

**Strangulation: The Last Warning Shot**

Gael Strack, Esq., Chief Executive Officer  
Dr. Bill Smock, Police Surgeon & Medical Director

May 2024







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**Welcome**

Wendie Wunderwald, CEO

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**Thank you**

Samaritan Health Services




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**Gael Strack, J.D.**  
CEO and Co-Founder



“Our study proved it – most victims of strangulation will not have visible external injuries. The lack of training and the lack of training caused the criminal justice system to minimize strangulation. We failed victims. But now we know – it’s lethal. There are serious immediate and long-term health consequences.”

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**In Memory of Casondra and Tamara**




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**Dr. Bill Smock**  
Police Surgeon  
Louisville Metro Police Department



- "Every victim of a crime has some sort of evidence on them. That's why staff is trained to recognize and preserve the evidence."
- "It's critical for the doctors and nurses that take care of these patients to recognize and preserve that evidence."

<http://www.emsworld.com/news/10339226/new-hospital-protocol-helps-protect-evidence>

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# Accreditation & Disclosure Information

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## Activity Code

Strangulation Prevention Training  
May 3, 2024

# 73sips

Use this code to sign into this event at  
[www.eeds.com](http://www.eeds.com)




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### Strangulation Prevention Training

Gael Strack, JD & William Smock, MD  
May 3, 2024

The presenters and planners of this activity have no relevant financial relationships to disclose with ineligible companies whose primary business is producing, marketing, selling, re-selling or distributing healthcare products used by or on patients.



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## Alliance for HOPE Programs



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### Goals for the Training Institute

- Increase public **AWARENESS**
- Improve **POLICY** and **PRACTICE** among legal, medical, and advocacy communities;
- Improve **OUTCOMES** for victims
  - Immediate Safety,
  - Long Term Health
  - Offender Accountability to Prevent Homicides
- **EDUCATE** professionals working with strangled victims
- **MULTIPLY** field's capacity and expertise;

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### The Institute Team

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### New focus on Pediatric Investigations

- **Child abuse is underreported.**
- Approximately 1200 fatalities per year.
- **Every 10 seconds a child is abused.**
- Fatalities occur mostly among children aged 5 or younger.
- Sexual abuse is more prevalent among girls.
- Reporting cases of child abuse include: Professionals (52%); Anonymous (20%); Families (18%); Friends or neighbors (9%) and **less than 1% are reported by victims.**
- 13% of all women murdered by IP were strangled to death and **17% of all children murdered by a family member were strangled to death** (Minnesota Coalition for Battered Women's 2005 Special Femicide Report).

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### Our approach:

- This course is designed for multi-disciplinary audiences.
- The best work is always done in teams
- Each profession can learn from each other.
- Each profession plays an important role in helping victims of strangulation.
- We challenge you to see what you can learn from each session – whether it's context, medical, investigations, prosecution and/or advocacy.

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### The Power of Multi-Disciplinary Teams

Powerful video from Virginia

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Yes, you have homework. 😊



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Today is about  
**JUSTICE and HOPE**

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**JUSTICE IS..**

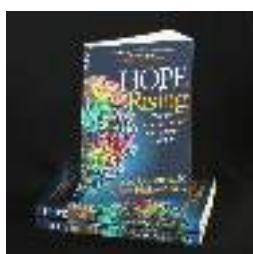
- Telling the truth about injustice;
- Departing the room as much as possible;
- Removing pressure;
- Changing the conditions that allowed the injustice in the first place;
- Accountability.



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**The Science of HOPE**



- Why?
- Hope mitigates trauma
- Strangled victims are robbed of HOPE the most
- You are all in the HOPE business.
- As HOPEGIVERS, you can also get robbed of HOPE
  - Vicarious trauma
  - Bad outcomes
  - Toxic work environment
- We cannot give what we don't have. We need to keep our gas tanks full.

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**Lethality – The Rage of Stranglers**

- They kill women
- They kill their families
- They kill cops
- They are involved in mass shootings


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**They are killers of women...**

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### New VPC Report reviewing 25 years of Female Homicides

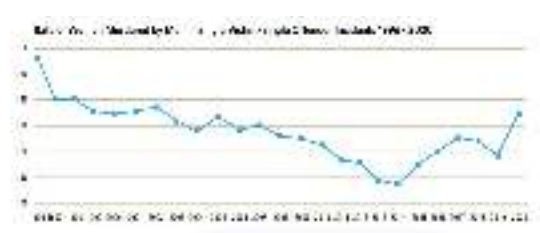


- Top 8 states over the last 25 years
  - Alaska
  - Arkansas
  - Louisiana
  - Nevada
  - New Mexico
  - Oklahoma
  - South Carolina
  - Tennessee
- Most were shot to death

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### Homicides have been climbing since 2014



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### Top 10 States with Most DV Homicides: Report 2022


Ranking	State	Number of Female Homicides	Homicide Rate per 100,000 Females
1	Alabama	12	2.0
2	Arkansas	11	1.7
3	California	10	1.6
4	Florida	9	1.5
5	Georgia	8	1.4
6	Illinois	7	1.3
7	Indiana	6	1.2
8	Mississippi	5	1.1
9	North Carolina	4	1.0
10	South Carolina	3	0.9

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### Every Year the Violence Policy Center says Take the Guns Away

- “The picture that emerges each and every year from *When Men Murder Women* is that women face the greatest threat from someone they know, most often a spouse or other intimate acquaintance, who is armed with a gun. For women in America, guns are not used to save lives, but to take them.”



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Men who **STRANGLE** women are the most **DANGEROUS** men on the planet.

- Casey Gwinn



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### In Memory...




Sgt. Paul Starzyk

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Martinez, California Homicide Scene



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Craig Kingsbury  
Police Chief of  
Twinfalls, Idaho



The link to officer safety

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2013 Treasure Valley (ID) Study


- Evaluated ten officer-involved critical incidents where officer shot a suspect or suspect shot an officer
- 80% of suspects with domestic violence history
- Non-fatal strangulation history in 30%
- Based only on public records history
- More research needed
- We all should be looking for it/tracking it

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Riverside County District Attorney's Office 2013 Study - Gerald Fineman, J.D.

- Law enforcement officers killed in the line of duty from 1993-2013
- 50% of officers were killed by a criminal suspect with a public records act history of strangulation assault against a woman in a prior relationship



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2017 Analysis of Alliance for HOPE International

33 of 44 (75%) law enforcement officers killed in 2017 in intentional homicides were killed by men with a history of domestic violence (and often strangulation) in a simple Internet search...

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Reserve Officer Robert A. Libke




February 13, 2018 – Wendy Libke: "If Oregon had treated strangulation more seriously, my husband might be alive today."

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Officers killed in 2023 - -  
Data pulled from ODMP

47 Officers were killed as a result of gunfire - analysis under review, but at least 14 responding to DV, others with DV history and too many ambushed

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**Sergeant Philip Dale Nix**

Chapman Police Department, 1st District  
Baldwin, Missouri, September 15, 2007

HOPE - 19158

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**DOMESTIC VIOLENCE INVOLVED STRANGULATION AND ASSAULTS AGAINST OFFICERS**

"The next time you hear the phrase, "He choked me," make sure it gets your attention. The victim's abuser has just raised his hand and said, "I'm a killer." - Casey Gwinn

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**Research shows nearly 70% of mass shootings involve domestic violence**

Other than mass shootings, mental health is questioned as to what role it may have played. However, research shows domestic violence may be a bigger risk factor.

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**Focusing on Strangulation Cases is Homicide Prevention**

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Esteban Santiago – DV Strangler  
January 2017 – Florida. Five Dead. Six Injured.




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Choking suspect poses risk of being armed and dangerous

- **State v. Lewis, 333 Conn. 543 (2019)**
- Collective Knowledge – arresting officer credited with knowing constructively all that law enforcement organizations know
- Reasonable for officer to suspect that a choking suspect would be armed and dangerous
- Choking is a particularly violent crime
- Court cited to research: strong correlation between choking and future violence involving weapons; 50% victims are strangled before they are shot; 750% more likely to be killed; Men who strangle also kill cops citing to Gwinn.
- DV cases are volatile situations where the suspect may escalate the violence which officers understand. They know "violence may be lurking and explode with little warning"

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Police Chief Magazine Nov 2022



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Where does this rage come from?


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Violence: Recognition, Management and Prevention

Summary Report of the National Academies of Sciences, Engineering, and Medicine



- The study participants reported that 23 (77%) of the abusers had a history of being physically or sexually abused as children;
- and 2 (8%) of the abusers had a known history of previous strangulation as victim.

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Strangulation survivors are robbed of HOPE the most and children are robbed first

Why the Science of HOPE is important at a strangulation training.

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### Adverse Childhood Experiences Study (ACE)

- Ten questions/ten trauma experiences
- Predictive of adult illness, disease, and criminality
- [www.acestudy.org](http://www.acestudy.org)
- [www.acestoohigh.org](http://www.acestoohigh.org)

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### Latest Research on the Children of Domestic Violence Homes

- Study was based on the National Youth Survey Family Study, a national sample of 1,683 families, and followed 353 second-generation parents and their third-generation offspring over a 20-year period.
- Children from 75% of the families ended up becoming victims as adults
- Children from 78.6% of the families ended up becoming perpetrators as adults
- <http://dev.cicenter.org/files/cvi/Generation%20Cycles%20IPVforweb.pdf>
- [http://dev.cicenter.org/files/cvi/Gang\\_Crime\\_Victimization\\_final.pdf](http://dev.cicenter.org/files/cvi/Gang_Crime_Victimization_final.pdf)

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**“Time does not heal. Time conceals.”**


Dr. Vincent Felitti  
Co-Principal Investigator  
Adverse Child Experiences (ACE)  
Study



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### ACE-Related Correlations


- Alcoholism and alcohol abuse
- Chronic obstructive pulmonary disease (COPD)
- Depression
- Fetal death (miscarriage or pregnancy)
- Health-related quality of life
- Illicit drug use
- Ischemic heart disease (IHD)
- Liver disease
- Risk for intimate partner violence
- Multiple sexual partners
- Sexually transmitted diseases (STDs)
- Autoimmune disease
- Smoking
- Suicide attempts
- Unintended pregnancies
- Early initiation of smoking
- Early initiation of sexual activity
- Adolescent pregnancy
- Criminality
- Educational underachievement
- <http://www.cdc.gov/ace/finding.htm>

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### ACE Scores with Child Abuse, Domestic Violence, and Sexual Assault Offenders

**Average ACE Score: 5.5**

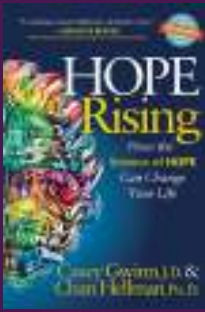


James A. Reavis, PsyD; Jan Looman, PhD; Kathleen A. Francis; Briana Rojas Penn. J 2013 Spring 17(2):44-48

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Hope heals trauma...




HOPE

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Questions? Comments? Challenges?

Let's check in.



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Strangulation is the Last Warning Shot

It could be our last opportunity to intervene and save a life.



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Lessons Learned – In Memory of Casondra Stewart & Tamara Smith



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Strangulation is a Red Flag...

- When battered women were asked what made them believe they were in danger or not -- the majority of women perceiving a great amount of danger in both a shelter & a hospital study mentioned **"choking"** as a tactic used against them that made them believe their partner might kill them.
  - Stuart & Campbell, 1989



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Violence: Recognition, Management and Prevention

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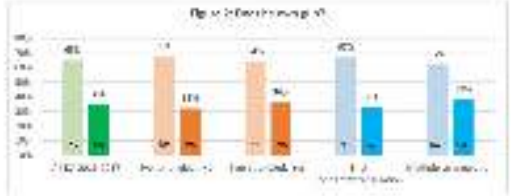
### Key findings from 2018 Oklahoma Lethality Assessment Study of 1008 LAP Victims


- 79.66% reported some form of strangulation
  - 11.70% reported attempted;
  - 30.16% reported completed
  - 37.80 reported multiple**
- Women of all strangulation were more likely to be sexually assaulted.
- Women of multiple strangulations were more likely to report; believed abuser was capable of killing them; suffered a miscarriage; lost consciousness; sought medical treatment and felt powerless.
- Conclusion: Multiple strangulations mean higher risk of homicide and health consequences**

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### New Orleans FJC: link between strangulation and owning a gun – 38%




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## The Courtroom is where justice keeps its Promise”


### Lt. Mark Wynn (Ret. Nashville Police Department)



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### Using Judicial Knowledge of Lethality Factors by Julie Saffren (2016) Family & Intimate Partner Violence Quarterly


- “Bench tools are a best practice where DV is concerned and useful because they keep important information at the judge’s fingertips. These tools help ensure consistency, which is an aspect of fairness in the administration of justice.
- However, bench tools are not evidence, do not predict the future, and are not substitute for judicial knowledge, experience such as judging credibility of a witness or assigning weight to certain evidence.
- Bench tools assist judges to identify risk, tailor any orders that may be made (especially concerning child safety) and refer litigants to appropriate services.<sup>3333</sup>

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### Recent Study:


- The Validity and Reliability of Available Intimate Partner Homicide and Reassault Risk Assessment Tools: A systematic Review
- Graham, Sahay, Rizo, Messing and Macy 2021
- Journal of Trauma, Violence and Abuse
- Lit review: 8 countries/18 tools
- Most reliable: DA, DVSI-R, K-SID, ODARA and SARA


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### Group Exercise:

- Using the card provided, arrange them in order of high lethality to lower lethality indicators and be prepared to explain the reasons




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### Top Risk Factors for DV Homicide from the Danger Assessment

1. Has the abuser ever used or threatened to use a gun.
2. Has abuser ever tried to strangle (choke) the victim?
3. Is abuser violently and constantly jealous?
4. Has abuser ever forced victim to have sex?
5. Gun in the house


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### Top Risk Factors for DV Homicide from the Danger Assessment


6. Physical violence increased in severity
7. Partner controls most or all of woman's daily activities
8. Partner uses illicit drugs
9. Partner drunk every day or almost every day
10. Partner threatened suicide

*National Institute of Justice Journal Issue 250 Nov. 2000*


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### Updated DA - 2019






- Updated question related to strangulation:
- Does he ever try to choke/strangle you or cut off your breathing?
- If yes, has he done it more than once or did it make you pass out or black out or make you dizzy?
- **Now 3 points.**

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### DA Assessment is available by App from the One Love Foundation – My Plan





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### States that mandate the use of risk assessment tool

- Oklahoma (2014)
- Arkansas (2015)
- Utah (2021)
- Florida – Gabby Petito Act (2024)
- Pending - Kansas



2024 Florida Senate Bill No. 812

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### Many risk assessment tools are available. Two were designed to assist the Court

LAP – DA11	APRAIS
<ul style="list-style-type: none"> <li>• Weapon</li> <li>• Threatened to kill you or your children</li> <li>• Capable of killing you</li> <li>• Access to gun</li> <li>• Ever tried to choke you</li> <li>• Jealousy</li> <li>• Separation</li> <li>• Unemployed</li> <li>• Child not his</li> <li>• Stalking</li> </ul>	<ul style="list-style-type: none"> <li>• Increased frequency</li> <li>• Jealousy</li> <li>• Capable of killing you</li> <li>• Pregnancy</li> <li>• Weapon used</li> <li>• Tried to kill you</li> <li>• Choked, strangled or suffocated you</li> </ul>

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## Top 5 Risk Factors


**DANGER ASSESSMENT-5**

Author: C. Gaudin, M.D., Ph.D.  
©2017 by Strangulation Training Institute

The following are the top 5 risk factors for strangulation homicide, as reported by law enforcement:

At least 2 of the following 5 risk factors are present in 90% of cases. Write the number, date, time, location, and name of the offender.

1. Intimacy or relationship (past or present) with the perpetrator
2. Intimacy or relationship (past or present) with the victim
3. Stalking or harassment (past or present)
4. Substance use (past or present)
5. Threats or promises of violence

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## Above the Line



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## Strangulation is the last warning shot before a murder


#LastWarningShot

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## What is the Law?

What evidence do you need to prove strangulation or suffocation?

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In the US, 50 States, 20 Tribes, 2 Territories, Federal and Military have passed felony strangulation Laws. Around the world, Australia, New Zealand, Canada & UK have joined.



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## LEGISLATION MAP



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## VAWA 2013

- Gave tribal governments jurisdiction to prosecute non-natives for DV.
- Made strangulation/suffocation a felony.
- Strangulation is defined as "intentionally knowing, or recklessly impeding the normal breathing or circulation of the blood of a person by applying pressure to the throat or neck, **regardless of whether that conduct results in any visible injury or whether there is any intent to kill or protractedly injure the victim**"

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## Federal 18 USC 113 – VAWA 2013

- b) Definitions.--In this section—
- (4) the term "strangling" means intentionally, knowingly, or recklessly **impeding the normal breathing or circulation of the blood of a person** by applying pressure to the throat or neck, **regardless of whether that conduct results in any visible injury or whether there is any intent to kill or protractedly injure the victim**; and
- (5) the term "suffocating" means intentionally, knowingly, or recklessly impeding the normal breathing of a person by covering the mouth of the person, the nose of the person, or both, **regardless of whether that conduct results in any visible injury or whether there is any intent to kill or protractedly injure the victim**.

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## Federal Sentencing Guidelines

- "Comment and testimony that the Commission received indicated that strangulation and suffocation in the domestic violence context is serious conduct that **warrants enhanced punishment** regardless of whether it results in a provable injury that would lead to a bodily injury enhancement; **this conduct harms victims physically and psychologically** and can be a predictor of future serious or lethal violence.
- 79FR25996, doc No. 2014-10264

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## By Executive Order of the President, 14062, Jan 26, 2022

Military Code adopted the definition of strangulation and suffocation as used in the Federal Code

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## Oregon



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## Oregon - 2003

- **OR. REV. STAT. § 163.187. STRANGULATION**
- (1) A person commits the crime of strangulation if the person knowingly impedes the normal breathing or circulation of the blood of another person by:
  - (a) Applying pressure on the throat or neck of the other person; or
  - (b) Blocking the nose or mouth of the other person.
- (2) Subsection (1) of this section does not apply to legitimate medical or dental procedures or good faith practices of a religious belief.
- (3) Strangulation is a Class A **misdemeanor**.

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## Class C Felony if:

- The person has been previously convicted of violating this section or committing an equivalent crime in another jurisdiction
- The person has been previously convicted of violating assault in the fourth, third, second or first degree or committing the equivalent in another jurisdiction.
- The person has at least three previous convictions of any combination.

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## Senator Hayward at Senate Hearing for SB1562 – February 2018



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## Oregon 2019

- **OR. REV. STAT. § 163.187. STRANGULATION [Effective January 1, 2019]**
- (1) A person commits the crime of strangulation if the person knowingly impedes the normal breathing or circulation of the blood of another person by:
  - (a) Applying pressure on the throat, neck or chest of the other person; or
  - (b) Blocking the nose or mouth of the other person.
- (2) Subsection (1) of this section does not apply to legitimate medical or dental procedures or good faith practices of a religious belief.
- (3) Strangulation is a Class A misdemeanor.
- (4) Notwithstanding subsection (3) of this section, **strangulation is a Class C felony if:**
  - (a) The crime is committed in the immediate presence of, or is witnessed by, the person's or the victim's minor child or stepchild or a minor child residing within the household of the person or the victim;
  - (b) The victim is under 10 years of age;
  - (c) The victim is a family or household member, as defined in ORS 135.230, of the person;
  - (d) During the commission of the crime, the person used, attempted to use or threatened to use a dangerous or deadly weapon, as those terms are defined in ORS 161.015, unlawfully against another.
  - (e) The person has been previously convicted of violating this section or ORS 163.160, 165, 163.175, 163.185 or 163.190, or of committing an equivalent crime in another jurisdiction, and the victim in the previous conviction is the same person who is the victim of the current crime;
  - (f) The person has at least three previous convictions for violating this section or ORS 163.160, 165, 163.175, 163.185 or 163.190 or for committing an equivalent crime in another jurisdiction, in any combination; or
  - (g) The person commits the strangulation knowing that the victim is pregnant.
- (5) For purposes of subsection (4)(a) of this section, a strangulation is witnessed if the strangulation is seen or directly perceived in any other manner by the child.
- (6) The Oregon Criminal Justice Commission shall classify strangulation committed under the circumstances described in subsection (4)(c) of this section as crime category 5 of the sentencing guidelines grid of the commission.

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**Please revisit your statutes.  
There is always room for  
Improvement.**

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## Visible injury not required

- Delaware (the absence of visible bodily shall not preclude a conviction)
- Hawaii (bodily injury need not be visible to establish the offense)
- Idaho (no injuries required)
- Nebraska (offense is committed regardless of whether VI resulted)
- Pennsylvania – physical injury shall not be an element to the offense
- Tennessee (regardless of any visible injury or intent to kill or protractedly injure)
- Federal (regardless of any visible injury or intent to kill or protractedly injure)

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## Statutes requiring training

- Massachusetts (2014) requires training for law enforcement, prosecutors and judges – MGLA 6 Section 116A.
- Maryland (2016) requires the Maryland Police Training Commission to develop training for law enforcement for domestic violence and strangulation assaults. Chapter 651
- Texas (2019) requires specific training for law enforcement - TOC 170.253(d)

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### States Ensuring Medical Exams for Strangled Victims


- DV Exams:
  - Colorado (May 10, 2021)
  - Washington (May 12, 2021)
  - California (2022)
  - Nevada (2023)
  - Oregon (2023)
- "Strangulation exam" includes medical assessments, forensic evaluations and the use of evidence collection kits to obtain forensic evidence related to strangulation.

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### California PC 13701 (I) (2017)


- **DUTY TO WARN:** New law requires a statement informing the victim that strangulation may cause internal injuries and encouraging the victim to seek medical attention. (PC13701(I))
- **DUTY TO TRACK:** New law requires documenting when the incident involves strangulation or suffocation.

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### Advisal from law enforcement


- Encourage medical treatment
  - Risk of internal, vascular injuries (1/47)
  - Risk of traumatic brain injuries
- Advise them of the risk for further violence and/or even murder
  - 750% more likely to be killed by your partner
- Recommend they talk to an advocate about safety planning
  - The more you are strangled, the higher the risk of lethality and long-term health consequences

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### Why have all these laws passed? Washington Legislature said it best. 😊

- "The legislature finds that assault by strangulation may result in immobilization of a victim, may cause a loss of consciousness, injury, or even death, and has been a factor in a significant number of domestic violence related assaults and fatalities.
- While not limited to acts of assault against an intimate partner, assault by strangulation is often knowingly inflicted upon an intimate partner with the intent to commit physical injury, or substantial or great bodily harm.
- **Strangulation is one of the most lethal forms of domestic violence.**
- **The particular cruelty of this offense and its potential effects upon a victim both physically and psychologically, merit its categorization as a ranked felony offense under 9A.36 RCW."**
- State v. Rodriguez, 187 Wash.App. 922 (2015)

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## Passing a law is easier than implementing it


We need leaders!

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## So how are you doing?

What grade would you give your community?

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## Best Practices Report Card



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## Group Exercise



WHAT IS YOUR  
BIGGEST CHALLENGE?



HOW DO WE FIX IT?

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## Questions? Comments? Time for a break?

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## If We Only Knew: All Things Medical

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### Basic Strangulation Physiology

- The brain needs a continuous supply of **oxygen**
- Without oxygen, brain cells quickly malfunction and die  
The brain is the most sensitive organ to oxygen deprivation
- Two vital bodily systems must work perfectly and in unison  
**Respiratory** (breathing)  
**Cardiovascular** (blood flow)
- Multiple areas of vulnerability exist in both systems
- Compromise of a single area may rapidly produce a very bad outcome
- Air goes in and out and blood goes round and round.

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### Definition

Strangulation is a form of asphyxia characterized by closure of the blood vessels and/or air passages of the neck as a result of external pressure on the neck

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## What does all this mean??

Choking     Strangulation  
Asphyxia  
Anoxia     Suffocation     Hypoxia

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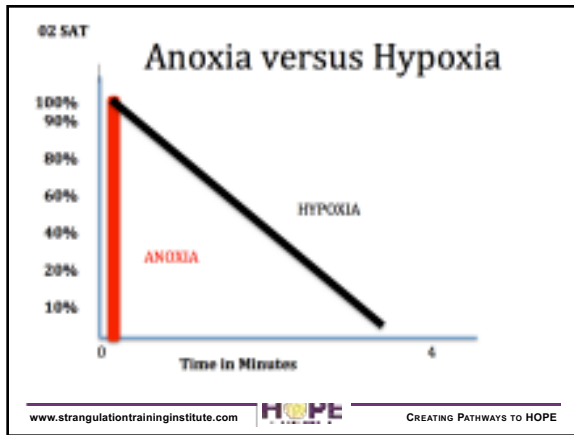
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### Key Terms

- Hypoxia (hy-pox-i-a): **Low Oxygen**  
Deficiency in the amount of oxygen reaching the tissue.
- Anoxia (a-nak-se-a): **No Oxygen**  
Absence of oxygen supply to tissue
- Asphyxia (as-phyx-i-a):  
A condition arising when the body is deprived of oxygen causing **unconsciousness or death**; suffocation.

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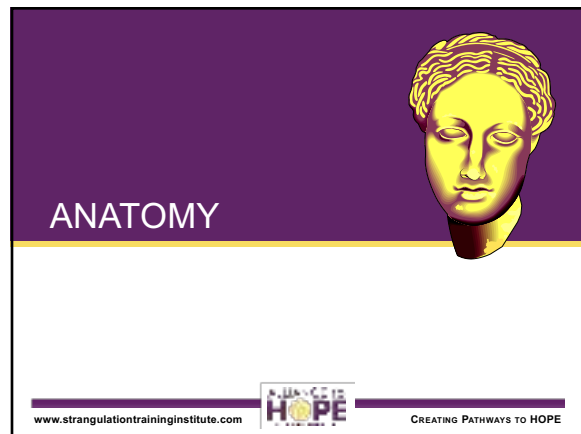
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### 2 Forms of Strangulation

- Ligature
- Manual

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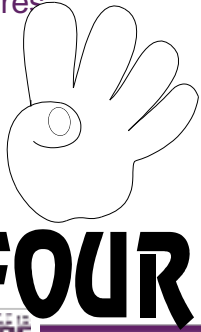
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### 4 Important Structures

- Muscles
- Vessels
- Bones
- Cartilage

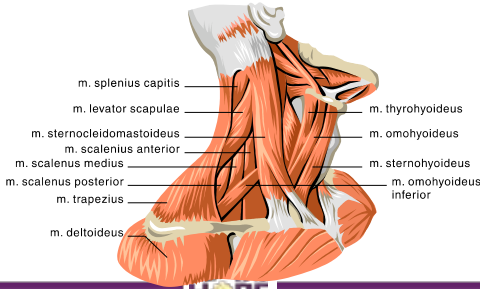


**FOUR**

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## Muscles



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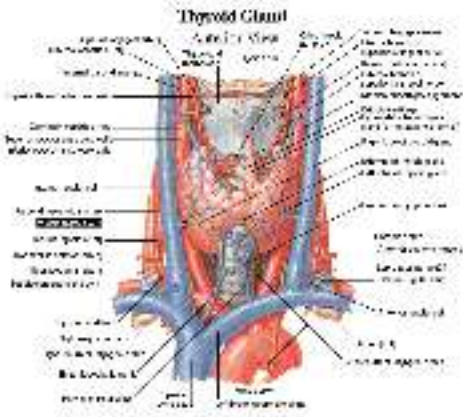
### Bruising Behind the Ear



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### Thyroid Gland



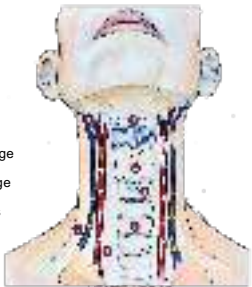
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### VITAL NECK STRUCTURES

Arteries, Veins and Cartilage

- Carotid Artery
- Jugular Vein
- Hyoid Bone
- Thyroid Cartilage
- Cricoid Cartilage
- Tracheal Rings



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### The Link Between Adult and Pediatric Strangulation Cases

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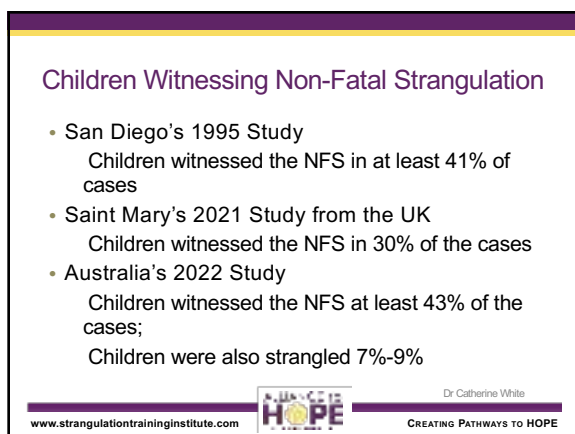
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### Pediatric Strangulation: Challenges

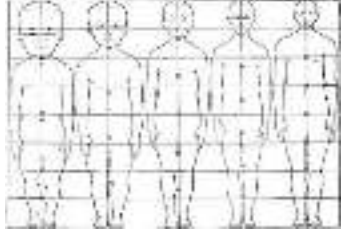
- More likely to be under-appreciated by law enforcement, medical providers, prosecutors, judges/juries
- More likely to be under-reported
- More likely to have delay in care
- More vulnerable to injury
- Less able to protect themselves
- Less likely to clearly articulate what happened – language development
- Less research


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### Airway differences

- Bigger head
- Larger tongue
- Weaker neck





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### Airway differences, cont.

- Funnel shaped airway located higher in neck
- Narrower, softer epiglottis  
Until age 4-5
- Smaller cricoid cartilage
- Mucosal edema will severely compromise airway





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### Mechanism May be Different

- May be manual, choke hold, ligature **HOWEVER:**
  - Easier to lift children off the ground:
    - By neck
    - By clothing
  - Verma 2007 78% ligature by clothing, possessions
- Female caregivers as perpetrators
- Motivation (of perpetrator) may be different - LOSS of control



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### SEQUENCE:


- Consciousness

↓

- Unconsciousness

↓


- Death

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### The Rossen Study

Gael Strack

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**Rossen Study 1942**  
**Red Wing, MN**  
*Acute Arrest of Cerebral Circulation in Man*

**Visual Changes**

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**Top Gun - Test Run Scene**

Oh, God. He's in G-LOC.

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**“Acute Arrest of Cerebral Circulation in Man”**

- “Acute arrest of circulation in the human brain was studied in 11 schizophrenic patients and in 126 normal young male subjects (inmates)”
- More than 500 controlled strangulations
- “The neurons in the brain are the cells of the body most sensitive to anoxia.”

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- “The characteristic reactions resulting from acute arrest of circulation in the brain from five to ten seconds were fixation of the eyeballs, blurring of vision, constriction of the visual fields, loss of consciousness and anoxic convulsions.”

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**Anoxic (lack of oxygen) Injury**

- “Anoxic Convulsions: These seizures were of a generalized tonic and clonic type; they were usually relatively mild and rarely continued more than six to eight seconds.”
- “The convulsion was preceded by loss of consciousness” “had no memory of it (seizure)”

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**How Long is Too Long?**

- 6.8 seconds – unconscious (brain cells begin to die)
- Anoxic seizure (lasts 2-8 seconds)
- 15+ seconds – loss of bladder control
- 30+ seconds – loss of bowel control
- ?? seconds – point of no return: “brain dead”/coma
- 1 - 2.5 Minutes – death (no controlled human studies but videos of deaths)

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Let's watch a short video together.

Did he pass out?  
How do you know?  
What is the corroborating evidence?

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**Post Strangulation Seizure:  
Anoxic Insult to Brain Cells**




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**Evidence of Alterations of  
Consciousness = Anoxic Injury**


Brain Injury in Battered Women, Journal of Consulting and Clinical Psychology, 2003, Vol. 71, No. 4, 797-804


- A period of dizziness
- Felt stunned or disoriented
- Saw stars or spots (visual impairment)
- Loss of consciousness or blacked out
- Loss of memory, lapse of time or location
- Standing up one minute then waking up on the floor
- Bowel or bladder incontinence
- Unexplained bump on head

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Timeline - Updated





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New Facebook Posting

<https://www.facebook.com/TrainingInstituteonStrangulationPrevention/videos/1071703060938769>



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**Brain Death by  
Air Flow**

4 Minutes



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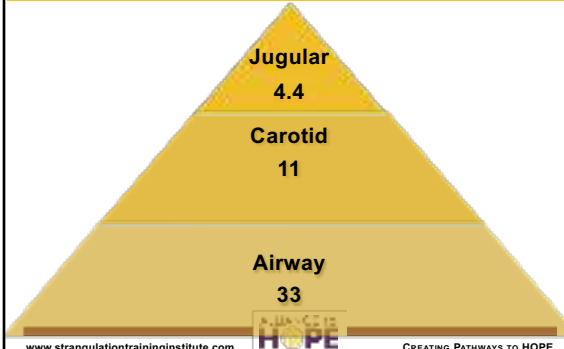
## How much pressure?


Usually continuous, increased and/or repeated pressure

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## IT DOESN'T TAKE MUCH TO IMPEDE



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## Average male handshake: 100



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## Watch this video?

What is inaccurate?

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## Did I get choked out?




- Did I get choked out?
- I thought we had not done it.
- I felt pressure and then I was talking again.
- I did not feel passing out at all.

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## Hippocampus



- The hippocampus is critical for forming memory, organizing and storing.
- Hippocampus is most sensitive to lack of oxygen.
- If no blood flow, the brain is NOT working.
- No blood flow. No memory.
- No memory means damage to hippocampus.

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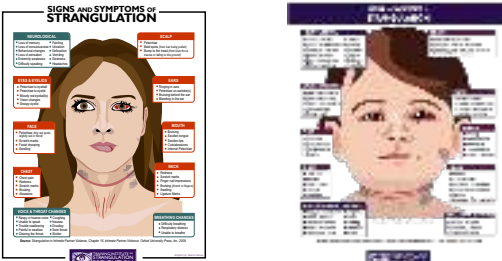
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# Signs & Symptoms

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## Signs & Symptoms



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## Signs and Symptoms – Asha



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## “Survey Results of Women Who Have Been Strangled While in an Abusive Relationship”

Dr. Lee Wilbur

- **Medical symptoms experienced by victims**
- Difficulty breathing: 85%
- Scratches on neck: 44%
- Dysphagia/Difficulty Swallowing: 44%
- Voice change or Aponia: 45%
- Loss of consciousness: 17%
- Ptosis: 20%**
- Facial palsy: 10%**
- L or R sided weakness: 18%**
- Memory deficit: 31%
- Suicidal ideation: 31%

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## “Survey Results of Women Who Have Been Strangled While in an Abusive Relationship”

- **Ptosis: 20%**
- **Facial palsy: 10%**
- **L or R sided weakness: 18%**



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Neck swelling (edema): Laryngeal fracture - (subcutaneous emphysema)



Courtesy of DDA Derrick Ewin and Ian McIvor from Contra Costa County

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Internal/External Signs

- Coughing up blood (hemoptysis)
- Lung (pulmonary) damage
  - Pulmonary edema
  - Aspiration pneumonitis
  - Pneumonia



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Massive tongue swelling (edema)



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How do Petechiae occur?

**2 Requirements:**

1. Obstruction of venous return
2. Arterial flow continues

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Solid Hands



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**Petechiae are smooth and flat.**

**Acne is usually raised or bumpy.**

**Note the distinction.**

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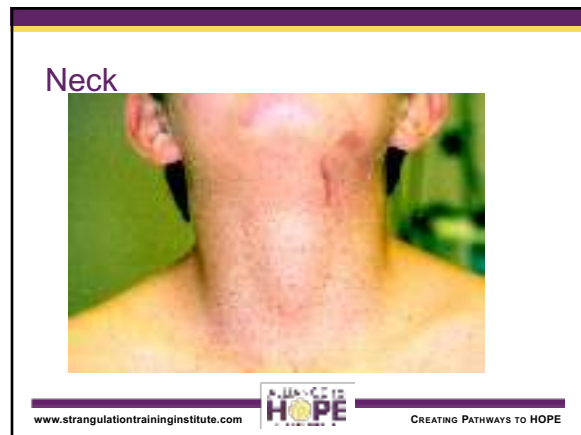
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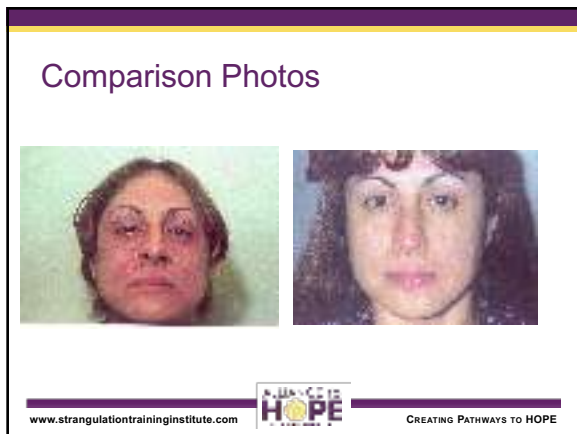
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### From Trixie Colburn

- Trixie Colburn:  
Victims seeking protection orders reported that their abusers were sitting on top of their stomachs while being strangled.
- Dr. Smock:  
In a positional asphyxia case, you can find petechial hemorrhage any where on the skin. If the inferior vena cava is blocked with abdominal pressure petechial hemorrhage in the legs is clearly possible.



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### Subconjunctival Hemorrhage



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### Tanika: A Case Study

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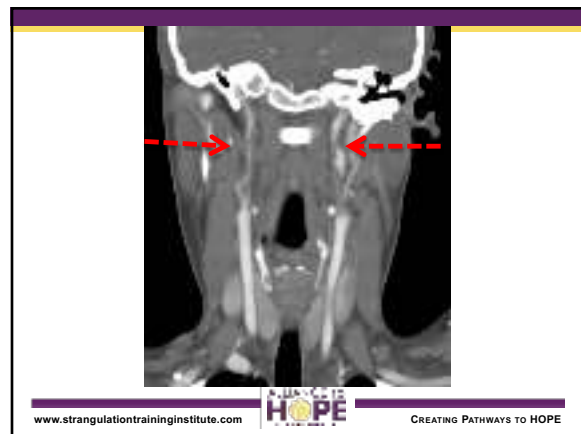
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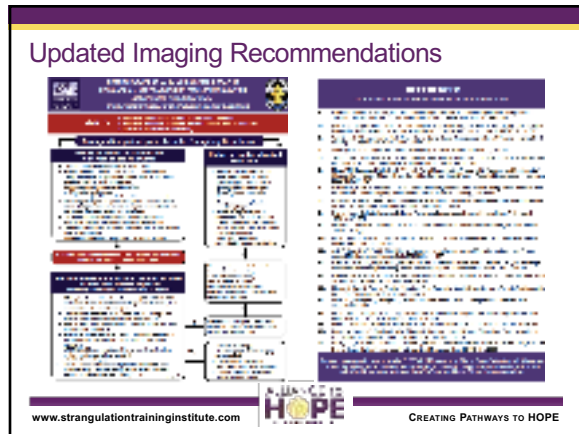
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Case #	Author(s)	Year	Journal	Volume	Issue	Pages	Abstract	Key Words	Relevance
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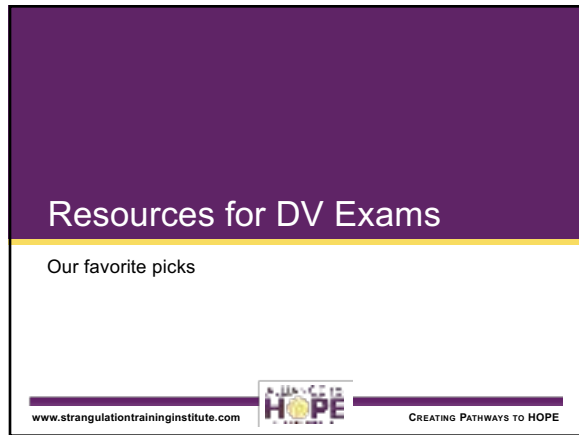
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Oregon woman becomes champion for strangulation kit bill after daughter's death



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- **Sarah Van Dyke**
- Domestic Violence Systems Coordinator
- Children, Family and Community Services Division,
- Clackamas County Health, Housing and Human Services



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<https://www.youtube.com/watch?v=a-x2JU6YAE4>



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Everything you want to know about the DV/Strangulation Exam



- Dr. Sean Dugan
- Strangulation/TBI Clinic - Over 200 exams
- Basics
- TBI
- Resources, Favorites Publications/Articles, Toolkits, Webinars

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## Legal Considerations

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## EMTALA – Emergency Medical Treatment & Labor Act

42 U.S.C. Section 1395dd

Passed in 1986 to ensure public access to emergency services regardless of ability to pay.

Imposed specific obligations on medicare-participating hospital that offer emergency services to provide a medical screening examination (MSE) when a request is made for examination or treatment for an emergency medical condition, regardless of an individual's ability to pay.

**Strangulation is an Emergency Medical Condition.**


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### What is an emergency medical condition?

- Defined as one that manifests itself 'by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the health of the individual in serious jeopardy, **serious impairment to bodily functions** or serious dysfunction of any bodily organ or part.
- What is serious impairment to bodily function?
  - Loss of consciousness, petechiae, urination, defecation, Concussion, Carotid Dissection, Fracture of hyoid bone, Stroke, neck muscle damage
- Courts have found LOC and act of strangulation likely to cause GBI and/or substantial risk of death

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### "Dear Doctor Letter"




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### Let's Take A Test

A Quick Summary of Key Points

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*Strangulation victims are 750% more likely to be killed later by the same partner*


## TRUE or FALSE?

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*No oxygen to the brain is called?*

## Anoxia


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*The carotid \_\_\_\_\_ delivers blood to the brain?*

## Artery


*The artery takes oxygen rich blood to the brain and the veins take bad blood back to the lungs*

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Most experts agree brain death (respiratory arrest) due to a lack of BLOOD flow can occur within how many minutes?


- A. Seconds
- B. Five minutes
- C. One to two and half minutes
- D. Ten minutes
- E. All of the above

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Match the medical term to the term we would use:

Petechiae	Felony
Anoxia	No voice
Aphonia	Tiny red spots
Edema	No oxygen
Strangulation	Swelling

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## The San Diego Study & Learnings


Our journey to understanding strangulation is being deadly force

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Findings from Study: Minimization by ALL professionals due to a lack of knowledge


- Police officers minimized
- Prosecutors minimized
- Survivors minimized
- Don't expect your jurors to understand the seriousness of strangulation
- Without an expert, jurors are likely to think it didn't happen because the injuries were too minor (San Diego Jury)
- With an expert, jurors wanted to know why the case was only prosecuted as a misdemeanor (Orange County Jury)

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## Minimization by Victims

Let's listen in...

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## Minimization by Victims

- Victims may not understand the danger and maybe reluctant to seek medical attention.
- "He didn't really choke me, he just had me in a headlock and I couldn't breathe."

Plattsburgh, NY

Santa Clara County policy is to roll out the paramedics on each case



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## Minimization by Professionals

- Dispatch operators may not realize the danger and trivialize the violence.
- POST



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## Observations

- 90% of the cases had a DV history
- 50% of the cases, children were present.
- 99% of the suspects were men.
- Only 5% of the victims sought medical attention "at the time" of the incident; unknown what happened after the officers left

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## Signs and Symptoms Documented in San Diego Police Reports

- |                          |                       |
|--------------------------|-----------------------|
| • Redness to neck        | • Pain to neck/throat |
| • Scratch marks          | • Coughing            |
| • Rope burns             | • Raspy voice         |
| • Thumb print bruising   | • Nausea or vomiting  |
| • Red eyes               | • Unconsciousness     |
| • Spasm                  | • Ears ringing        |
| • Urination & defecation | • Head rush           |
|                          | • Miscarriage         |

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Dr. Dean Hawley, Forensic Pathologist,  
Professor, University of Indiana Medical School

- "Fatal strangulation can occur without any external evidence of violence on the human body."
- "The best way to document a strangulation case is still by an autopsy"



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### Why no bruising?

- Use of a broad soft ligature or forearm when the force is applied over a wide area
- Multiple variables: health conditions, medications
- When rapid death bruising will not have time to develop



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### Manual Strangulation - Most Common Method Used

- Method is important
- Explains why there is likely no injury
- Single incident may show intent to injury or control
- Multiple strangulations may show intent to kill
- Use of a ligature is recognized as a method of "finishing it" or overkill



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### Carotid Restraint: Prohibited or Restricted by Many Police Departments Nationwide

- Many police agencies do not allow officers to use carotid restraint.

SDPD: No more than 30 seconds (7/92)  
 POST: First aid protocol.

- "... subject should be checked by medical personnel"



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### "CHOKE HOLDS" Strangulation by any other name...

**Airway**

- Air Choke
- Arm Bar Choke Hold
- Wind Choke
- Tracheal Choke

Martial Arts:

- True Choke
- Gogoplata
- North-South Choke

**Vascular**

- Blood Choke
- LVNR
- Vascular Neck Restraint
- Carotid Hold
- Bilateral Carotid Compression
- Sleeper Hold

Martial Arts:


- Rear-Naked Choke
- Anaconda Choke
- Arm Triangle Choke
- Side Choke
- Head and Arm Choke
- D'Arce Choke
- Hell Strangle

**Both**

- Strangle Hold
- Neck Hold
- Knee on Neck

Martial Arts:

- Ezekiel Choke
- Shime-Waza (12 variations)
- Guillotine Choke

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### Why no injuries? Police Carotid Restraint (Sleeper Hold, Chokehold)




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### Today: We have clarity and consistency

The use of the chokehold (by whatever name it is called) is being banned across the United States

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## “If you can talk, you can breathe”



- “If you say you can’t breathe, you’re breathing. Most likely that man died of overdose or heart attack,” Marx tweeted with no evidence, [according to NBC News](#), Marx’s Twitter account [is no longer active](#).

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Reay D: Death in Custody. Clinics in Laboratory Medicine, Forensic Pathology Part 1, Volume 18:1;March 1998

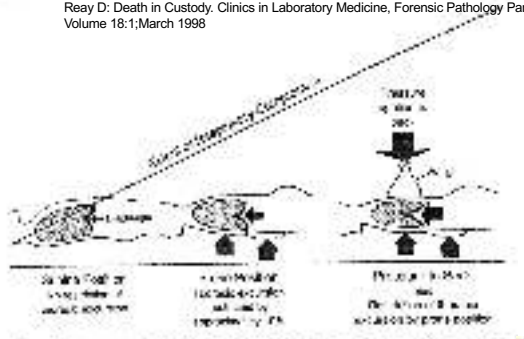
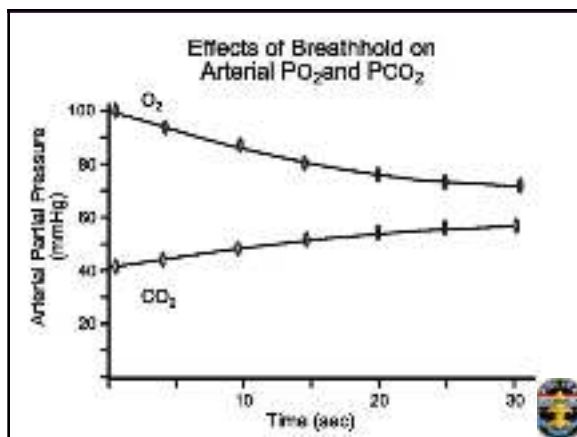
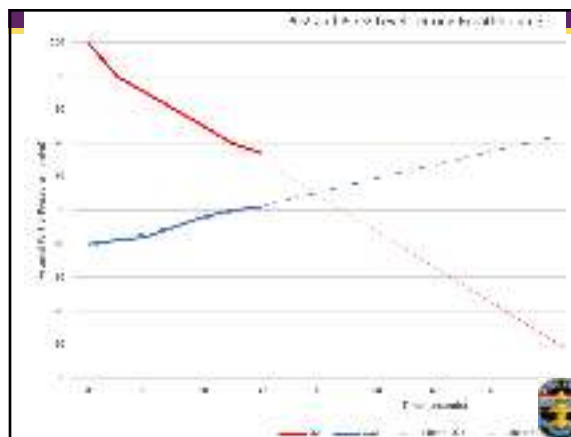


Figure 2. The physiological changes of the body in response to the effects of strangulation. The graph shows the arterial oxygen saturation (SaO2) falling over time. The diagram shows the neck with a ligature and the brain with arrows indicating hypoxia and hypercapnia.

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## Fast Forward


We have now collected approximately 900 articles related to strangulation in our dropbox/bibliography related to strangulation

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## Journal of Emergency Medicine



- Walking and Talking Victims
- Survey Results of Strangled Women
- Review of 300 Cases – Legal Issues
- Review of 300 Cases – Clinical Evaluation
- Review of 300 Cases – Fatal Cases
- Effect of Multiple Strangulation Attacks

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Original Article Title

### How Victims of Strangulation Survived: Enhancing the Admissibility of Victim Statements to the Police When Survivors are Reluctant to Cooperate


Patrick Q. Brady<sup>1</sup>, Ashley K. Fanslow<sup>2</sup>, and Sara B. Zedaker<sup>3</sup>

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### Key & New Findings


- 130 Cases of NFS were analyzed
- Only 6% of perpetrators stopped strangling victims on their own which suggests that strangulation should be investigated as an attempted homicide until evidence proves otherwise
- 39.3% involved multiple strangulations in the same incident
- .8% involved strangulation during sex
- 35.8% felt the urge/lost control of bodily functions
- 29.1% recanted/refused to cooperate
- 48.9% had no visible injuries

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### References

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### Questions?

Everyone has an important role to play.

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### How Do You Know: Understanding the Evidence

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How you approach your interview is important.

Trauma and the Brain video

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Trauma & the Brain – Fight, Flight, Freeze, Fawn (Appease)




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This is not trauma-informed interviewing 





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Approach and Rapport Building

- Interested
- Concerned
- Empathetic
- Non-judgmental





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Approach and Rapport Building

- Non-judgmental
- Interested
- Concerned
- Empathetic



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Give Permission to be confused and recall details later...

You have been through a really difficult experience. Things may be confused and fuzzy so just do the best you can. You may remember other things later after some rest so just do the best you can for now...

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Following the victims uninterrupted narrative. What did you.....

- See
- Hear
- Feel
- Think
- Taste
- Smell

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You need the right tools.

Training, resources and compassion.

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Free On Line Training for the First Responders



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Law Enforcement Roll Call Video

<https://www.youtube.com/watch?v=cOiyd6UOeko>



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Georgia Training Video for Law Enforcement (1 hour 38 minutes)

<https://www.familyjusticecenter.org/resources/strangulation-assault-training-video/>



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County-Wide Strangulation Protocols

- San Diego, CA
- Sacramento, CA
- Missoula, MT




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**Other Jurisdictions are reporting similar findings:**

- Increased felony filings
- Increased convictions
- Increased sentencing
- Improved teamwork
- Increased knowledge and expertise
- Growing number of experts
- However ... we will see the impact of COVID


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**Newest Resource:**



1. Overview
2. Strangulation & the Law
3. **Investigations**
4. Prosecution
5. Medical – Non-Fatal
6. Medical – Fatal
7. Use of Experts
8. Advocacy
9. Conclusion

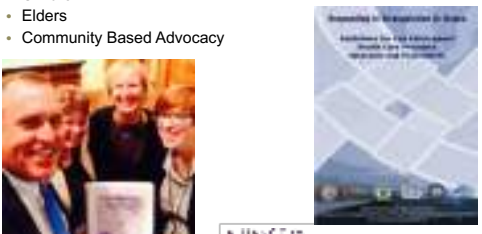
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**Alaska Strangulation Manual**

**New Chapters**

- Children
- Elders
- Community Based Advocacy



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Adapted from Det. Mike Agnew (Ret.)

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**Our top 20 questions to ask**

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1. Did anyone place any pressure on or around your neck by any means?


Assume every DV victim has been strangled.

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2. Find out the Method of Strangulation and 3. How many times pressure was applied?



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Was it one hand?



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Was it two hands?



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From the front or behind?

- Front
- Back



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### One arm?



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### Was it a neck restraint of some type?



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### Was a ligature used?



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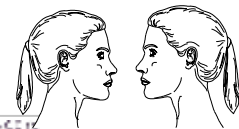


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### 4. Ask the victim if you can look for injuries?

- Carotid restraint: shoulders
- One hand, C-clamp: neck
- Two hands: neck, chest, behind the ear, jaw
- Ligature



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### Look for swelling or lumps to neck

- Especially if victim reported multiple attacks or prior strangulation assaults.
- **Ask victim to look in the mirror.**
- Ask victim if her neck looks swollen?
- If so, call paramedics immediately and insist on medical attention immediately.
- Do not ask.

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Trauma will impact an individual's ability to tell distance and time.

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## To determine intent:

5. Can you tell me how long pressure was applied?

To avoid: "he grabbed me briefly"

- Det. Agnew suggests to ask the victim to close her eyes and tell you "when" to indicate how long the defendant applied pressure to her neck. The officer then monitors the time.

6. How hard, on a scale from 1 to 10 with 10 being the hardest?

"it must have been 9, otherwise I would be dead right now."

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## Evidence of cerebral hypoxia

- Detective Joey Bianco:
- Victim reported her husband applied pressure to her neck.
- On a scale from 1 to 10, it was a 10.
- He would not let go. It was continuous pressure.
- Could not remember for how long but it felt like forever.
- At first she was in a panic. She could not breathe.
- Then she began to feel really calm. She thought she was going unconscious.
- She heard people on the other side cheering for her.

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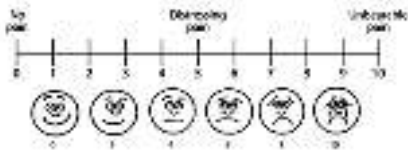


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## 7. Are you or were you in pain?

- Use the scale below to better estimate the level of the pain you are experiencing:



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## 8. Tell me about your ability to breathe?

- Did you have any difficulty breathing?
- Were you able to breathe normally?
- Were you able to talk? scream?
- Are you having any difficulty or discomfort breathing now?
- On a scale from 0 to 10, with 0 meaning normal breathing and 10 being unable to breathe? Tell me your level of breathing

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## Additional Breathing Questions

- Ask, one at a time, whether the victim could: (1) breathe? (2) talk? (3) scream?  
These questions help in determining if airflow was obstructed.
- How did you feel when this happening to you?  
(Take extra time to document any description about the terror she felt from the inability to breathe.)
- Are you having any trouble breathing now?
- Is your breathing any different than before the incident?
- Was your breathing compromised in any way during the incident? If so, explain.
- On a scale from 0 to 10, with 0 meaning your breathing was normal/unrestricted, did you experience any change in your normal breathing during (and/or after) the assault?
- Do you have asthma or a history of breathing troubles?
- Note: Victims may say they could not breathe but this may or may not mean their airway was blocked. Without adequate blood supply to the brain, victims will feel like they cannot breathe even if their airway itself is still open

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## 9. Did anyone have any Jewelry?

- The Victim?
- The Suspect?
- Still on the victim? Suspect?
- Broken?
- Where was it located?
- Photographed?

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## 10. What did you see when this was happening to you?

- He looked like death, as if he wanted me to stop breathing with big, red evil eyes. His eyes were crazy. They were big. They were open and wobbling back and forth.
- I saw the devil.
- I saw death.
- I knew he was going to kill me

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## Asking and documenting loss of consciousness

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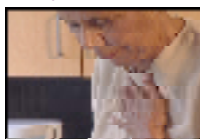


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## 11. How did you feel when pressure was being applied (and after)?

- “fuzzy,” “dizzy”
- “head rush”
- “I saw stars.”
- “I saw black and white.”
- “I couldn’t breathe”
- “I passed out”
- “I vomited several times”
- “I had trouble swallowing”
- “I felt like my head was going to explode”
- “I felt a rush of blood to my head”



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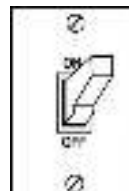


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## Unconsciousness

- It's not an on or off switch
- It's more of a dimmer switch



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## The Crime Scene

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## 12. Where did it happen?



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**Where Did it Happen?**  
 70% of DV victims are also sexually assaulted.



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**13. Any discarded clothing?**

Are the clothes you're wearing the same clothes you were wearing when you were strangled?

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**Semen Glows. Urine Glows.**

- Make good use of ultra violet lights.



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**14. What did he say before, during or after?**

- "I'm going to kill you, you fucking bitch"
- "Die Bitch die"
- "No judge, no cop, no attorney will keep you safe"
- "I'm going to pop your neck"
- "I'm going to do an OJ and leave no evidence"
- "I didn't mean to squeeze so tight"
- "I don't need a fucking gun to kill you"

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15. Ask Victim about Text Messages.



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Ok to seize D's cell phone at time of booking and get a warrant the next day.

- **Young v. State, 2019 WL 1647679**
- D sentenced to 60 years for strangulation, as a habitual offender.
- Officer had reason to believe the D had called the DV victim before and after the assault and there were text messages of a crime.
- Officer impounded the phone at the time of booking and got a warrant the next day.
- D called V. Apologized. V forgave him and recanted.
- Expert was permitted to explain why V's recant.
- V admitted making three prior inconsistent statements.

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16. What did you think was going to happen?




- "I thought I was going to die."
- "I was afraid he would kill me. He wouldn't mean to kill me, but it was getting worse, he wouldn't know when to stop."
- "I began saying "Hail Mary's" ... I thought I was going to be seeing my mother who died two weeks ago"

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17. How did it stop?

I escaped.  
I passed out  
My kids started screaming.  
Police arrived.



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18. What did you say when this was happening?

- I can't breathe.
- Let me go.
- Stop, you're killing me.
- ?

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19. What is the last thing you remember from that incident?




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20. Ask about prior witness intimidation?

- Start building your forfeiture by wrong doing case now.
- Anticipate she will recant.
- Has he ever kept you from calling the police?
- Has he ever told you what would happen if you call the police?
- In most states, it is a crime to **intimidate, or discourage**, a witness or victim from either:
  - reporting a crime, or testifying about a crime.

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## Make Good Use of Surveillance Cameras and Bodycams

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## Surveillance Cameras

- <https://www.kalb.com/2020/10/27/surveillance-video-captures-domestic-violence-attack/>



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## Apple Watch



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## Cars



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### Facebook Pages

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### What about dark-skinned women?

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### Signs and Symptoms – Asha

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### Take Follow-up Photos

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### Tips

- Ask the victim to look in the mirror for injuries
- Call the paramedics for a medical assessment
- Encourage medical treatment – medical diagnosis could help
- Advocate for CTA and MRI/MRA – imaging could help
- Use our worksheet to ask questions about symptoms
- Conduct a forensic exam – forensic nurses are specially trained to look for and document injuries
- Measure the neck to corroborate swelling
- Look for petechiae – especially in the eyes, inside the mouth and ears
- Use quality equipment to take photos
- Consider ALS & take follow-up photos
- Conduct a follow-up interview
- Ask if the victim has had any contact with friends, family or co-workers who may have come in contact with her and observed injuries
- Ask the victim if took any photos of herself, especially after the incident

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### Follow-up Photos

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**Do Not Apply Pressure to the Victim's Next to Recreate the Method**

- Ask victim to demonstrate how she was strangled & look for injuries at those pressure points.  
Take photos of injuries or lack of injuries



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**Reach out to your Dispatchers & Paramedics**

Everyone has an important role to play. Strangulation poses an emergency medical condition.

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## Updated IACP DV Model Policy




- Strangulation language has been modified to:
- \*7. Summons EMS at the request of the victim or suspect or if it appears that strangulation has occurred.
- Alliance Recommendation:
- All police and sheriff's department should update their protocols to include strangulation.

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## STRANGULATION ASSESSMENT CARD

QUESTION	YES/NO/NA	REMARKS	ANSWERS
1. Was there any physical contact between the victim and the suspect?			<b>S</b> Suspicion of strangulation based on physical contact.
2. Did the victim report any physical contact with the suspect?			<b>T</b> Victim reported physical contact.
3. Did the suspect report any physical contact with the victim?			<b>R</b> Suspect reported physical contact.
4. Did the victim report any strangulation symptoms?			<b>A</b> Victim reported strangulation symptoms.
5. Did the suspect report any strangulation symptoms?			<b>N</b> Suspect reported strangulation symptoms.
6. Did the victim report any strangulation symptoms during the incident?			<b>G</b> Victim reported strangulation symptoms during the incident.
7. Did the suspect report any strangulation symptoms during the incident?			<b>L</b> Suspect reported strangulation symptoms during the incident.
8. Did the victim report any strangulation symptoms after the incident?			<b>E</b> Victim reported strangulation symptoms after the incident.
9. Did the suspect report any strangulation symptoms after the incident?			

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## ADVISAL TO PATIENT

- The strangulation assessment card is a tool for law enforcement to use to identify potential strangulation victims.
- Strangulation assessment card is a tool for law enforcement to use to identify potential strangulation victims.
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## NOTICE TO MEDICAL PROVIDER


- Strangulation assessment card is a tool for law enforcement to use to identify potential strangulation victims.
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## Typical Defenses

- Denial – I didn't touch her
  - Solution: Swab for DNA on hands and neck
- Self Defense – If I did, it was in self defense
  - Solution: Need training on identification of the dominant aggressor
- Sex Defense – Autoerotic Asphyxia or Consent
  - Solution: Know the law and the evidence.
- It was an Accident or she died from a seizure.
  - Solution: Know the medical research
- She committed suicide.
  - Solution: Treat every suicide as a homicide but we have some tips.

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## Primary/Predominant Aggressor Test




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512

### State v. Crudup (Self-Defense)

- Judge refused to give jury self-defense instruction. Defendant appealed. Trial Judge Ruling Upheld.
- The trial court must submit a self-defense instruction when it is supported by substantial evidence.
- To claim self-defense, a defendant:
  - must not have been the aggressor in the assault;
  - must have reasonable grounds for the belief that he is faced with immediate danger of serious bodily injury;
  - must not use more force than that which appears reasonably necessary; and
  - must do everything in his power consistent with his own safety to avoid the danger
- Defendant's Self Defense Argument Not Warranted (State v. Crudup, 415 S.W.3d 170 (Mo. Ct. App. 2013)).

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## Identifying the Dominant Aggressor is not easy.

Laws vary from state to state.  
Training varies from state to state.  
Protocol and practice various from state to state.

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### 35 States with Primary Aggressor Laws as of 2018

- Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Iowa, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, and Wisconsin

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### Anticipate self-defense in your strangulation cases

Unless – victim is vulnerable, taken by surprise, strangled to LOC very quickly and/or unable to defend for some reason

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
### Self-Defense: 65% (Harm, 1981): No. 1 Backs of Hands; No. 2 Face/Shoulder



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## Injuries on Suspects/Stranglers

Rapists

DV Stranglers

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## What does IACP recommend?

- The International Association of Chiefs of Police (IACP) defines "predominant aggressor" as "the individual who poses the most serious, ongoing threat, which may not necessarily be the initial aggressor in a specific incident."
- The IACP also informs law enforcement officers that they are "expected to arrest any person who commits a criminal act(s) of intimate partner violence—unless there is a clear and compelling reason not to arrest (self-defense determination, lack of probable cause)—after a comprehensive investigation to identify the predominant aggressor."
- International Association of Chiefs of Police, Intimate Partner Violence Response Policy and Training Content Guidelines 6 (2017).

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## Your Investigation Matters

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## PREDOMINANT AGGRESSOR ANALYSIS

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## Factors to Consider

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## Out of these factors to consider, which is the most important to you?

- Crime Scene
- Demeanor of the Parties
- Fear
- Prior History
- Power & Control
- Witness(es)
- Corroborating Evidence
- Injuries (not every injury is visible)
- Legal Defenses
- Which story makes sense?

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## Questions:

- What percentage of females are being arrested?
- What percentage of strangled victims are being arrested because she has little to no injuries and the suspect has more?
- What is your percentage of dual arrests in your community?
- Do you know?

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## Dominant Aggressor -PC13701(b) mandates:

- Must make effort to identify dominant aggressor
- Most significant aggressor not first to strike
- Avoid dual arrests
- Factors which must be considered:
  - Intent of the law to protect victims
  - Threats creating fear of physical violence
  - History of domestic violence
  - Whether either person acted in self defense

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## • OREGON PREDOMINANT/DOMINANT AGGRESSOR LAW

- Section 133.055 – Criminal citation; exception for domestic disturbance; notice of rights
- ...
- (c) When a peace officer makes an arrest under paragraph (a) of this subsection, the peace officer shall make every effort to determine who is the assailant or potential assailant by considering, among other factors:
  - (A) The comparative extent of the injuries inflicted or the seriousness of threats creating a fear of physical injury;
  - (B) If reasonably ascertainable, the history of domestic violence between the persons involved;
  - (C) Whether any alleged crime was committed in self-defense; and
  - (D) The potential for future assaults

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## California Judges are also required to determine the dominant aggressor

- *Melissa G. v. Raymond M.*, 27 Cal.App.5th 360 (2018)
- California law discourages dual arrests and mutual protection orders (FC6305).
- In the present case, both parties sought protection orders against each other. Court granted both.
- Husband appealed: Trial Court failed to make factual findings regarding whether parties acted as a primary aggressor or acted primarily in self-defense.
- Case of first impression. Case reversed and remanded for Judge's factual findings.
- COA – facts support order against him but not the wife. Court must consider PC836, same code section that applies to law enforcement when making an arrest.

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Yes, you have homework. 😊



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## Webinar: How to Identify the Dominant Aggressor



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### Webinar: The Survivors' Perspective

Webinar: Identifying The Dominant Aggressor From The Perspective Of Survivors



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### Self-Inflicted Injuries

- She lied.
- Injuries are self-inflicted.
- It's a set up.
- Jealous of the new girlfriend.



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### No Petechiae, No Strangulation





Courtesy of West Covina Police Dept,  
Thank you Detective Gary Christensen

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### Look for Petechiae or Subconjunctival Hematoma




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### The Consent Defense

Are you seeing this issue come up?

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### Overcoming the Consent Defense

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## Dr. Hawley

"It's a guy thing."




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## Autoerotic Asphyxia

- Autoerotica
  - Sexual asphyxia during solo masturbation
  - Evidence of a ligature mark
  - Look for evidence at the scene
  - Ligature set ups: ropes, chains, blindfolds, and gags




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## Diana Gonzalez Strangulation Prevention Act of 2011

Passed unanimously despite initial opposition from the National Coalition for Sexual Freedom




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## What does the National Coalition for Sexual Freedom have to say about consent, BDSM and the Law?

Bondage and Discipline, Dominance and Submission, Sadism and Masochism




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## Case Law

- To date, **there is not a single appellate court decision anywhere in this country that has accepted consent as a defense in an assault or abuse prosecution arising from BDSM conduct.**
- Since any harmful act that does not fit into the "athletic" or "medical" exception is, by definition, criminal, unless the inflicted injury is not serious, assessment of the seriousness of the victim's injury determines the outcome of many cases involving consensual harm.




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## Case Law

- In most BDSM assault cases, the testimony of a complaining witness (the injured person) is central to the case, and often there is conflict on the issue of consent between the defendant and the complaining witness.
- However, **even where both participants agree that the acts in question were consensual, the courts have held that consent cannot be a defense**
- Commonwealth v. Appleby, 380 Mass.296, 311, 402N.E.2d 1051,1061 (Mass. 1980).



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## Case law - Policy

- As a matter of public policy, a person cannot avoid criminal responsibility for an assault that causes injury or carries a risk of serious harm, even if the victim asked for or consented to the act
- (See, e.g., *State v. Brown*, 154 N.J.Super. 511, 512, 381 A.2d 1231, 1232; *People v. Samuels*, 250 Cal.App.2d 501, 513-514, 58 Cal.Rptr. 439, 447, cert. denied, 390 U.S. 1024, 88 S.Ct. 1404, 20 L.Ed.2d 281; *Commonwealth v. Appleby*, 380 Mass. 296, 402 N.E.2d 1051; *Iowa v. Collier*, 372 N.W.2d 303).



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## Dr. Hawley: Should we talk about the rough sex defense now?



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## What does the penal code say:

- The exceptions to the general rule that consent is a defense to battery, and specifically is a defense available in cases "involving sexual overtones", are as follows:
- (1) Where the defendant goes beyond acts consented to;
- (2) Where it is against public policy to permit the conduct or resulting harm even though it is consented to, as, as where there are no sexual overtones and the battery is a severe one which involves a breach of the public peace, as well as, an invasion of the victim's physical security;
- (3) Where consent is ineffective as where it is obtained by fraud or from one lacking legal capacity to consent;
- (4) Where a deadly weapon is employed;
- (5) Where death results; or,
- (6) Where the battery is atrocious or aggravated. [Helton 624 N.E.2d at 514, citing *Jaske v. State*, 539 N.E.2d 14, 18 (Supreme Court Indiana 1989).]



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## Ok - I'm healed. No need to discuss this any further.



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## What does the literature say? Is this real?

- Yes. Rare. Mostly secret.
- When it happens, it's obvious.
- Victim had documented history of "paraphilic tendencies" based on:
  - Interviews
  - Medical Records
  - Personal items
  - Contract
  - Prior partners
  - Computer evidence
  - Victim is aware of the risk of death
  - Defendant is aware of the risk - some tend to stressed out by it.
  - No history of Domestic Violence
  - No use of drugs or alcohol do to the inherent danger



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## Erotic asphyxiation (2018)

- It is one of the most dangerous paraphiliae due to the high risk of brain damage in the course of oxygen deprivation.
- It is classified as a form of sadomasochistic play.
- **It tends to be repeated behavior**, often happening in secrecy and with other paraphilias.
- No formal statistics
- **White males tend to be the largest group of practitioners.**



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Ok - I'm healed. No need to discuss this any further.



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## Seven Articles in 2021:

- Diverse Sexual Behaviors in Undergraduate Students, (Herbenick, et al, 2021)
  - 43% had choked a partner, 47.3% had been choked
- Non-Fatal Strangulation/Choking During Sex and Its Associations with Mental Health, (Herbenick, et al, 2021)
  - Reports of depression or poorer mental health
- What is Rough Sex, Who Does it, and Who Likes it? (Herbenick, et al, 2021)
  - Most common behaviors - choking, hair pulling and spanking.
- Pornography Consumption and Sexual Choking, (Wright, et al, 2021)
  - Porn leads to exposure of sexual choking which leads to sexual choking and the belief it is safe and consent is not necessary



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## Seven Articles in 2021:

- "If their Face Starts Turning Purple, You are Probably Doing Something Wrong": Young Men's Experiences with Choking During Sex" (Herbenick, et al, Dec 2021)
  - Learning it from porn, partners, friends and media
  - Choking is associated with sex & they think its safe
  - Some like the power, others uncomfortable
  - They know when something is wrong and could go wrong
  - Unaware of the long-term health consequences
- Prevalence and characteristics of choking/strangulation during sex: Findings from a probability survey of undergraduate students" (Herbenick, et al, July 2021)
- "It Was Scary, But Then It Was Kind of Exciting": Young Women's Experiences with Choking During Sex" (Herbenick, et al, May 2021)



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## 7 Articles in 2022

- Frequent and Recent Non-Fatal Strangulation/Choking During Sex and Its Association with fMRI Activation During Working Memory Tasks (Huibregtse, et al, 2022)
- Pornography and Women's Experiences of Mixed-Gender Sexual Choking/Strangulation: Eroticism Mediates, Perceived Similarity Moderates (Wright, et al, 2022)
- Don't Just Randomly Grab Someone's Neck During Intercourse: An Analysis of Internet Articles about Choking/Strangulation during Sex (Herbenick, et al, 2022)
- How safe is BDSM? (Schori, et al, 2022)
- Online Dating & Sex Survey (Coker/Dommet, 2022)
- Should sex educators talk about choking during Sex (Psychology Today, 2022)
- Frequency, method, intensity and health sequelae of sexual choking among US undergraduate and graduate students (Herbenick, et al, 2022)



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## Articles in 2023 ... so far 12


- Sexual Choking/Strangulation During Sex: A Literature Review of 58 articles. (Herbenick, et al)
  - Prevalence has increased in adolescents and young adults.
  - (Still mostly hands, sometime forearms and ligature)
  - **Young adults report learning it from peers, partners, porn, social media and other sources**
  - Still gendered - mostly women as well as sexual and gender minorities
  - Still have health consequences
  - Still without consent



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### Sexual Choking/Strangulation During Sex: A review of literature, Herbenick, et al, Aug 2023



- Prevalent and **repeated**
- Impacts more women than men
- More sexual & gender minorities
- They call it choking
- Mostly manual, ligature used 11%
- Men - porn
- Women - social media
- Misinformation - "safe choking"
- No safe way
- 20 years ago less 1% of porn included choking during sex, now 28%
- Why do it? normal, expected, get high from hypoxia, anoxia, exciting, kinky
- Health consequences discussed including brain damage

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### Summary

- Mostly **women are being choked during sex** (58%) and at least one quarter of women were first choked by the age of 17
  - Mostly **without their consent**
  - Mostly due to the normalization of strangulation on social media and free on-line access to **porn** (64% of teens/young adults access porn on a weekly basis, with up to **40% of porn video showing aggressive sexual acts without consent**)
    - Mostly with **health consequences**
    - At least **24% felt scared during sex**

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### Blog Alert!



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### Yes, porn has had an impact

- COVID-19 - Porn sites provided free memberships in 2020; Porn use increased by 65% in 2020.
- 43% of men report watching porn every week.
- This weeks research...
- 2,565,000 websites available with strangulation porn content.
- Just one website had 26,615,232 videos available.

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### Lily Peters



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### Lily Peters

- 14-year-old suspect in Lily Peters killing told investigators he strangled and sexually assaulted her.
- Suspect is the child of a sex offender who is currently in custody for possession of child pornography.
- Suspect was exposed to graphic image porn

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**Impact of Social Media**  
It's now a sex thing

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**Cosmo offers choking as a sexy way to relieve boredom of quarantine**

RICKS

First Girl  
Nighty Enough  
Try 043 on Him

605

**Impact of social media:**

When he asked if you're sure you want him to choke you harder b/c he's worried that you might die

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**Choking Victim**

614

**Teens and young adults are dying**

Choking and neck seen as an 'acceptable' part of teen sex, but that's not without dangers

100 Million: You can't afford to be a statistic. Prevent the stats in choking

615

**Rough Sex Defense has been banned in the UK (April, 2021)**

627

### Canada seeking to ban the "rough sex" defense



628

### Ireland banned the consent defense in felony strangulation cases (June 2023)



630

### The US is also seeking to ban it as well

Thank you Nevada for trying. Cheering for Washington. Currently conducting research.



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Choking without consent is a Gen Z hookup trend. Even if it doesn't bother you, it can be extremely dangerous.



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### First Campus Consultation involving the Porn Defense

- College students were making out
- V wakes up, unsure what happened
- Pressure to her neck, without her consent
- Sexually assaulted, without her consent
- Delayed report – a couple of hours
- Suspect was very naive, inexperienced, thought that is what he was supposed to do
- College Police were seeking advice – unusual
- Suggested ask/check for porn
- Sent them all the articles
- Not a legal defense

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### It's time to talk about it.



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637

### NCSF provides a warning:

- In 11 States, erotic choking is legal as long as injury is not caused. Injuries are usually rare in kink activities, with less than 4% of respondents reporting they had been injured during a consent violation in the National Coalition for Sexual Freedom's Consent Survey (2020).[i]
- However, a literature review in 2022 found that **strangulation/choking during the course of erotic asphyxiation is the most common cause of death involving BDSM acts.**[ii]
- In addition, many injuries caused by choking are not visible, however the damage can mimic those of concussive injury and mild stroke.[iii] Participants' mental health symptoms (e.g., feeling depressed, anxious, sad, lonely) have also been found to be significantly associated with having been choked.[iv]

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### NCSF: "EPP doesn't allow consent to erotic choking"

- **Explicit Prior Permission** permits affirmative, prior consent to specific acts that don't risk serious injury.[v]
- **Due to the serious health risks involved, including the risk of death, EPP doesn't allow for consent to erotic choking.**
- Given the relative risks, EPP is especially important even in states where it might be legal under limited circumstances, and participants would still be legally vulnerable if the unexpected occurred.
- **Recent case law affirms that consent is not a defense to erotic strangulation due to the risk of serious physical injury.**[vi]

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### Overcoming the Consent Defense

- Identify it or eliminate at the scene
- Is it BDSM or DV?
- Any contract? Safe word? Prior & Post conduct?
- Knowledge of dangerousness?
- Who initiated it? Porn related?
- Conduct a lethality assessment
- Use the Power & Control wheel
- Forensic Exam - Any internal or external injury?
- Conduct a Suspect Exam
- Prior girlfriends?
- Create a timeline
- Remember the law - you can't consent

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### New PSA now available

Help us educate others

HOPE logo and allianceforhope.com

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### N'Dea Johnson

[Yellowheartscommittee.org](http://Yellowheartscommittee.org)

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### Yellow Hearts Committee PSA

HOPE logo and Creating Pathways to HOPE

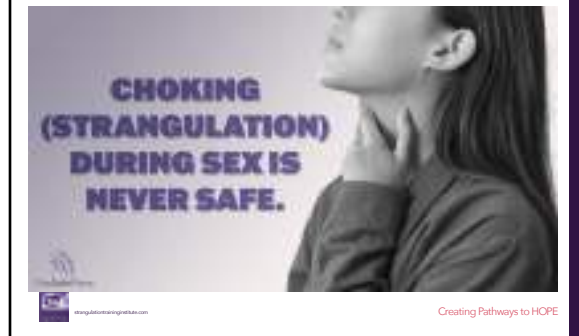
683

Students must complete an online course on sexual consent



684

Choking (Strangulation) during Sex is Never Safe. Thank you One Safe Place, Fort Worth, TX

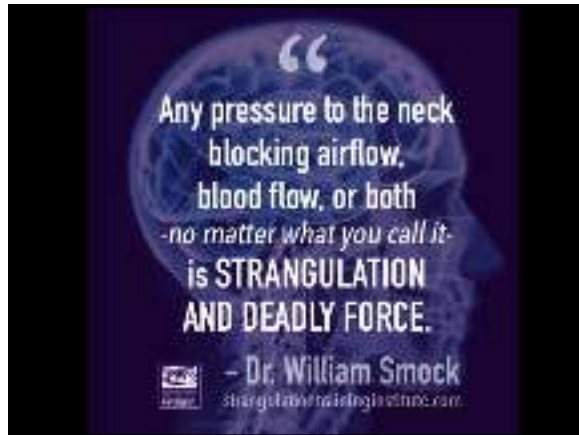


685

The neck needs a warning label.



686



725

Questions?



726

Our focus has historically been Non-Fatal Strangulation




728



## Terri Schiavo (1963-2005)

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- On February 25, 1990, at age 26, Schiavo went into cardiac arrest at her home in St. Petersburg, Florida. What happened in that room is still undetermined.
- She was successfully resuscitated, but had massive brain damage due to lack of oxygen to her brain and was left comatose.
- Husband wanted to take her off life support. Parents did not.
- The case involved 14 appeals and numerous legal motions, petitions, and hearings in the Florida courts; five suits in federal district court; extensive political intervention at the levels of the Florida state legislature.
- After her death, several books were written.



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## Our turning point




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## Dateline - "The Sisterhood"

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- ME ruled the case as "undetermined" - Needed to be 99% certain
- Family friend reaches out to us.
- We reached out to friends at the Denver DA's Office
- We arranged for meetings.
- Det. was always suspicious, just didn't know how to overcome "undermined"
- We reached out to Dr. Smock.

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Overwhelmed with cases and inquiries.



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## Themes from our cases:

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- Quick determination it was a suicide.
- Little to no communication with the family.
- No search for criminal history of domestic violence or history of coercive control.
- No Lethality Assessment.
- No Suicidal Assessment.
- Homicide detectives tended to have no domestic violence experience and were not working with Domestic Violence Detectives or advocates.

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## Dr. Jane Mockton Smith estimates 130 Hidden Homicides every year



- Rise in DV Homicides will also increase HH
- Deaths passed off as sex game gone wrong, overdose, staged as suicides
- Cases not being investigated
- Families investigating the deaths of their daughters

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Frustrated – we brought a team together

Our Faculty



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Great Minds, Big Hearts



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We Included Family Members

We wanted their VOICES to be heard and to learn from their experiences.



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Susan, Amy, Robin, Cindy supported by Jill and Erica




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We conducted a literature review and expert consensus

- Articles
- Books
- Manuals
- Protocols
- Case Law
- Interviews with Experts
- Interviews with Family Members



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Developed our first course Oct 2022



- Team Emily
- Team Stacy
- Team Mary
- Team Libby



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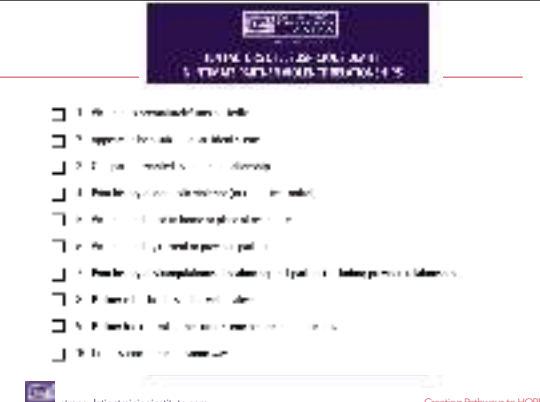
We created a list of 10 research based factors of a suspicious death.

Applied the literature and developed expert consensus



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Dr. Bill Smock, Police Surgeon,  
LMPD, Medical Director of Institute



- “It is critical that every police department in America treat every ‘suicidal hanging’ as a homicide until proven otherwise. Our list of 10 Factors will help you determine if the death is suspicious.”


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**Definition:**

- A staged crime scene involves deliberate alteration of evidence by the offender to simulate events that did not occur for the purpose of misleading authorities.  
Geberth, 2006; Turvey, 2000.
- Recognized in the literature for over a century.  
Schlesinger, et al, 2014
- 16% are staged to look like a suicide.  
Turvey, 2000.
- **19% of DV homicides are staged.**  
Schlesinger, et al, 2014


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911 What's your Emergency?



- But Ferguson/Petherick 2016 believe it can be as high as 43.8% of DV homicides involves staged crime scenes


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**Well-known findings:**

- Strangulation by ligature is a common method of homicide.
- Suicide by self-strangulation is not.
- Many investigators and forensic pathologists believe that it is impossible to carry out self-strangulation as a means of suicide.  
(Demirci, et al, 2009; Doberentz, et al, 2020)
- Typical ligature used are scarfs, belts, cords, ties, cable ties, some **knot or locking mechanism**

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### Suicide Hanging vs. Strangulation by Ligature

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### Dr. Smock's Top Ten Major Mistakes Made by Medical Examiners/Coroners

1. Not conducting a full autopsy on a "suicide"
2. Not going to the crime scene or looking at the crime scene photos before the autopsy
3. Not analyzing the cause of each individual injury: consistent with history?
4. Not documenting and forensically photographing each injury
5. Not explaining or understanding the injury mechanism for each "unrelated" injury and clumping the injuries together
6. Not recognizing pattern injuries (injuries that can be matched to an object or implement, i.e. fingertip contusions)
7. Insufficient advanced training: strangulation, crime scene staging and DV
8. Not understanding the 3 physiologic criteria for petechial development
9. Ruling "suicide" based on the orientation of the ligature mark
10. Ruling manner of death as "suicide" without an examination of the totality of the evidence: Prior DV, prior strangulations, victimology (cell phone/social media/computer), and suspectology

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### Our Findings

Gael Strack, J.D.  
CEO and Co-Founder

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### All of our Victims were at High Risk

Especially after we kept digging or learned more about the facts of the case

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### None of our Victims had a professional suicidal assessment


Especially after we kept digging or learned more about the facts of the case

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# The Columbia-Suicide Severity Rating Scale (C-SSRS)


Suicidal Ideation and Suicidal Behavior



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None of our victims left a suicide note.




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## What we need to know about Suicides: It happens a lot.

In 2020:

- 17.2 million adults seriously injured their bodies
- 3.1 million adults made a plan
- 12 million adults attempted suicide



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## Some facts about suicides

- More men die by suicide than women.
- Men choose more lethal methods – gun
- Women choose less lethal – drugs
- Women tend to be single, more likely to report suicidal ideation, more attempts, hospitalized for suicide attempts (more evidence of suicidal ideation)

CDC  
Suicide in women, 2015



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Most police departments do not invest a lot of time, resources or effort investigating a suicide because the time spent on these cases takes them away from investigating actual crimes of violence and from a real basic perspective, committing suicide is not against the law.

Chancellor and Graham, p.203




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## The Perfect Storm

- ME guidelines last updated in 2002
- Death Investigation Manual last updated 2011
- Every state and county have different laws and policies
- Very little laws/rights for families of lost loved ones
- Patrol officers, paramedics and dispatchers are generally not trained on suspicious death or staged crime scenes
- DV homicides and suicides have been rising for ten years in California and across the country.
- Existing Homicide Courses focus very little on IPV homicides




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**Our Goals:**

- Raise awareness
- Improve existing protocols
- Update the Death Investigation Protocol of 2011 to treat every suicide with a history of DV as a presumptive suspicious death case, include a post-lethality assessment, suicidal ideation assessment & meet with family member other than the intimate partner
- Encourage MDT response and encourage investigators to reach out on cases before they miss it (Nashville)
- Develop teams across the US that can help
- Encourage government agencies to reach out to us before they close a case
- Change laws

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**Homicide Victims' Families Rights Act of 2021**



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Questions?



 

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**Court Considerations**


Starts at the bail hearing


 

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**Virginia– Thank you Judge Chitwood**



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**1 VIRGINIA CODE.** Under Virginia Code Section 18.2-51.6 any person who, without consent, impedes the blood circulation or respiration of another person by knowingly, intentionally, and unlawfully applying pressure to the neck of such person resulting in the wounding or bodily injury of such person is guilty of strangulation. Strangulation is a class six felony, punishable by a term of imprisonment of one to five years.

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2 CASE LAW. In Dawson v. Commonwealth, 63 Va. App. 429 (2014), the Virginia Court of Appeals held that bodily injury should be given its everyday, ordinary meaning and means "any bodily hurt whatsoever"-internal or external. See also Ricks v. Commonwealth, 290 Va. 470 (2015). "Victim need not experience any observable wounds, cuts, or breaking of the skin."

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There is no durational requirement for impairment of airflow.

- State v. Hendricks, 273 Or.App. 1 (2015, Oregon).
- The trial court found up to five seconds of continuous pressure was sufficient.
- Defendant repeatedly covered the victim's face with a pillow momentarily cutting off her ability to breathe. During one incident, he forcefully covered her face with the pillow for about five seconds while simultaneously pinning her against the wall. Defendant was also threatening to kill her and the victim believed she was going to die.
- On appeal, Defendant claimed there was no proof that the victim suffered any physical injury within the meaning of the statute. He also claimed that the prosecutor should be required to prove more than just blocking a person's nose and mouth.
- The state argued that any impairment of the ability of the body to function in a normal manner for any amount of time constituted impairment. The involuntary cessation of breathing – a vital bodily function in and of itself constitutes the requires impairment.
- The trial court agreed that the "physical injury" component of the statute has no durational requirement
- The appellate court also refused to pronounce a principled distinction between one second, three seconds or even five.
- The respiratory function, like the cardiac function, is existential – essential for life.

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3 OAIL Effective July 1, 2021, Virginia no longer has a presumption against bond for strangulation. Nonetheless, in determining whether the defendant's release will constitute an unreasonable danger to the victim, family or household members, or the public pursuant to Virginia Code § 19.2-120A2, a judge should consider that strangulation is an accurate predictor of future violence and a high-risk factor for lethality.

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August 2022 – Rachael Abraham 36 killed after Portland Freedom Fund bails him out

Portland domestic violence murder suspect hid out covered by community for a week prior




- History of DV, including police called and no arrest
- Restraining order violations
- Prior strangulation with 4 children in the home but kids "sleeping"
- Drug use & death threats
- Believed she was going to die
- Arrested & released on GPS only to cut off GPS & violate conditions of release
- Rearrested for violation of order & released again
- Within a week, victim stabbed & strangled to death with 3 children in the home

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4 LACK OF VISIBLE INJURIES. On average, only 50% of strangulation victims have visible injuries, and only 15% have injuries that can be photographed at the time police respond.<sup>1</sup> Research has shown that most victims of adult non-fatal strangulation are women.<sup>2</sup>

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**5 IT CAN HAPPEN FAST.** A victim of strangulation can become unconscious in **5-10** seconds and die within minutes.<sup>3</sup> It takes very little pressure to block off vital structures in the neck. A study in France documented it only takes **4** pounds of pressure to block the jugular vein, **11** pounds to block the carotid arteries, and **33** pounds to block the trachea.<sup>4</sup> Opening a can of soda only requires **20** pounds of pressure.<sup>5</sup>

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**6 IMPACT TO THE BRAIN.** Strangulation is a form of asphyxia that usually deprives the victim's brain of oxygen. Millions of brain cells die every second the brain is deprived of oxygen.<sup>6</sup> The consequences of this include, but are not limited to, loss of memory, inability to concentrate, behavior changes, brain damage, and difficulty speaking.<sup>7</sup> Judges should not expect the victim to describe this near-death experience calmly and chronologically.

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**7 LANGUAGE.** Many court participants use the word "choke" rather than the correct legal and medical term "strangulation." Strangulation is external compression of the neck that can impede blood flow (oxygen) to or from the brain or direct air compression. Judges should focus on the facts described-not the terminology.<sup>8</sup>

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**8 LETHALITY.** In almost every lethality assessment, strangulation is a high-risk factor for lethality. The most dangerous domestic violence offenders strangle their victims.<sup>9</sup> The next step may be homicide; the violence will not decrease.<sup>10</sup>

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**9 HIDDEN DANGER.** Strangulation may cause internal injuries: immediate, delayed and/or long-term consequences. Of most concern, is injury to the carotid artery, including a carotid dissection leading to stroke or death days or weeks after the assault.<sup>11</sup>

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**10 FUTURE DANGER.** A woman who has suffered a non-fatal strangulation by her intimate partner is **750%** more likely to be killed by that partner.<sup>12</sup>

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**11 MEDICAL ATTENTION:** Victims often do not seek medical attention for their injuries and may be unaware of any internal injuries. In the event the victim is exhibiting any signs or symptoms of trauma consistent with strangulation, you may want to encourage the victim to seek medical attention.

**12 QUESTIONS TO CONSIDER ASKING IN COURT.** The victims of strangulation often minimize what occurred. You might want to ask additional questions, including, but not limited to:

- Did the attack happen from the front or back?
- Did the attacker use one hand or two?
- Did the attacker use a ligature?
- How long did it last? (Trauma may impact a victim's ability to tell time.)
- Did you have marks or bruises on your neck at the time of assault or after?
- Did you have trouble breathing or swallowing?
- Did you have a sore throat?
- Did your voice change? Did you have trouble speaking?
- How did you feel when pressure was being applied?
- Is it possible you may have lost consciousness? Any vision changes? Did you lose stars? (This victim may not know.)
- What did the attacker say before, during, and after the attack?
- Did you have small red spots (petechiae) anywhere: eyeballs, eyelids, inside throat, inside ears?
- On a scale of 1-10, how much pressure did the attacker use?
- On a scale of 1-10, how much did it hurt?
- Why and how did it stop?
- Where did the attack occur?
- Did you change clothes after the attack? (Victims may have a washed or deodorized.)
- And, what did you think was going to happen? Did you think you would die?

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## How Do You Prove it? Court Considerations

See every difficulty as a challenge

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### Overview

- Start with a baseline
- Prosecute Strangulation Cases in the Context of Domestic Violence
- Use Expert Witnesses
- Know the Law, even from other jurisdictions
- Collaborate with others & support victim with wrap-around services
- Try new ways to prosecute cases Post-Crawford

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Thank you,  
Sherry Clester – Pinellas County, Florida

- Audit the Cases in Your Community
- **January 2015 - September 2015 out of 197 arrests for strangulation, only 25 cases were filed as strangulation.** (144 cases were completely dropped or not filed, and the remaining 28 were filed as a lesser charge). **Additionally, there have only been 4 prison sentences out of the 25 cases filed as strangulation.**
- **“We looked deeper into the police reports that were not filed, and the evidence was there on many cases (independent witnesses, photos of injuries, written witness statements, medical treatment, some defendants even admit or partially admit to some violence.”**

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## Newest Resource:



1. Overview
2. Strangulation & the Law
3. Investigations
4. **Prosecution**
5. Medical – Non-Fatal
6. Medical – Fatal
7. Use of Experts
8. Advocacy
9. Conclusion

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## Common methods of prosecution

- With victim participation
- Without victim participation
- Forfeiture by Wrongdoing
- Everyone does a great job

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## What evidence could you collect to prove a case without victim participation?

Group Exercise



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## The Use of Experts

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## Lessons Learned from Vinny



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## Expert Testimony

- Federal Rule of Evidence 702
  - “If scientific, technical or other specialized knowledge 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**, may testify thereto in the form of an opinion or otherwise.

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## Is the Testimony Relevant?

- To the facts of the Case?
- Will it *help* the jury or judge?
  - Dispel any myths?
    - Understand the significance of lack of injuries, hoarse voice, trouble swallowing, red spots, seriousness of strangulation, minimization by victims and professionals
- Will it take a lot of time?

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## State of Arizona v. Delgado 232 Ariz. 182 (2013)

- “Whether a witness is qualified as an expert is to be **construed liberally** and it would be an abuse of discretion to exclude testimony simply because the proposed expert does not have the specialization that the court considers most appropriate”
- If an expert meets the “liberal minimum qualifications” her level of expertise **goes to credibility and weight**, not admissibility.

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## Growing List of Experts

- Emergency room physician - Specialist
- Medical Examiner
- Certified Forensic Pathologist
- Forensic/SANE nurse
- Paramedic
- DV Detectives/Law enforcement officers
- Advocates
- Who else?

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## Review of National Case Law

It is all GOOD.  
Extremely short version.

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## Special Edition of the Family & IPV Quarterly on Strangulation



- Trends in Strangulation Case Law

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## Emerging Law

- Visible injury is not required.
- Medical treatment is not required but helpful
- Medical experts are not required but helpful
- Complete obstruction of airflow or blood flow is not necessary
- No durational requirement for the length of pressure
- The act of strangulation is viewed as inherently dangerous
- Loss of consciousness amounts to GBI and/or Substantial risk of death
- Prosecutors are proving strangulation cases without the victim's testimony
- Winners: good investigation & specialized training

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The Doctrine of Forfeiture by Wrongdoing

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### 400 years ago....

- In 1603, famed English explorer Sir Walter Raleigh was accused of plotting against the King.
- During his trial for treason, the prosecutors relied on written testimony by Raleigh's supposed co-conspirator, Lord Cobham.
- Raleigh demanded Cobham be brought to the courtroom so he could confront his accuser... a demand the judge rejected. Raleigh was convicted and sentenced to death.
- 400 years later, Michael Crawford found himself in a similar situation.
- **Crawford v. Washington, 541 U.S. 36 (2004)**

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D's action demonstrated he was trying to keep the V from testifying. V took 5th

- **Cody v. Commonwealth (2018) 68 Va.App. 638**
- Strangulation case where the defendant called the victim repeatedly from jail and she ultimately took the 5<sup>th</sup>.
- The court allowed V statements to dispatcher (spontaneous) and forensic nurse (medical diagnosis) as exceptions to the hearsay rule.
- The statements to law enforcement were ruled testimonial but ultimately admitted after the court found forfeiture by defendant's wrongdoing.
- Forfeiture can apply when a witness refuses to testify by invoking the Fifth Amendment

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Reversed. Witness unavailable. Forfeiture by Wrongdoing prevailed. V's hearsay statements admissible.

- **State v. Iseli, 458 P.3d 653 (2018, OR)**
- State's burden to show witness is unavailable. But how hard does the state have to try to locate and serve the victim?
- **Court held State did everything it could short of arresting the V.** V was subpoenaed. Maintained telephone contact. Arranged for transportation. Offered hotel room for safety. At last minute, V refused to attend.
- **Yet, failed to show the V was unavailable because it could have gotten a warrant for her arrest.**
- The principle of forfeiture by wrongdoing is fairness. D cannot manipulate court proceedings to evade consequences.
- State argued they should not be required to arrest the V and revictimize an already traumatized crime victim by seeking her arrest as a material witness.
- **Appellate court agreed. Reasonableness does not require state to seek a warrant – just all reasonable measure for securing the victim's attendance at trial.**

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## Everyone Does a Great Job

Your efforts matter.

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## Strangulation charged as Attempted Manslaughter

- **State v. Diaz (2017, LA) 2017 WL 3887341 unpublished**
- V choked twice, causing her to lose consciousness. Second incident he stuffed a plastic bag down her throat. V ran out of the house. Called 911 from a bus.
- The 911 operator told the V to get off the bus because she just called paramedics and she needed to be examined. ☺
- The paramedics tracked down the V and convinced her to be transported to the hospital. ☺
- The officers met the victim at the hospital. After they interviewed the victim (on body cam), they changed the dispatch from domestic abuse battery to attempted murder. ☺
- They also called out crime lab to photograph the victim. ☺
- The officers then searched, located and arrested the suspect. ☺

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**Strangulation charged as Attempted Manslaughter**

- **State v. Diaz (2017, LA) 2017 WL 3887341 unpublished**
- The doctor ordered a CAT scan despite NO visible injuries. ☺
- The prosecutor called Dr. Heather Murphy-Lavoie as the treating physician and an expert. ☺
- Dr. testified that “there were no observable injuries to the victim neck, nor did the V report any problems with her breathing or ability to swallow. ☺
- Dr. Murphy-Lavoie explained, however, that external injuries are commonly NOT observed in cases of strangulation, which was the basis to order a vascular CAT scan for the victim.” ☺
- Despite the v recanting, the prosecutor continued with the case and won. ☺
- The judge sentenced D to 8 year for strangulation and 10 years for attempted manslaughter. ☺

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**Oregon**

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**Need more than scratches to proved assault in the 4<sup>th</sup> degree.**


- **State v. Higgins, 165 Or.App. 422 (2000)**
- Female Wife arrested for assault in the 4<sup>th</sup>. Husband calls 911. Wife admits to slapping V and clawed him. Convicted. Appeals on sufficiency. COA agrees. Reversed.
- Impairment of physical condition (4<sup>th</sup> degree – a LIO crime of assault in the 2<sup>nd</sup> degree) means harm to the body that results in reduction in one’s ability to use the body or a bodily organ for less than a protracted time.
- Scratches and scrapes that go unnoticed by the victim, that are not accompanied by pain and that do not result in the reduction of one’s ability to use the body or a bodily organ for any period of time do not constitute impairment.

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**D strangled the V by the front door then dragged her to the bedroom sufficient for kidnapping.**


State v. Mejia, 348 Or. 1 (2010)

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**Prior DV admissible. Same V. Same conduct.**


State v. Teltworth, 257 Or.App.309 (2013)

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**Statements by victim to aunt 5 days later were admissible as spontaneous statement given on-going threats and demeanor.**

State v. Underwood, 266 Or.App. 274 (2014)

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## Defendant's prior conviction for strangulation admissible to prove intent not propensity.

State v. Logan, 273 Or.App 323 (2015)

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## There is no durational requirement for impairment of airflow.

- **State v. Hendricks**, 273 Or.App. 1 (2015, Oregon).
- The trial court found **up to five seconds of continuous pressure was sufficient**.
- Defendant repeatedly covered the victim's face with a pillow momentarily cutting off her ability to breathe. During one incident, he forcefully covered her face with the pillow for about **five seconds** while simultaneously pinning her against the wall. Defendant was also **threatening to kill her** and the victim **believed she was going to die**.
- On appeal, Defendant claimed there was no proof that the victim suffered any physical injury within the meaning of the statute. He also claimed that the prosecutor should be required to prove more than just blocking a person's nose and mouth.
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- The trial court agreed that the "physical injury" component of the statute **has no durational requirement**
- The appellate court also refused to pronounce a principled distinction between one second, three seconds or even five.
- **The respiratory function, like the cardiac function, is existential – essential for life.**

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## Reversed. Witness unavailable. Forfeiture by Wrongdoing prevailed. V's hearsay statements admissible.

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- State argued they should not be required to arrest the V and revictimize an already traumatized crime victim by seeking her arrest as a material witness.
- **Appellate court agreed. Reasonableness does not require state to seek a warrant – just all reasonable measure for securing the victim's attendance at trial.**

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## Detective qualified as an expert.

- **State v. Wagner**, 319 Or.App. 399 (Oregon, 2022)
- Investigating Detective was permitted to testify as an expert in a strangulation case.
- She testified that strangulation blocks oxygen from getting to the brain and can cause loss of consciousness.
- Some of the signs include petechia and bruising. Other signs are not visible, including dizziness, nausea and urination. Not every victim shows the same signs and some victims may not have any visible injuries.
- She explained a strangled victim can urinate or defecate after strangulation. When someone urinates that victim is as close to death as the victim can get without actually dying.

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## Reversed on Count 1. Insufficient evidence of physical injury – no impairment of breathing? Strangulation upheld.

- **State v. Yerton**, 317 Or.App. 538 (2022, Washington County)
- 11 year old boy strangled by Mom. Angry about dirty bedroom.
- Teacher notices bruising to neck and reports to DHS.
- **Child gets both a forensic interview and a medical examination. Officer described it as petechiae. Doctor described it as petechial bruising – blood vessels bursting from pressure.**
- **Reversed Ct. 1 – Criminal Mistreatment. Strangulation upheld.**
- Insufficient evidence of physical injury which can be proved by substantial pain and/or impairment (of breathing). No evidence of pain and little evidence of impaired breathing.
- Child said he was breathing fast because he was scared. Child seemed protective of Mom and didn't want to go to foster care.
- But Dad said child told him Mom squeezed his neck and "he couldn't breathe". Trial court believed him.
- COA: there is no evidence to allow for the inference that pressure strong enough to leave marks on someone's neck is pressure that is likely to impede the ability to breathe as well. The only direct evidence that the child "couldn't breathe" was excluded as hearsay and for that reason cannot be used.
- **Comment: Need for specialized training, specialized forms and an expert. Impairment can be inferred. Petechiae occurs because blood flow is impaired, usually 20-30 seconds. Child's statement to Dad was a spontaneous statement and/or statement related to physical condition. Focus on airflow as opposed to bloodflow. Petechiae is viewed as a life-threatening injury.**

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## Consent is not relevant to strangulation.

- **State v. Stone**, 324 Or.App. 688 (2023, Oregon)
- Court of Appeal agreed that consent is not an element of the crime of strangulation. Trial court was correct in answering the jury's question about consent.
- D admitted he had the intent to apply pressure to the V's neck and impede airflow and D did not request any instruction on consent.
- Strangulation conviction was upheld.
- Court cited to Doe v. Rector and Visitors of George Mason University, 149 F Supp3d 602, 609 (E.D. Va. 2016) which involved a couple that practiced BDSM, had a contract and safe word. But D continued strangling the V after she wanted him to stop. Court held Vs cannot consent to something that can cause GBI or death. Strangulation is inherently dangerous. No constitutional right to engage in BDSM.


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## Advocacy and the Science of HOPE



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## Let's put strangulation into context


Red Flags  
Power & Control



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### Continuum of Violence



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### Strangulation is about Power & Control



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### Power and Control

- Intimidation?
- Emotional abuse?
- Using isolation?
- Denying & Blaming?
- Using children?
- Privilege, Entitlement?
- Economic abuse?
- Coercion & Threats?



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### Strangulation is terrorizing

- Like drowning, "The panic is mixed with an odd incredulity that this is actually happening. Having never done it before, the body – and the mind – do not know how to die gracefully. The process is filled with desperation and awkwardness. (Banzett, Lansing, Evans, & Shea, 1996.)
- Nonfatal strangulation might well be the equivalent of **water boarding**, widely considered as **torture**. Both leave few marks, both can result in loss of consciousness, both are used to assert dominance and authority over the life of the other, both create intense fear and potentially result in death and both can be used repeatedly, often with impunity. NFS, a Human Rights Issue; Sorrenson, Joshi and Sivitz 2014

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### Most victims believed they were going to die – They are going to be terrified to testify.

Wilbur, et al, 2001: 87% were threatened with death and 70% thought they were going to die.  
Thomas/Joshi, 2014: 99% thought they were going to die.

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### Link to other crimes

- Child Abuse
- Elder Abuse
- Sexual Assault
- Animal abuse

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### Animal Abuse

- 76% of victims experienced strangulation.
- Almost one-third had a history of sexual assault or rape.
- Children were present in the home in 60% of the cases.
- 70% of suspects either had easy access to or owned a firearm.
- 26% had been forced to have sex with the suspect.
- 78% of victims feared they would eventually be killed by the suspect.


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**Advocacy**


A Few Assessment Questions

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**Assessment Question: Yes or No**


Are you providing victims with an educational brochure on domestic violence?

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**Assessment Question: Yes or No**


Are you providing victims with an educational brochure on strangulation?

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**Assessment Question: Yes or No**

- Do victims of strangulation have access to forensic exams in your community?

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**Advocacy and the Science of HOPE**


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**Always ASK and DO MORE**



- You may be the first responder. Eventually, documentation will be critical.
- Victims may be too traumatized to tell you, worried about other things or simply can't remember.
- Victims don't know how to navigate the medical or legal system. Help them. Offer information & tell them their rights.
- Help victims and others understand their level of risk
- Educate victims and others.

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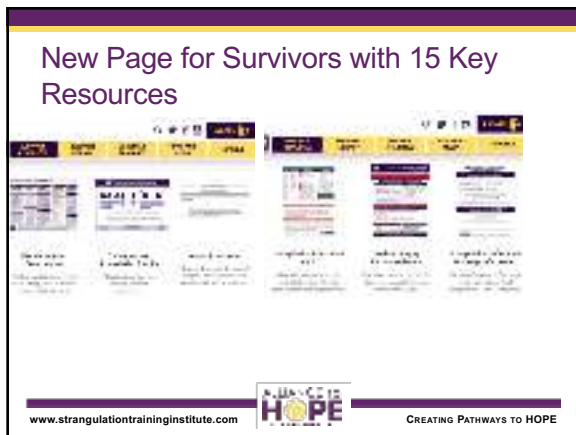
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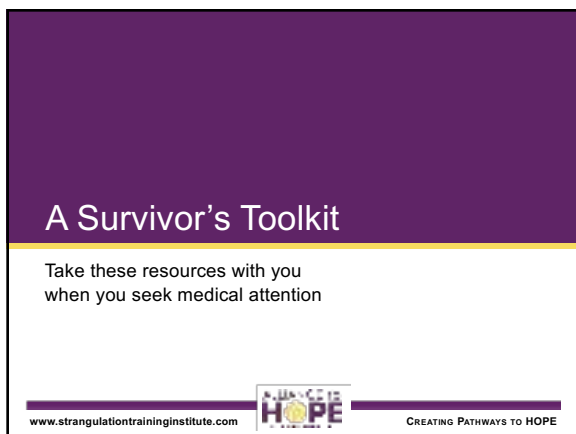
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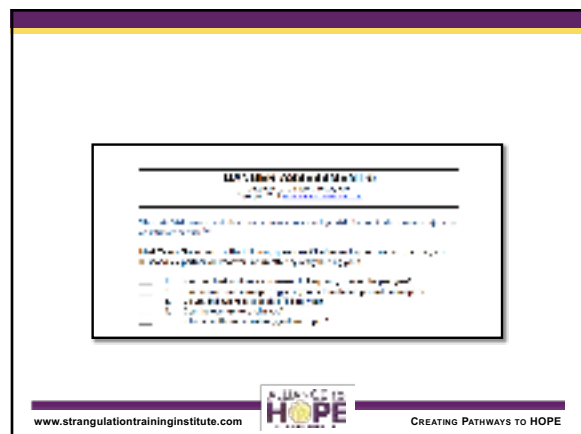
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### Duty to Warn:

- "I have a duty to warn you that strangulation is serious and can cause internal injuries, brain damage and/or delayed health consequences such as strokes, thyroid issues, miscarriage and/or death. Research shows that if you are strangled even one time, you are 750% more likely to be killed by your partner. We strongly encourage you to seek immediate medical attention at an emergency department and ask for support from an advocate."

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### Custom Victim Brochures



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### How to get your own brochure:

- Email [Fernanda@allianceforhope.com](mailto:Fernanda@allianceforhope.com) the following:
  - **High resolution** color logo in png, eps or jpeg (not a scanned logo or downloaded logo from the internet). Send your **Contact information** that you want to appear on the brochure (i.e. for victims to get help)
- You can also access a digital copy of the Alliance Brochure from our website or in the dropbox.

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STRANGULATION ASSESSMENT CARD			
Category	Signs/Symptoms	Definition	Recommendation
S	Swelling	Swelling of the neck	Seek medical attention
	Stridor	High-pitched wheezing sound	Seek medical attention
	Strabismus	Double vision	Seek medical attention
	Strabismus	Double vision	Seek medical attention
	Strabismus	Double vision	Seek medical attention
T	Tracheal deviation	Trachea shifted to one side	Seek medical attention
	Tracheal deviation	Trachea shifted to one side	Seek medical attention
	Tracheal deviation	Trachea shifted to one side	Seek medical attention
	Tracheal deviation	Trachea shifted to one side	Seek medical attention
	Tracheal deviation	Trachea shifted to one side	Seek medical attention
R	Respiratory distress	Difficulty breathing	Seek medical attention
	Respiratory distress	Difficulty breathing	Seek medical attention
	Respiratory distress	Difficulty breathing	Seek medical attention
	Respiratory distress	Difficulty breathing	Seek medical attention
	Respiratory distress	Difficulty breathing	Seek medical attention
A	Altered mental status	Confusion or loss of consciousness	Seek medical attention
	Altered mental status	Confusion or loss of consciousness	Seek medical attention
	Altered mental status	Confusion or loss of consciousness	Seek medical attention
	Altered mental status	Confusion or loss of consciousness	Seek medical attention
	Altered mental status	Confusion or loss of consciousness	Seek medical attention
N	Nausea	Feeling sick to the stomach	Seek medical attention
	Nausea	Feeling sick to the stomach	Seek medical attention
	Nausea	Feeling sick to the stomach	Seek medical attention
	Nausea	Feeling sick to the stomach	Seek medical attention
	Nausea	Feeling sick to the stomach	Seek medical attention
G	Gag reflex	Loss of gag reflex	Seek medical attention
	Gag reflex	Loss of gag reflex	Seek medical attention
	Gag reflex	Loss of gag reflex	Seek medical attention
	Gag reflex	Loss of gag reflex	Seek medical attention
	Gag reflex	Loss of gag reflex	Seek medical attention
L	Laryngeal edema	Swelling of the larynx	Seek medical attention
	Laryngeal edema	Swelling of the larynx	Seek medical attention
	Laryngeal edema	Swelling of the larynx	Seek medical attention
	Laryngeal edema	Swelling of the larynx	Seek medical attention
	Laryngeal edema	Swelling of the larynx	Seek medical attention
E	Emphysema	Swelling of the lungs	Seek medical attention
	Emphysema	Swelling of the lungs	Seek medical attention
	Emphysema	Swelling of the lungs	Seek medical attention
	Emphysema	Swelling of the lungs	Seek medical attention
	Emphysema	Swelling of the lungs	Seek medical attention

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### Updated Imaging Recommendations (link here)



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### New Safety Planning Brochure



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### New Safety Planning Brochure



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### HELPS



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### TBI Resources from Ohio DV Network



Available for download for free at [www.odvn.org](http://www.odvn.org) on the homepage under ODVN Cares

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### Help others Understand Why Victims Recant

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## Recantation Wheel (2011)

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### 5-Stages of Witness Intimidation— Study of Jail Calls conducted Ohio/Washington (2011)

- 1. The Victim Has Decided to Press Charges of Domestic Violence
- 2. The Abuser Appeals to His Victim's Sympathy, Love, Compassion
- 3. The Abuser Creates an "Us Against Them" Bond
- 4. The Abuser Asks Her to Recant Her Statement
- 5. The Abuser and Victim Plan What She Will Say About Not Pressing Charges

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## Findings

- Up to 80% of victims recant.
- Witness tampering is a significant problem.
- Expect it.
- As recognized by the U.S. Supreme Court, "This particular type of crime is notoriously susceptible to intimidation or coercion of the victim to ensure she does not testify at trial" (Davis v. Washington, 126 S.Ct. 2266, 165 L Ed.2d 224, 2006)

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## Help Victims Understand What They Are Experiencing

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## Robbed of HOPE

- Interest started in 1995 when we handled several cases where victims died by suicide and saw a theme in our original study of higher rates of suicidal ideation
- Story of Jessica Haban, 28, died by suicide after long history of severe abuse, TBI and NFS is a reminder why mitigating the impact of trauma is important.
- We need to bring attention to an issue no one likes to discuss
- Prevalence of suicides – 1 in 5 DV victims
- Strangulation victims have a higher rate of suicide ideation – 31%
- Strangulation is a robber of hope
- Evidence-based prosecution even after suicide – pending case, depraved heart murder, stalking, anti-suicide laws, torture, coercive control
- Suicide statutes, torture and coercive control
- Need for advocacy

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## Poly-Victimation Initiative

- Understanding the Trauma People Have Experienced not only in childhood but as adults
- Creating environments that can help traumatized individuals be heard, understood and heal
- Training staff about trauma
- Keeping staff healthy – to give hope
- Developing a screening tool to identify the trauma
- Providing services with kindness
- Integrating the science of HOPE into our work
- How can we make the intake process nice? Kind?

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## Integrating HOPE as a Police Officer

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## Upcoming Trainings

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## Collection of Facebook Live Videos

(Available to view on our Facebook Page)

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## Next Virtual Advanced Course: Every Friday in May 2025



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## New Course - September 2025 Hope for the HOPEGIVERS

- Save the week of September 23, 2025
- Only 40 Spots
- High Peak Camp, Estes Park, Colorado
- Registration will open soon
- Course will be led by Casey Gwinn and our core HOPE team of experts
- This course is for you if you want to be a better HOPEGIVER, understand the science of HOPE, keep your HOPE meter full and help your traumatized victims/offenders heal.

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## Final Comments

Hope is Greater Than Fear.

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## Lessons Learned – In Memory of Casondra Stewart & Tamara Smith



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Thank you for being with us today.  
We are grateful for all you do.

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- [Bill.smock@mac.com](mailto:Bill.smock@mac.com)

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