim was simultaneously shaken while being strangled. (Possible whiplash.)
- Was the victim thrown against the wall, floor, or ground? (Possible concussion.)
- Ask the victim where she was strangled and look for corroborating evidence in those areas. If something was broken in the struggle, photograph it.
- How long did the suspect strangle the victim? 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 the incident? Were different methods used to strangle the victim during the incident? (Shows intent.)
- Determine the amount of pressure that was used. On a scale from one to 10, 10 being the most pressure, how hard was the perpetrator's grip?
- Ask (one at a time) if the victim could (1) breathe; (2) talk; (3) scream. (These questions will help in determining pressure applied to the victim.)
- Look for injuries behind the ears, around the face, neck, scalp, chin, inside the mouth, jaw, on the eyelids, shoulders, and chest area.
- 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.
- If the victim is wearing makeup, ask her to remove it before leaving the scene. Take photographs before and after the makeup is removed. The first photo will show exactly what the investigator saw, and the second may capture additional injuries.
- 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. ER nurses have reported using a tape measure to determine neck swelling.
- Injuries may be easily concealed with makeup, long hair, and/or clothing.
- Having a victim also look in a mirror when no injuries are apparent may be helpful to get her perspective. It is important to tell the victim to notify detectives working on her case if injuries appear or if she seeks additional medical care.
- Leaving your business card with encouragement to call will be more effective than if you give the victim a general phone number at your agency.
- Recognize that that the victim may not feel comfortable calling law enforcement. Always leave phone numbers for the local hotline, domestic violence or sexual assault agencies, or Family Justice Centers.

Identifying Symptoms of Injury

To identify symptoms and injuries, consider asking the following questions:

- How does your neck feel? Do you feel any pain on movement or touch? Describe it.
- Do you have pain anywhere else? Describe the pain.

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- 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?
- How does it feel to swallow?
- Are you having any drooling problems?
- Does your voice sound any different since the assault?
- Was there any coughing after the assault? Is the coughing still occurring?
- How did you feel during and after the assault? Did you feel any dizziness?
- Did you faint or lose consciousness?
- (If the victim lost consciousness) Explain why you believe you were unconscious? (Gap in time, waking up on the floor, bump on head from unknown cause, etc.)
- Did you lose control of any bodily functions? (Urination or defecation?)

- Is it possible you are pregnant?
- Did you feel nauseated or vomit?

Evidence Gathering

Prosecutors need to re-create the scene for the judge or jury. Officers and investigators can help prosecutors immensely by a complete investigation, which may include the following:

- Photograph and sketch the scene. A sketch can provide a visual of the scene layout, especially the locations of people at the scene, distances, and areas of significance.
- Imagine a victim is strangled on the bed and manages to roll off the bed into a small space between the bed and wall where the strangling continues. A visual showing the confined space would provide the court with a gripping sense of how vulnerable the victim felt.
- Was an object used to strangle the victim? Locate, photograph, and collect the object.
- Was there blood on the victim, on the walls, or along or at the bottom of the stairs?

- Clothing that is torn or ripped during the incident would support pulling, dragging, and/or a struggle.
- Collect writings or journals by the victim of past similar events.
- Was any property damaged during the incident? (Photograph and collect if there is anything significant.)
- Was any medical treatment recommended or obtained? (Obtain medical/dental release. Consider obtaining a copy of the emergency medical services response report.)

Photographs

As the saying goes, “A picture is worth a thousand words.” A responding officer cannot take too many photographs in domestic violence cases, including strangulation cases. Every visible injury should be documented with a photograph. Even areas where there is a complaint of pain but no visible injury should be documented. Later, when the injury does appear, the initial photograph can corroborate that there was not a pre-existing

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condition. For strangulation cases, especially where there are petechiae (small red dots above the strangulation hold that are smooth to the touch), it is recommended that officers also take photos of the victim when the injuries have cleared as well.

Medical Examination and Documentation

As discussed above, the victim may have internal injuries that later cause complete airway obstruction, even 36 hours after an injury.⁵ As such, when victims report they were “choked,” dispatchers, patrol officers, investigators, and prosecutors should strongly encourage victims to seek medical attention. If a victim reports symptoms such as difficulty breathing or swallowing, paramedics should be immediately dispatched to scene, without or without victim request, in order to screen the victim for possible internal injuries. Even if the paramedics determine a lack of objective symptoms to support internal injury, their medical examination will prove very helpful to assess the victim’s health and document any visible injuries and/or symptoms.

Prior History of Abuse

Prior history of abuse and strangulation assaults is important for many reasons. It helps professionals assess the risk of future violence, establishes the pattern of abuse, explains whether there is a credible threat, and documents the level of fear. It also helps the prosecutor in charging, sentencing, bail hearings, probation revocation hearings, and for impeachment purposes at trial.

Identification of the Dominant Aggressor

When officers arrive at the scene of a domestic violence call, they may find both parties without visible injuries, both parties with visible injuries, or one party with injuries and the other with no visible injuries. The challenge is determining which party is the dominant aggressor and which is the 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. Don’t be fooled and end up arresting the victim!

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. If she is fighting for her life, she may inflict major injuries on the suspect in self-defense! Consult our full workshop on dominant aggressor analysis to learn everything you must analyze.

Writing Strangulation Investigation Reports

As in other criminal cases, such as driving under the influence or being under the influence of a controlled substance, patrol officers should note their experience and training concerning domestic violence and strangulation in their police reports. For example:

I have been a patrol officer for five years. During that time, I have investigated 500 domestic violence cases. In many of those cases, victims have reported being strangled. I have also 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 a felony (list crime) are present. I further encouraged the victim to seek medical attention and to carefully log her symptoms and injuries.

Follow-Up Investigations

The follow-up investigation by a detective or investigator is critical in strangulation assaults.

At a minimum, the follow-up investigation should verify the inclusion of all investigative steps described above for on-scene investigation. In addition, the

most important pieces of evidence at trial are often follow-up photographs taken two to three 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.

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 be very clear in the follow-up investigation if the victim is still with, or reluctant to testify against, her abuser.

In addition to follow-up photos and interviews, the following evidence is very useful in prosecuting batterers and should be collected in a thorough follow-up investigation:

- The name, address, and phone number of two close friends or relatives of the victim who will know her whereabouts six to 12 months from the time of the investigation;
- Statements of family members for corroboration and/or history of the relationship;
- Records check for documented domestic violence history;
- Interview with the victim regarding all prior domestic violence incidents including dates, locations, witnesses, injury, and corroborating evidence;
- Statements by the victim regarding prior admissions and apologies from the defendant, especially those documented in any letters, notes, or cards;
- An interview with the suspect if he was not interviewed by responding officers;
- The defendant’s phone records to show his contact with the victim, including threatening and intimidating calls from jail;
- Notes, cards, emails, faxes, and letters (including those sent from jail); and
- A victim diary or a log of history of abuse by the defendant.

Remember, victims experience voice changes in 45%–80% of non-fatal strangulation cases.⁶ Based on this anecdotal evidence and the medical

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literature, it is important to tape record or videotape your 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. The Training Institute's new i-Phone application (see page 93, note 2) is an excellent tool for this purpose for law enforcement officers and for advocates.

II. Use Forensic Investigators and/or Nurses

Forensic investigators and nurses are specially trained to gather evidence using various techniques and photographic equipment. They are proficient in follow-up examinations, taking photographs, and interpreting medical records. The Maricopa County (Arizona) Strangulation Assault Protocol has established the "gold standard." Every victim should receive a forensic exam after the initial on-scene investigation. This will dramatically increase felony filings and felony convictions.

III. Developing the Expertise of Police Officers and Investigators

Within the last 15 years, police officers have been routinely used as experts in domestic violence cases to explain why victims recant, why victims stay, power and control dynamics, the identification of the dominant aggressor, and the impact on children witnessing domestic violence. Given the extent to which strangulation training is being incorporated at all levels of law enforcement, prosecutors should not be shy about asking police officers or investigators if they have been trained in strangulation and can or are using that training and experience as part of their testimony in strangulation cases. And if prosecutors don't ask law enforcement about that training and experience, officers are encouraged to speak up and let the prosecutor know that they can provide more information about strangulation as part of the foundation of their testimony and investigation. Our Training Institute provides

a specialized course to train officers to testify as powerful experts.

IV. Pre-Filing Contact With the Victim

Victims often recant, minimize, and avoid coming to court. Early victim contact can limit this behavior. Still, prosecutors should not assume the victim will be available and willing to cooperate with the prosecution of the case. In situations with living victims, prosecutors should approach the case as if the defendant had been successful in killing the victim, because homicide cases are always prosecuted without a victim. If you can prove your case independent of the victim coming to court to testify about what occurred, then you have a very solid case. However, this emphasis on evidence-based prosecution should not limit your desire to obtain information from the victim and maintain a close relationship.

V. Forensic and Medical Examinations

One of the best methods of collecting evidence for the prosecution is through a medical examination of the victim.⁷ Properly trained medical personnel can provide not only emergency medical treatment, but careful diagnosis of the victim and documentation of physical signs and symptoms. Alternate light sources, laryngoscopy, CAT scans, MRIs, and other medical tools not only document evidence of the strangulation, but also provide life-saving diagnostics. Prosecutors should work closely with their medical providers to develop effective protocols to document and treat strangulation victims. The medical examination may 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 importance of the victim receiving proper treatment and documentation of injuries outweighs any concern of obtaining potentially exculpatory evidence.*⁸ Whether an item of evidence is favorable to the prosecution or to the defense turns on the argument of the lawyers and not the evidence itself.

VI. Victim Advocacy

Advocacy is an important part of the victim follow-up process. This is

the opportunity to inform the victim about safety options and to assess the danger to the victim. This article does not focus on the crucial advocacy piece, but advocates should be involved in every case handled by law enforcement or prosecution agencies.

VII. Identification of Other Witnesses

After the initial chaos of the crime has subsided, the victim may be in a better position to recount what occurred. She may have already done so with a neighbor, a close friend, or a relative, or she may have reported the incident as a justification for missing employment. The initial statement may not accurately reflect the incident. She may experience stroke-like symptoms that inhibit speech function. Reviewing the report of the incident with the victim may be helpful. Document persons the victim has seen since the incident. Follow-up interviews with those individuals may provide evidence that the victim was acting or speaking differently after the incident than she normally behaves.

If emergency personnel transported the victim to a medical facility, obtain the records of paramedics and interview the involved personnel. The victim may make statements in the course of the emergency that are later admissible at trial, even over the defendant's right of confrontation.

VIII. Protocols/Policies

A case should not be filed unless there is a reasonable likelihood of conviction based upon the state of the evidence.⁹ Nothing in this article should override that guideline. There are a number of factors to consider in making the determination of filing. Recognize that the lack of injuries may cause prosecutors to minimize the severity of the incident. Also recognize that the existence of injury does not necessarily identify the abuser or victim. Identifying the dominant aggressor is an important aspect of strangulation-case evaluation. The batterer may have numerous cuts, scratches, bite marks, or other injuries that were inflicted by the victim as a direct response to being strangled by the abuser. This creates a misperception that the party

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with the visible injury must be the victim. This oversimplification can lead to the filing of charges against actual victims, leaving them unprotected against their abuser.

IX. Victim Cooperation

Can you prove the case without the victim? Utilize the theme of “treat the case like a homicide so it doesn’t become a homicide.” If the defendant was successful in efforts to strangle the victim to death, there would be no victim in court. Assume you do not have a victim. The victim may go into hiding, become uncooperative, or come to court and be held in contempt

We recommend the strangulation charge in domestic violence cases be filed separately from other appropriate assault or battery offenses (e.g., punching, slapping, kicking, etc.).

for refusing to testify. If any of these things occur, consider how you will establish the case. A solid investigation can allow you to proceed without the victim. All victims experience intimidation from the abuser. Examine the physical evidence and any statements made by the batterer. Look for pieces of non-testimonial hearsay evidence that might be admissible as a spontaneous statement or otherwise admissible hearsay.¹⁰ If the victim is being coerced into not cooperating, this may give rise to a claim of forfeiture by wrongdoing.¹¹ Be sure to look for it. Remember that all victims experience intimidation from their abusers.

X. Choice of Charges

If your state has a specialized strangulation statute, use it. If there is other violence, be sure to charge each offense under the appropriate statute. We recommend the filing of strangulation charges along with sexual assault if the perpetrator strangles the victim during the rape. Likewise, we recommend the strangulation charge in domestic violence cases be filed separately from other appropriate assault or battery offenses (e.g., punching,

slapping, kicking, etc.). We strongly recommend strangulation assaults be handled as presumptive felonies.

XI. Setting Bail and Other Safety Measures

Bail provides several opportunities for the prosecution to impact the batterer. The bail hearing provides an excellent opportunity to educate the bench regarding the lethality of this type of violence. Consider calling a strangulation expert at this stage of the proceedings. If your office is in the process of developing experts in strangulation, the bail hearing can serve as a testing ground for assessing the strength of your expert. Prosecutors should also consider other protective

measures such as Criminal Protective Orders.

XII. Preliminary Hearing

The preliminary hearing, if used in your jurisdiction, provides another opportunity to break the power and control of the abuser. The lower standard of evidence and the use of hearsay evidence at a preliminary hearing make it relatively easy for the prosecution to present its case and obtain a bind over order. This may be sufficient to demonstrate to the victim that the batterer is being held accountable. It can demonstrate to the abuser that there will be a consequence for the incident.

XIII. Case Preparation

Electronic evidence is prevalent today. Prosecutors can gain valuable evidence through the collection of cell phone data, text messages, social media, and other forms of electronic data. If the defendant is in custody, jail calls and jail mail should be monitored and obtained. This process becomes especially critical as trial approaches and the batterer’s need to dissuade the victim increases.

XIV. Eliminating Defenses

Strangulation cases have a series of potential defenses that typically arise. Adequate case preparation involves being able to address these defenses:

- **The Victim Self-Inflicted.** This is usually a result of the victim acting in self-defense during the assault. Use your expert to explain this dynamic to the jury.
- **The Victim Likes to Be Strangled.** There is no research to support this defense. Asphyxia to heighten sexual pleasure is a “guy thing” in all the research. If the couple is into consensual rough sex, it is highly unlikely one of them will call 911 in the first place.
- **The Injury Was an Accident.** This is nearly impossible to do. External pressure to the neck that occludes blood flow is an intentional act.
- **The Defendant Acted in Self-Defense/Mutual Combat/Dominant Aggressor.** Training, such as our dominant aggressor course, helps to address this defense. Most experienced abusers use this defense in domestic violence and strangulation cases. Don’t be fooled.

XV. Voir Dire

Jury selection in a strangulation case involves many of the same issues as in other forms of domestic violence. You need to reflect on how potential jurors will react to issues in the case. Verbalize jury bias and attitude that may exist about domestic violence. These biases may include things such as:

- Absence of the victim means there is no case. Prepare the jury if the victim will not testify for you.
- Absence of victim cooperation with prosecution means the crime did not occur.
- If the victim minimizes or recants, the crime did not occur.
- Two different versions from the victim means there is reasonable doubt.
- Victims who stay in a relationship deserve what they get.
- Same sex victims are not entitled to protection of “domestic violence” laws.

XVI. Trial Strategies

Evidence-based prosecution strategies work. Prosecutors can minimize the impact of the abuser’s power and

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control over the victim by presenting a case that proves guilt independent of the victim's testimony. A typical case might consist of the introduction of the 911 call, followed by the observations of a law enforcement officer, followed by an expert witness in strangulation, and concluding with the introduction of admissions from the defendant. We urge prosecutors in strangulation assaults to use the best-practices techniques we advocate for evidence-based prosecution of domestic violence cases. Many of these cases can be proven even without the testimony of the victim if a thorough investigation has been done at the scene and on follow up.

Just a Few More Trial Tips

First, don't waste your opening statement. By the end of opening statement, the jury should fully understand the prosecutor's case and believe the defendant is guilty. You should be as long as necessary to explain the strength of your case and preemptively counter any perceived weakness in the case. Your goal is to provide a compelling story that moves the jury to convict. The opening statement allows you to educate the jurors about strangulation by telling them, in summary fashion, what your expert will testify about regarding the seriousness of the crime.

Second, don't attack the victim if she recants. Remember she is a traumatized crime victim facing powerful intimidation and pressure from her partner. He nearly killed her. She knows what he is capable of and she is more afraid of him than of you.

Third, be passionate. If you don't care, the jury (and judge) won't care.

Fourth, prepare well to cross-examine the defendant. Be prepared for his self-defense claim. See if he describes being afraid of his partner. Most abusers are not afraid of their partner and it is tough to fake it.

Finally, use your closing argument to drive home the violent and potentially fatal nature of this type of attack. The batterer who strangles his victim holds her life in his bare hands. Help the jury feel the intimacy and violence of such an assault.

End Notes

1. See *Domestic Violence and Children Exposed to Domestic Violence Law Enforcement Protocol*, San Diego County. (2008). See also Robert T. Jarvis, "Symposium on Integrating Responses to Domestic Violence: A Proposal for a Model Domestic Violence Protocol," 47 *Loyola L. Rev.* 513 (Spring 2001). See also the International Association of Chiefs of Police, Domestic Violence Model Policy at www.iacp.org
2. The Lethality Assessment Program-Maryland Model (LAP), created by the Maryland Network Against Domestic Violence (MNADV) in 2005, is an innovative prevention strategy to reduce domestic violence

homicides and serious injuries. It provides an easy and effective method for law enforcement and other community professionals to identify victims of domestic violence who are at the highest potential for being seriously injured or killed by their intimate partners and immediately connect them to the domestic violence service provider in their area. Available at http://mnadv.org/mnadvweb/wp-content/uploads/2011/10/LAP_Info_Packet-as_of_12-8-10.pdf.

3. Marna L. Anderson, *The Impact of Minnesota's Felony Strangulation Law*, WATCH Report Part II, p. 3 (May 2009). Available at http://www.storvaw.org/uploads/strangulation_report_ii_resource.pdf

4. Petechiae is defined as a "minute reddish or purplish spot containing blood that appears in skin or mucous membrane as a result of localized hemorrhage." *Merriam-Webster Dictionary*. Accessed March 24, 2013 at <http://www.merriam-webster.com/dictionary/petechiae>

5. Donald J. Smith, Jr. et al., "Frequency and Relationship of Reported Symptomology in Victims of Intimate Partner Violence: The Effect of Multiple Strangulation Attacks," 21(3) *J. Emergency Med.*, 323 (2001).

6. Lee Wilbur et al., "Survey Results of Women Who Have Been Strangled While in an Abusive Relationship," 21(3) *J. Emergency Med.* 297; Interviews with detectives from the San Diego Police Department.

7. The leading forensic protocol in the country is in Maricopa County, Arizona. For more information, view our online webinar on the Maricopa County Strangulation Assault Protocol at www.strangulationtraininginstitute.com/index.php/library/viewcategory/846-webinars.html.

8. *Brady v. Maryland*, 373 U.S. 83 (1963). ■



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