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Non-Fatal Strangulation and Intimate Partner Violence

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The nature of abuse that victim-defendants have experienced in their intimate partner relationships can reveal a fuller picture of the danger they have been in or, in some cases, continue to be. One type of abuse that is highly significant in the context of intimate partner violence (IPV) is non-fatal strangulation (NFS). An IPV victim who is strangled by her abusive partner – even one time – faces dramatically increased odds that she will become his homicide victim. The literature is settled: strangulation is not only a "red flag" for lethal danger. It may well be the last warning shot (Training Institute on Strangulation, 2019).

Strangulation is an extreme form of power and control. "Many domestic violence offenders and rapists do not strangle their partners to kill them; they strangle them to let them know they *can* kill them—any time they wish. Once victims know this truth, they live under the power and control of their abuser day in and day out" (Civic Research Institute, 2014 at 81).

Survivors of strangulation can experience devastating mental and physical injuries, and delayed death following the event. Life-threatening injury can occur despite no marks on the neck or other observable signs of strangulation. Early detection and treatment are critical, yet victims' experiences are often minimized unless there are visible signs.

Lawyers and others working with victims of IPV must appreciate the deadly consequences of strangulation, its significance in the context of IPV, and the difficulty in detecting and properly treating strangulation injuries.

This memorandum excerpts selected literature on strangulation in IPV, which can affect people of all genders and identities. This resource is intended for defense attorneys and others involved in the representation of criminalized survivors. Bolded text has been added to call attention to key language. This memorandum is intended as a starting point for further research, and is not to be used or interpreted as legal or medical advice.

Descriptions of “Strangulation” or “Non-Fatal Strangulation”

Definitions

“For many years, medical experts and researchers referred to strangulation assaults as ‘attempted strangulation….’ The belief, though unstated in most research, was that strangulation meant death… **Based on the current state of the law and the current research, any intentional effort to apply pressure to the neck in order to impede airflow or blood flow should be viewed as a felony strangulation assault. The perpetrator did not ‘attempt’ the assault. He completed it**…**The preferred terminology by our national faculty and experts is “strangulation” or “non-fatal strangulation.”** When unconsciousness, urination, defecation and/or petechiae is/are present, then near-fatal or near-lethal strangulation would be the appropriate term as the victim suffered a severe, life-threatening injury” (Civic Research Institute, 2014).

“Strangulation describes compression of the neck. More precisely, strangulation interferes with oxygen flow to the brain, either by compression of the carotid arteries or jugular veins (leading to cerebral hypoxia) or by compression of the airways (causing asphyxia), and it may cause reflectory stimulation of the carotid sinus with subsequent bradycardia and hypotension. **According to this description, the definition of strangulation differs from the definition of suffocation, which denotes an accidental or intentional obstruction of the airway at the nose or the mouth.** While hanging involves the body weight of the person concerned, the term “strangulation” usually refers to manual strangulation using hand(s), an arm (e.g., chokehold), or leg(s) to put pressure on the neck or to ligature strangulation using any kind of material tightened around the neck. Partial or interrupted strangulation may be applied deliberately in choking games, erotic asphyxia or combat sports” (citations omitted). (Gascho et. al., 2020).

“Strangulation is defined as “external compression of a person’s neck and/or upper torso in a manner that inhibits that person’s airway or the flow of blood into or out of the head” (Pritchard, Reckdenwald, & Nordham, 2017), and it **generally falls into one of three types**: **manual** (i.e., use of one’s hands), **ligature** (i.e., use of a cord-like object), and **choke hold** (i.e., bent arm from behind (Faugno, Waszak, Strack, Brooks, & Gwinn, 2013)” (Messing, Thomas et. al., 2018).

Strangulation vs. “Choking”

“The act of strangulation is often described by the victim as “being choked.” In contrast to intentional strangulation, the term “choking” refers to internal blockage of the trachea by a foreign object that can occur accidentally or intentionally among individuals who participate in the ‘choking game’ (Strack et

al., 2014). From a medicolegal perspective, it is critical that [emergency department] providers are precise in differentiating attempted strangulation from choking" (Jordan, 2020).

Strangulation is Gendered

"The use of strangulation as an abusive tactic is gendered. The most recent national report using population-based sampling about intimate partner and sexual violence found that **U.S. women were strangled by an intimate partner at 13.14 times the rate of men (9.2% lifetime rate for females compared to 0.7% for males**; Breiding et al., 2014). **The vast majority of cases are female victims strangled by a male partner**. In one study of strangulation among IPV offenders in different-sex couples, male partners used strangulation at five times the rate as female partners (Stansfield & Williams, 2018)" (Messing, Campbell et. al., 2020).

"A review of 300 cases of strangulation from the San Diego City Attorney's Office **revealed that 298 cases involved a male perpetrator and a female victim** (Strack et al., 2001); **and a review of strangulation cases by White and Majeed-Ariss (2018) found that in the 70 cases under examination, 68 involved female victims"** (Lowik et. al., 2022).

Danger and Risks of Strangulation

Lethality

"Today, it is known unequivocally that strangulation is one of the most lethal forms of domestic violence. When a victim is strangled, she is at the edge of homicide. Unconsciousness may occur within seconds and death within minutes" (Strack & Gwinn, 2011).

"Using a case–control design, Glass et al. (2008) were the first to systematically examine strangulation in both attempted and completed femicide records between 1994 and 2000 in 11 cities and showed that prior nonfatal strangulation is an important risk factor for femicide (Glass et al., 2008). Specifically, they found that **the odds of being killed by an intimate partner were 7.48 times higher for women who had been previously strangled by their abusive partner than those who had not**" (Pritchard et. al., 2015).

"Strangulation is used as a 'mechanism of coercive control to instill compliance and dependency over time through a pattern of malevolent conduct' (Brady et al., 2021, p. 2) – it is also a common cause of "domestic violence-related homicide" (Douglas & Fitzgerald, 2014 at p. 231). **Non-fatal strangulation is recognised as a 'red flag' for future serious abuse and fatality (**Douglas & Fitzgerald, 2014, p. 231)" (Lowik et. al., 2022).

"Strangulation, regardless of type, can lead to death within minutes (Hawley, McClane, & Strack, 2001); in the United States**, strangulation is the cause of death for an estimated 10% to 19% of women** and 1% to 9% of men (Sorenson et al., 2014)" (Messing, Thomas et. al., 2018).

Physical Health Effects

"A person who is being strangled can lose consciousness after four to 10 seconds of arterial pressure and have anoxic seizures after six to eight seconds (Kabat & Anderson, 1943); **lose bladder control after 15 seconds and bowel control after 30 seconds; and sustain brain stem damage after 20 seconds and brain death after one to six minutes of pressure (De Boos, 2019)"** (Lowik et. al., 2022).

"Delayed consequences may not emerge for days or weeks after a strangulation episode (Carlson, 2014; Douglas & Fitzgerald, 2020). When the brain is starved of blood and oxygen, different areas of the brain react to different time scales (Birchard et al., 2021). The brain stem and hippocampus are particularly sensitive to a lack of blood flow (Hawley et al., 2001); some cells can survive for days then die, with reports of stroke being delayed for almost two weeks (Levack et al., 2009)" (Lowik et al., 2022).

"Various studies have identified women's loss of consciousness following strangulation: Wilbur et al. (2001) found loss of consciousness in 17% of strangulation cases; Malec et al. (2007) reported loss of consciousness in 76% strangulation cases; Shields et al. (2010) detailed loss of consciousness in 38% of strangulation cases; and Zilkens et al. (2016) recounted loss of consciousness in 8.9% of strangulation cases. **These statistics indicate that many victim/survivors of strangulation have likely acquired a brain injury (Rajaram, 2020; Valera et al., 2003) - 'neurological damage, leading to possible cognitive and behavioural changes' along with 'the risk of significant psychological trauma'** (Birchard et al., 2021, p. 4)**"** (Lowik et. al., 2022).

"Surviving strangulation is not without consequence. Nonfatal strangulation is associated with a variety of immediate and persistent negative health effects. Physical health effects include traumatic brain injury (Kwako et al., 2011); **stroke** (Joshi, Thomas, & Sorenson, 2012; Malek et al., 2000); **miscarriage** (Strack et al., 2001); **memory and neurological difficulties** (Mcquown et al., 2016; Pritchard et al., 2016; Strack et al., 2001; Wilbur et al., 2001); **and neck, throat, and respiratory problems** (e.g., pain, difficulty breathing, and swallowing) (Joshi et al., 2012; Mcquown et al., 2016; Strack et al., 2001; Wilbur et al., 2001)" (Messing, Thomas et. al., 2018).

Mental Health Consequences and Other Detrimental Effects

"**In many [strangulation] patients, a social services consult will be appropriate, as many chronically battered patients suffer from profoundly poor self-esteem and major depression. These women may**

experience overwhelming despair after the violent act of being strangled and may even exhibit suicidal ideation; suicide precautions in these patients are prudent" (McClane et. al., 2001).

"Victims of domestic violence routinely experience psychological disorders. **Anxiety, depression, substance abuse, suicidal ideation, and sleep disorders are common among this population**. The study **subjects reported depression, personality changes, memory loss, insomnia, nightmares, and anxiety; symptoms associated with Post Traumatic Stress Disorde**r (PTSD). **Many of the first time strangulation victims reported that they had experienced one or more of the symptoms following the first attack**" (Smith et. al., 2001).

"Furthermore, **experiencing nonfatal strangulation can have devastating psychological effects** (Smith et al., 2001). **Not only is strangulation a symbol of power and control over the victim's life or death but being strangled is incredibly painful as well. Following the assault victims report experiencing nightmares, depression, post-traumatic stress disorder, and suicide ideation** (Smith et al., 2001). Smith, Mills, and Taliaferro (2001) also considered the long-term effects of repeated strangulation, suggesting **that multiple strangulation attempts on separate occasions are associated with increased frequency of negative symptomology that affects physical and mental health"** (Pritchard et. al., 2015).

Use of Strangulation to Exert Power and Control

"Survivors of non-fatal strangulation have known for years what prosecutors and civil attorneys are only recently learning: **Many domestic violence offenders and rapists do not strangle their partners to kill them; they strangle them to let them know they can kill them—any time they wish. Once victims know this truth, they live under the power and control of their abuser day in and day out**" (Civic Research Institute, 2014).

"With nonfatal strangulation, it is possible to bring someone to the point of believing death is imminent, but then stop, either before or immediately after they lose consciousness (McClane et al., 2001; Thomas et al., 2014; Vella et al., 2017). **In doing so, the abusive partner conveys a powerful and credible threat of harm—in this case, death—which is an essential element of establishing and maintaining coercive control** (Dutton & Goodman, 2005)" (Messing, Thomas et. al., 2018).

"Nonfatal strangulation has been identified as a form of coercive control (Thomas et al., 2014). Based on the findings of this study, **strangulation is associated with coercive control; the odds of police officers identifying at least one coercive controlling behavio**r (i.e., intimidation, harassment, terrorizing pets/children, stalking, or restricting use of communication) **are 70% higher in cases where they also identify strangulation**" (Messing, Thomas et. al., 2018).

"Using Dutton and Goodman's (2005) conceptualization of coercive control, Thomas, Joshi, and Sorenson (2014) conducted focus groups and interviews with 17 women staying at a domestic violence shelter. Jealousy, fear of ending the relationship, and failure to meet the offender's demands were common triggers of strangulation by their partners**. Strangulation was not always an attempt to kill the victim. The women perceived their partners using strangulation as a way to exert power and control over them during and after the assault**. Research has shown that **experiencing strangulation once can instill enough fear in the victim that the abuser can maintain control without ever having to commit subsequent abuse** (Johnson & Leone,2005)" (Pritchard et. al., 2017).

"Nonfatal strangulation is a way an abusive partner can "set the stage" by sending the message that he can and perhaps will kill the victim—a credible threat that is intended to induce compliance. The process can be illustrated through statements made by men while strangling their female partners: 'I can easily cut off your air supply by shutting off your carotid artery' (perpetrator was a physician); 'I am going to commit an OJ on you and leave no marks' (perpetrator was in the military); 'I am going to pop your neck"'(perpetrator was a laborer) (Strack et al., 2001). **Knowing that he has the knowledge and skills to follow through with the threat can contribute to her appraisal of the threat as credible"** (Thomas et. al., 2014).

"**By confirming an empirical link between death threats and ongoing use of nonfatal strangulation, the present research illustrated how this violent behavior is part of a system of coercive control used to dominate intimate partners through intimidation and fear,** a compelling argument developed by Dutton and Goodman (2005). Previous research used this conceptualization of nonfatal strangulation (i.e., Thomas et al., 2014), but the present research is unique in using a large sample of IPV perpetrators, tracking their extreme forms of coercive control over the course of 18 months. **The results consistently showed a robust empirical relation between perpetrators' death threats and subsequent escalation into nonfatal strangulation as a way of maintaining control through fear and intimidation. Taken together with prior research on this form of violence** (e.g., Anderson, 2009; Joshi et al., 2012)**, it seems clear that nonfatal strangulation is part of a dynamic mechanism of coercive control that fosters domination in intimate relationships (**Stark, 2007)" (Stansfield and Williams, 2018).

Escalation of Violence in Intimate Partners

"[In the 300 attempted strangulation cases a] significant number (89%) of these couples also had a prior history of domestic violence. The prior history finding suggests that victims in this study had experienced **repeated violence over a significant period of time and that the violence had escalated to the point of attempted strangulation—a potentially lethal level of violence**. Given that most victims were still living with the suspect in ongoing relationships with children, the victims in the study were clearly at high risk for

future violence. **In the first case that prompted this study, the suspect's violence escalated to murder when 'choking' didn't control the victim**" (Strack, McClane, et. al., 2001).

"In addition to prevalence estimates, Wilbur et al.'s (2001) study was also influential in defining the occurrence of strangulation within the cycle of violence. Their results indicated that **abuse escalates over time, with strangulation typically occurring later in the progression of violence in the relationship**. Threats of death were common among the women who had been strangled, with 87% reported being threatened. The majority experienced physical and verbal abuse in addition to the strangulation (68%). **Threats and co-occurrence of other forms of violence along with strangulation is also evident in more recent studies** (Messing et al., 2014). For instance, in their study of 432 women recruited at the scene of police-involved intimate partner violence incidents, Messing, Thaller, and Bagwell (2014) found that **those who had experienced sexual abuse or forced sex were also more likely to experience strangulation and have their life threatened"** (Pritchard et. al., 2015).

Challenges to Detection of Strangulation

Physical Signs of Strangulation May Not Be Visible

"There are **several unique aspects of nonfatal strangulation that hinder detection by police, health care providers, and other first responders thereby furthering its effectiveness as a tool of coercive control**. First, the **physical injuries caused by nonfatal strangulation often are invisible** to the naked eye; detection requires strategies such as using alternative light sources (Holbrook & Jackson, 2013). When **bruising and other marks are visible on the skin, they often do not appear until days after the assault** (Armstrong & Strack, 2016). Similarly, the **myriad other physical effects associated with strangulation are often delayed**; when they do appear—regardless of timing—**neither health care providers nor survivors themselves are likely to connect the effects to the strangulation incident** (Taliaferro, Hawley, McClane, & Strack, 2009)" (Messing, Thomas et. al., 2018).

"One must keep in mind that the seriousness of the internal injury may take a few hours to be appreciated, and delayed death has been reported" (Hawley et. al., 2001).

"Domestic violence **strangulation can be fatal without any external evidence of injury on the skin of the neck**... Without external evidence of skin injury, an autopsy will be conducted to rule out drug overdose, and the injury of strangulation will not be found until the neck dissection is carried out, ordinarily at the end of the case" (Hawley et. al., 2001).

"**Of particular concern to emergency department (ED) providers is the recognition of survivors of attempted strangulation, as they frequently have no visible external signs of trauma**. **In a groundbreaking study** conducted by Strack, McClane, and Hawley (2001), **only 50% of strangulation survivors had any visible injuries and only 15% of that population had an injury of sufficient quality to be used as photographic evidence.** The lack of visible injury in the patient with nonfatal strangulation has been supported in subsequent studies (Joshi, Thomas, & Sorenson, 2012; Matusz et al., 2020; Pritchard, Reckdenwald, & Nordham, 2017). In addition to a nonvisible injury, patients may not openly disclose that attempted strangulation was part of the assault..." (Jordan et. al., 2020).

Survivors Not Believed Due to Common Reactions Post-Strangulation

"[E]ffects such as confusion, memory loss, and panic can compromise the credibility of a survivor's story (McClane et al., 2001)" (Messing, Thomas et. al., 2018).

"Patients who do present to the [emergency department] ED and **report being strangled are often under-evaluated and frequently dismissed as only being drunk, hysterical, or hyperventilating**. Their description of the attempted strangulation **is often viewed as an exaggerated claim and not addressed with a clinically appropriate workup, unless visible markings** (fingernail markings, erythema, ecchymoses, etc.) to the neck are apparent. **The patient may be considered by the medical staff to be unreliable, or labeled as emotionally labile**. Subsequently, other **legitimate claims may be dismissed because of perceived "emotional instability.** If there is any evidence or admission of drug or alcohol use—even if the patient is not intoxicated— staff may be even more biased against her" (McClane et. al., 2001).

"With training, emergency medical services and law enforcement can learn to **screen an individual for strangulation injuries when, for example, a domestic violence victim appears confused or intoxicated**, since victims of strangulation may experience loss of consciousness, paralysis, difficulty speaking (sore throat and difficulty swallowing), memory loss, and headaches (Smith et al., 2001). **Victims may not only be physically unresponsive or difficult to communicate with, but also experiencing PTSD symptoms related to the fear of death and/or shocking reality of the extreme coercive control recently exerted upon them** (Joshi et al., 2012; McClane et al., 2001; Smith et al., 2001; Thomas et al., 2014)" (Pritchard et. al., 2015).

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