

# Determining Primary Aggressor in Domestic Violence Incidents

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**“A victim of domestic violence calls the crisis line for the first time on average after the fifth assault”.**

## 2015 National Domestic Violence Hotline Survey

- Survey participants who had never called the police shared very specific concerns regarding their fears and personal barriers to involving law enforcement. In fact, 80 percent stated that they were somewhat or extremely afraid to call the police. Reasons include:
- 60 percent stated that they did not want to involve the police due to the desire for privacy

## 2015 National Domestic Violence Hotline Survey

- 44 percent said that they feared retaliation from the abuser or the abuser's friends and family
- 22 percent said that they wanted to protect their children

# 2015 National Domestic Violence Hotline Survey

- The survey also found that calling the police did not necessarily allay concerns about the victim's own safety or wellbeing. In fact, when it came to victims who had previously involved the police after a domestic violence incident:
  - 1 in 3 victims felt less safe
  - 1 in 2 victims felt no difference in safety
  - Only 1 in 5 victims felt safer

# Giles v. California (2008) – DV-homicide

Acts of domestic violence often are intended to dissuade a victim from resorting to outside help, and include conduct designed to prevent testimony to police officers or cooperation in criminal prosecutions. *Where such an abusive relationship culminates in murder, the evidence may support a finding that the crime expressed the intent to isolate the victim and to stop her from reporting abuse to the authorities or cooperating with a criminal prosecution--rendering her prior statements admissible under the forfeiture doctrine.* Earlier abuse, or threats of abuse, intended to dissuade the victim from resorting to outside help would be highly relevant to this inquiry, as would evidence of ongoing criminal proceedings at which the victim would have been expected to testify.

**The investigating officer needs  
to build a contextual picture of  
the crime**

# Interconnected & Co-Occurring





# C-A-L-M

- ***Control***
- ***Apart***
- ***Look***
- ***Moderate***

# C-A-L-M

## CONTROL

- ***Control Yourself and Disputants***
- ***APART***
- ***Separate the Disputants***
- ***Be cautious if a lone officer***
- ***Avoid kitchens, bedrooms, and bathrooms (may be weapons in bedrooms, will be weapons in kitchens)***
- ***LOOK for weapons***
- ***MODERATE the mood***
- ***Seat disputants***
- ***Voice instructions***

# *Objectives of Family Crime Investigation*

- *Establish Probable Cause*
- *Identify the Offender*
- *Locate the Offender*
- *Identify The Victim*
- *Collect and Preserve Evidence*
- *Assess for Risk and Danger*

# *Identifying the Victim*

## *Establishing Probable Cause*

*Physical signs of abuse*

*Socio-psychological signs*

*Financial signs -- lack of knowledge about money  
management*

*Signs of Denial of Civil Rights*

*Other suspicious signs*

# *Signs of Self-Defense*

- *Forearm injuries*
- *Scratches on the neck*
- *Injuries don' t match the story*
- *Lower back injuries*
- *Pulled hair*
- *Bite marks on the chest*
- *Bruises on arms (upper)*
- *Injuries hidden beneath the clothing line*

# Strangulation: What Do We Know?

- SIGNIFICANT of chronic abuse: The act of strangulation symbolizes an abuser's use of Power and Control
- POTENTIALLY LETHAL: It take very little force to cause a great deal of damage in a very small amount of time
- HARD TO PROVE: Lack of resources (time, equipment, training), Non-participating victims, Public misinformation (bad jury pools), etc.

# Medical Information for Strangulation

Obstruction of:

Carotid artery: Most common, 11 lbs of pressure for 10 seconds, unconsciousness, but regained in 10 seconds if pressure released

Jugular vein: Second most common, 4.4 lbs of pressure completely obstructs

Tracheal: 33 lbs of pressure, fracture of tracheal, and death

Brain death occurs if strangulation persists for 4 to 5 minutes

# Self-Defense or Primary Aggressor?

**Is a pre-emptive strike OK?**



# It's a matter of:

- Who is dominant?
- Who is creating the fear?
- Who is in fear?
- Who is more significant aggressor?
- Who needs protection?
- **It is not who started it.**

# Factors to Consider

- Size of parties
- Use of weapons
- Who is stronger?
- Who is afraid of whom?
- Is one party specially trained in martial arts, boxing, or hand-to-hand combat techniques?
- Who in the relationship poses the most danger to the other?
- Who has the more serious injuries?
- Location and nature of injuries – Offensive vs. Defensive
- Did one party escalate the level of violence?

# Factors to Consider

- History of abuse
- Demeanor of the parties
- Use of alcohol and other drugs
- Criminal history
- Existence of court protective orders
- Existence of corroborating evidence or witnesses
- Other legal defenses such as self defense

# Considerations of when to arrest

- The question should be do we have probable cause to arrest for an unlawful assault committed by someone.
- We should not make an arrest solely because someone in a domestic violence relationship has an injury and we cannot determine how it occurred.
- We should not arrest both because we cannot “figure it out.”

# Summary

- Follow your agency policy
- Do not rush your decision who is dominant
- Look at the history of the parties
  - a look, or a gesture can in the context of the parties' history signal danger
- Look at self defense issues
- New information may be discovered that changes your decision who to arrest. Be familiar with your agency policy on how to release someone who has been arrested.

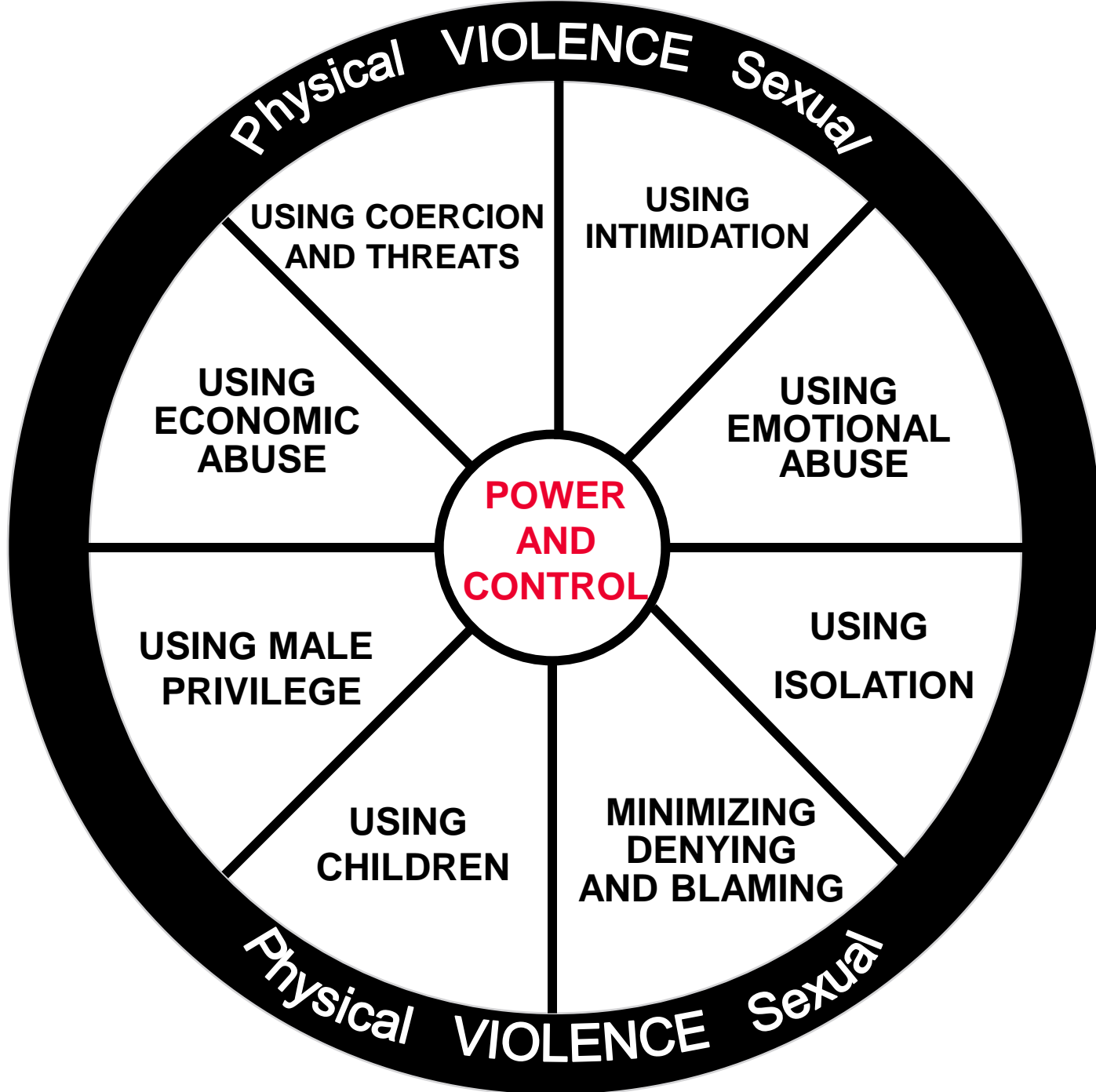
# Realities of VAW Crimes

## Common characteristics of violence against women crimes

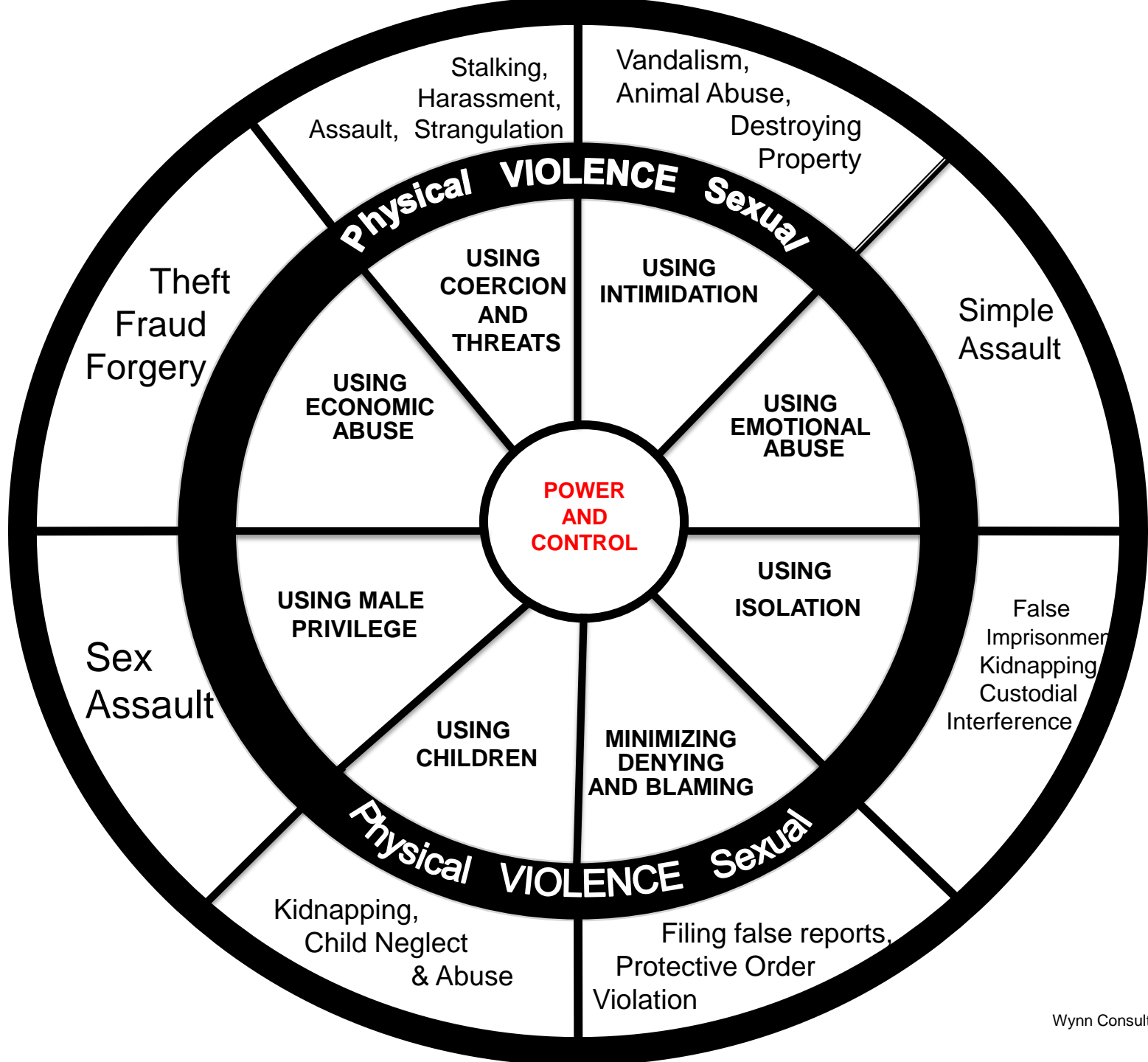
- Course of conduct vs. incident-based
- Multiple concurrent crimes
- Traumatic impact
- Minimization by victim
- Underreported
- Serial nature of perpetrators

# First-line Supervisors

- are one of the most powerful influences in a department
- impact the performance and morale of first-line responders
- implement department policy and procedure
- have the power to create, change, and/or sustain the team climate
- affect how victims and communities experience law enforcement







# Realities of VAW Crimes

Commonly missed crimes in the context of violence against women

- Stalking
- Intimate partner sexual assault
- Strangulation
- Felony threats
- Weapons violations
- Kidnapping

# Realities of VAW Crimes

Reasons co-occurring crimes are missed by officers

- Lack of training
- Lack of communication
- Language barriers
- Insufficient supervisor oversight
- Personal beliefs and/or biases
- Minimization

# Realities of VAW Crimes

## Impact of missing co-occurring crimes

- Violence escalates/fatality
- Victim and officer safety compromised
- Liability issues
- Loss of community trust
- Recidivism/re-victimization
- Victim hesitation to report further incidents

# Context is Everything

- The Criminal Justice System is by design and necessity, incident focused
  - What is the intent of the offender?
  - What is the meaning of the act to the victim?
  - What is the effect of the violence on the victim?
  - What is the context of any given act of violence?
  - Consider the particulars, how much violence, coercion or intimidation accompanying the violence

# Minimizing by the Victim

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# Minimizing by the Offender

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# Minimizing by the Officer



## Probable Cause

- Who is the primary aggressor?

# Fear

**Who talks or appears scared?**

**Remember your last use of force report**

# Probable Cause

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## Body Language

**Who displays an aggressive stance?**

**Consider the physical size of the parties.**

# Probable Cause

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## History of Abuse

Medical records, 911 tapes, police reports, shelter stays and protective orders. Examine the paper trail.

Davis v. Washington

# Probable Cause

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Neighbors &  
Witnesses

# Probable Cause

## Excited Utterances

“a statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.”



**Probable Cause**

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**Crime Scene**

# Probable Cause

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Injuries

# Strangulation and Primary Aggressor

- Boyfriend and girlfriend returned home from a night out on the town.
- He confesses to her that he has had sex with another woman.
- She slapped him.
- He assaulted her.
- He drags her across the floor and out onto the deck that caused the wound on the base of her spine.
- He kicks her and hits her.
- He strangles her until his cousin pulls him off of her.
- A deputy arrives and does not see any marks on either party.



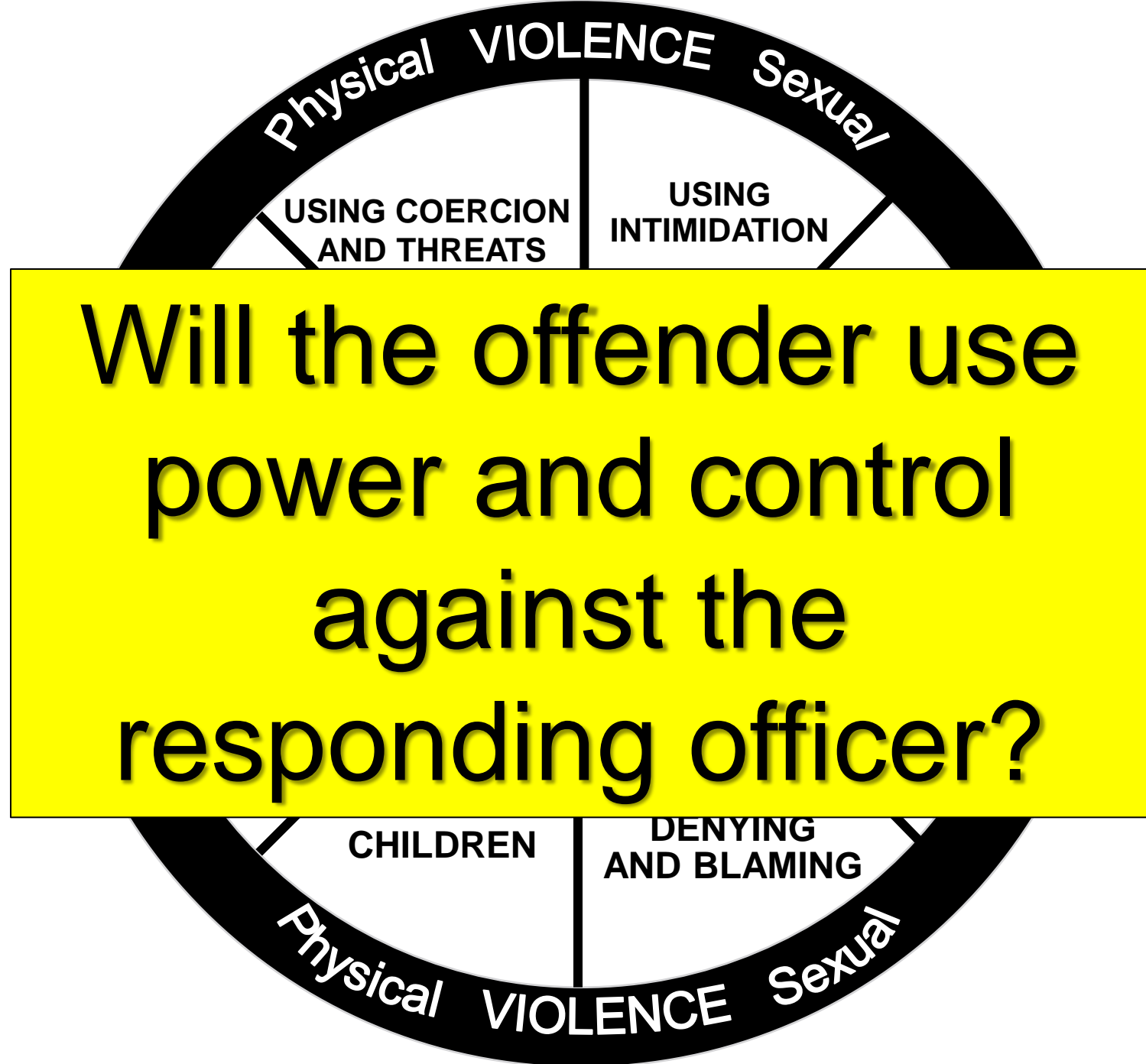
# **Strangulation and Primary Aggressor**

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- **He does not admit to any wrong doing during this incident.**
- **She admits to the deputy that she had slapped him.**
- **She is arrested based on her confession.**
- **The following pictures were taken at the jail ten hours after the arrest.**

# Strangulation and Primary Aggressor

- Her parents took her from the jail to the hospital for treatment of her injuries.
- She was diagnosed with a broken
  - Rib
  - Hyoid bone
- Charges against her were dismissed.
- He was charged with aggravated assault.



# Power and Control Tactics

## *Intimidation.....*

- **Following you from room to room**
- **Aggressive stance**
- **Read the body language – they will read yours**

# Power and Control Tactics

## *Isolation.....*

- **Wont let the officer in the residence**
- **Children told to hide or leave the home**
- **“ My wife is in the shower”**

# Power and Control Tactics

## ***Economic abuse.....***

- **“ I can’t trust her with the money”**
- **Victim has no knowledge of family money matters**
- **“ I’m the bread winner.....”**

# Power and Control Tactics

## *Using Male Privilege.....*

- “ I wear the pants in my family”
- Ownership language about the spouse or children

# Power and Control Tactics

## *Threats.....*

- “ You are violating my rights.. Do you have a warrant”
- “I’ll sue”
- “I’ll have your badge”
- “I’m the taxpayer”



# Power and Control Tactics

## *Minimizing - Denying - Blaming.....*

- “ It’s not that bad.. She bruises easily”
- “She/he is crazy”
- “It’s all in his/her head”
- “Nothing happen”
- Not taking responsibility
- “ I’m very sorry we bother you officer”

# Power and Control Tactics

## *Using the Children...*

- **“The kids will agree with me”**
- **Dragging the children into the arrest or court**
- **Sending the children away or into hiding**

# Free Training Film

## The Crime of Domestic Violence Training Video

IACP's domestic violence training video "The Crime of Domestic Violence" was developed to present law enforcement and partners with information to strengthen the response to victims of domestic violence. The crime of domestic violence is complex and law enforcement officers often feel frustrated and discouraged when responding. Officers provide as much support to victims as possible, but when equipped with a better understanding of the nuances and dynamics of this intimate partner crime, they can more effectively address victims' needs and hold offenders accountable. This video highlights the realities and complexities of domestic violence and provides strategies for effective investigations.

[http://www.theiacp.org/Police-Response-to-Violence-Against-Women#Domestic\\_Violence](http://www.theiacp.org/Police-Response-to-Violence-Against-Women#Domestic_Violence)