



Sacred Bodies, Sovereign Voices

The Science, Forensics, and Cultural Impact of Strangulation

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Cover Art

A rendition of Micah McCarty's- Makah carved mask for WomenSpirit Coalition by concept artist Audrey Hirakawa.

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WomenSpirit Coalition

Who We Are

We envision a nation where Native women are treated with honor and respect, where she is protected under the law, and her personal sovereignty is never compromised.

Washington State's Official Tribal Coalition-WA State Native American Coalition Against Domestic Violence and Sexual Assault- WSC

WomenSpirit is the official Department of Justice and Office on Violence Against Women Tribal Coalition. WSC serves tribal communities and tribal programs by providing technical assistance, training and consultation on matters related to domestic violence, sexual assault, dating violence, stalking, and strangulation.

Sayu'ʔ X Wey Family Safety Center

The Sayu'ʔ X Wey Family Safety Center (SFSC) provides victim-centered direct services to Native victims and survivors of domestic violence, sexual assault, dating violence, and stalking. Located in Sequim, WA, the Family Safety Center offers services that can be replicated for tribes across the state. SFSC is affiliated with Alliance for HOPE International Family Justice Centers, which are recognized globally. It is also one of the first Native/Indigenous models of its kind in existence today.

Land Acknowledgement

Honoring the Connection Between Land, Our Bodies, and Sovereignty

It is important to acknowledge that the land now known as Washington State has been the traditional, ancestral, and unceded territory of various tribes and bands whose cultures are deeply rooted here since time immemorial. We express our gratitude to the original and current caretakers of these lands and waterways.

Equally important is honoring their enduring presence, stewardship, and connection to the living earth in these regions. The Indigenous peoples of Washington State each have unique histories, languages, and traditions.

The 'rape of Native lands' is often used to metaphorically represent the violent and exploitive history of land theft and environmental destruction inflicted upon Indigenous people through colonization.

Recognizing the deep ties between land, body, and sovereignty in Native communities intersects with the epidemic crisis of sexual violence against Native women, rooted in colonialism and perpetuated by structural, institutional, and cultural racism and systemic legal failures.

We acknowledge that we are on stolen lands and commit to supporting the sovereignty of the Indigenous communities, amplifying Native voices, and taking meaningful action toward justice and reconciliation.

Forward

Honoring the Contributors of this Resource

Violence against Indigenous women and communities is not a new crisis. It is a legacy of colonization, systemic injustice, health inequity, and the ongoing challenge to tribal sovereignty. Among the most lethal and least understood forms of violence in tribal communities is strangulation, a tactic used to exert control, instill fear, and silence victims.

In tribal communities, where jurisdictional barriers and historical trauma compound the challenges of response, programming, and prevention, addressing strangulation requires more than technical expertise—it demands cultural relevance, community leadership, and survivor-centered care.

This resource is the outcome of a powerful collaboration between WomenSpirit Coalition, Gael Strack, Training Institute on Strangulation Prevention, and Leslie Hagen, National Indian Country Training Coordinator at the U.S. Department of Justice.

It converges their technical expertise, legal acumen, and cultural epistemology. We offer this resource with deep respect for the tribal communities it serves and with gratitude to the survivors, elders, trainers, and advocates whose voices and experiences have shaped its content. May it be a tool for transformation, a guide for action, and a step toward restoring balance and harmony in our communities.

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Introduction

Purpose Statement

This resource is designed to provide tribes and tribal programs—including advocates, law enforcement, healthcare professionals, and legal personnel—with culturally informed knowledge and practical skills to identify, respond to, and prevent strangulation-related violence.

We recognize the unique experiences of Native people and the ongoing impact of violence on Native women, their families, and communities.

We honor their voices and resilience and affirm their right to empower themselves through cultural safety, Indigenous justice, and traditional healing practices.

Some Key Takeaways are:

- **Culturally Informed Approach:** Understanding and respecting Indigenous cultural values, traditions, and sovereignty in addressing strangulation-related violence.
- **Historical & Social Context:** Recognizing the unique legal, historical, and social realities of Indigenous communities, which are essential for effective intervention and justice.
- **Indigenous-Centered Justice:** Prioritizing Native survivor safety and justice through culturally safe and community-driven healing strategies.



Core Objectives

Legal Recognition of Invisible Injuries and the Severity of Strangulation

Develop the ability to recognize the often unseen injuries associated with strangulation, including identifying it as a felony offense, understanding its classification as a high-lethality assault, and contextualizing its impact within the framework of historical trauma.

Legal and Medical Considerations in Strangulation Response

Understand the legal and medical aspects of strangulation in tribal communities, including jurisdictional issues, evidence documentation, VAWA's role in tribal authority, and best practices for medical evaluation.

Understanding the Intersection of Sexual Assault and Strangulation

Recognize the link between sexual assault and strangulation to strengthen culturally informed, trauma-responsive support and improve legal and medical outcomes in tribal communities.

The Neuropsychological Consequences of Strangulation

Examine the neurological effects of strangulation, recognize early and delayed symptoms, and ensure culturally responsive assessments and support for survivors in tribal communities.

Psychological Aspects of Strangulation for Victims and Perpetrators

Analyze the psychological effects of strangulation on victims, particularly its connection to lateral violence and the role of shame in their trauma responses. Recognize the long-term mental health consequences and understand perpetrators' motivations, as strangulation indicates escalating violence and serves as a tool of domination.

Overview

Invisible Injuries

Currently, there are 23 tribal coalitions in the U.S. that support 240 tribal victim service providers (Alliance of Tribal Coalitions to End Violence, n.d.). However, there are no publicly available national statistics that specifically identify the number of Native American women who have experienced strangulation in abusive relationships.

Wider data reveal that 58% of Native women have experienced violence in their lifetimes, which may include physical assaults involving strangulation by intimate partners (Centers for Disease Control and Prevention, 2025).

The lack of data does not imply that harm is absent; rather, it means that the invisible injuries are overlooked. These invisible injuries are often exacerbated by intergenerational trauma, historical violence, and cultural disconnection. Data that disregards tribal context fails to capture the complex ways in which violence affects and is experienced by Native women and their communities.

Legal Recognition

This study analyzes 300 non-fatal strangulation cases and demonstrates how victims often present with minimal visible injury despite high lethality risk, underscoring the need for improved legal recognition and documentation of strangulation in criminal proceedings (Strack, McClane, and Hawley (2001).

In recent years, many states and federal jurisdictions have classified strangulation as a felony offense, acknowledging it as a lethal form of abuse that often leaves no visible injuries (Training Institute on Strangulation Prevention, 2020).

VAWA reauthorizations have strengthened tribal authority to prosecute non-Native offenders for crimes such as domestic violence and strangulation within participating tribes. Legal recognition of strangulation is crucial for justice; however, without full tribal sovereignty, sufficient resources, and culturally safe enforcement, Native survivors remain at risk. Addressing this gap is vital for healing.



Injury Where Blood Does Not Flow

Meaning and Cultural Significance

Culture is an integral part of every person's soul. It is inseparable from our existence as human beings. When the culture or soul of one group is oppressed, all cultures experience oppression, necessitating healing for collective soul wounds to achieve liberation (Duran, Firehammer, and Gonzalez, 2008).

The phrase "injury where blood does not flow" is notably used by Eduardo Duran and Judith Firehammer. In their work on Indigenous mental health, this powerful metaphor, rooted in Native epistemologies, describes the deep psychological, emotional, or spiritual soul wounds of intergenerational trauma (Duran, Firehammer, and Gonzalez, 2016).

These soul wounds do not manifest as physical injuries, yet they still cause significant suffering. Although they are invisible, they continue to have a profound impact on tribal communities.

If this deep emotional and spiritual soul wounding is not properly addressed these "bloodless injuries" often pass from one generation to the next, affecting descendants who will inevitably face and perpetuate a range of psychological and spiritual distress in the future (Duran, Firehammer, and Gonzalez, 2008; Powder, 2022).

In tribal communities, strangulation may signify lateral violence, reflecting the physical and spiritual impact of soul wounds among members.

Reframing the Issue

In Native contexts, strangulation assault can be reframed through the Indigenous concept of "injury where blood does not flow." In many Indigenous languages, the term for "breath" is often associated with "spirit" or "soul," reflecting a perspective where breath is considered sacred and essential to life.

This connection powerfully underscores that breath is not just physical but a spiritual connector to ancestors and land. For Native people, breath is closely tied to consciousness, encompassing one's spirit and identity (Whalen, Lewis, and Gillson, et al., 2022).

Additionally, traditional languages encode sacred concepts, such as breath and spirit, with profound cosmological significance. For example, *Sayu'?* X Wey (saw-yew-hah-way) is a Coast Salish word that translates to life's breath that moves one forward (WomenSpirit Coalition, 2025).

In Oglala and other Sioux nations, individual mind and consciousness are believed to emerge at the moment when a fundamental force called the "Great Mystery" breathes the spirit into a human body at birth (Holliday, 2021).

Many Algonquian and Athabaskan languages view breath as the animating force of life, invoked in healing and ceremonial practices. When a Native victim is strangled, their soul is taken, spirit silenced, identity erased, and ties to ancestors severed.

Why It Matters

- **Ceremonial relevance:** Breath is central in smudging, pipe ceremonies, and song—each breath is a prayer.
- **Healing and trauma:** Understanding breath as spirit helps reframe strangulation, silencing, and trauma as spiritual violations.
- **Language as medicine:** Revitalizing Indigenous languages restores access to sacred concepts like breath, enabling deeper healing and identity reclamation.

Situated in Lateral Violence

Strangulation frequently manifests as a form of lateral violence, representing harm within Native communities that originates from colonization, boarding schools, and cultural erasure. The act of restricting breath symbolically reflects the centuries-long historical silencing.

Lateral violence, also known as horizontal violence or infighting, refers to aggressive behavior within systemically exploited groups and is widely recognized as a consequence of internalized historical and contemporary oppression (Jaber, et al., 2022).

Lateral violence has its origins in the traumatic and oppressive environments of boarding and residential schools, where violent tactics and abusive behaviors were imposed upon Indigenous children. Colonial oppression continues to serve as the primary cause of lateral violence within Indigenous communities (Root, 2024).

Scholars and Indigenous researchers emphasize that lateral violence is not a cultural trait but a colonial wound — a predictable outcome of historical trauma, forced assimilation, boarding schools, and ongoing structural inequities.

Bridging Understanding

In Western forensic science frameworks, strangulation is regarded as a critical indicator of potential lethality, serving as a stark warning sign of escalating violence and danger. From an Indigenous cosmological perspective, strangulation is interpreted as a profound disruption in the spiritual web of life, signifying not only physical harm but also a deep violation of interconnectedness and harmony within the community and the natural world.

“We carry the injury where blood does not flow but we also carry the medicine.”

Using the metaphor "injury where blood does not flow" describes the deep violation that is invisible yet profoundly wounding. It assists victims and survivors in identifying what Western frameworks might overlook: the wound of the soul--individual and collective.

Strangulation, in this context, becomes a metaphor for:

- **Silencing:** The literal cutting off of breath parallels the historical silencing of Native voices, languages, and spiritual practices.
- **Control and Erasure:** It reflects the power dynamics of colonization—where autonomy and identity were forcibly suppressed.
- **Intergenerational Impact:** Trauma from violence, including strangulation, can affect parenting, relationships, and community cohesion for generations.

By integrating Western analytical approaches with Indigenous cosmologies, we can develop a more comprehensive response to strangulation for advocacy in tribal communities. This perspective views Native women not only as victims of violence and crime but also as carriers of sacred breath, whose healing contributes to restoring balance in Indigenous communities.

Colonial Legacies that Enable Violence Against Native Women

Patriarchal Disruption of Tribal Societies

Before colonization, numerous Indigenous communities exemplified matrilineal and egalitarian values, empowering women to take on leadership roles and play pivotal parts in both spiritual and social spheres. The advent of European colonization, however, forcibly imposed patriarchal norms that systematically stripped women of their status and autonomy. This profound shift not only undermined their roles but also laid the foundation for gender-based violence, including the alarming prevalence of strangulation, by relegating women to positions of subordination.

Sexual Violence as a Tool of Conquest

Strangulation frequently occurs alongside sexual assault, and sexual violence was systematically employed during colonization to instill fear and destabilize indigenous tribes. Native women were specifically targeted due to their vital role in maintaining tribal populations. This troubling legacy continues today, with over 85% of sexual violence against Native women being perpetrated by non-Native individuals.

Jurisdictional Gaps and Legal Impunity

Colonial-era laws, such as the Major Crimes Act and Public Law 280, deprived tribes of full legal authority over crimes committed on their lands, particularly those involving non-Natives. This created a legal vacuum in which crimes like strangulation and other violent acts often go unpunished, emboldening abusers and perpetuating cycles of violence.

Boarding Schools and Intergenerational Trauma

The forced removal of Native children to boarding schools severed cultural ties and introduced abuse, including physical violence that sometimes involved strangulation-like tactics (e.g., choking as punishment). These traumas ripple through generations, affecting relationships, parenting, and vulnerability to violence.

Legal & Medical Considerations

Strangulation in a tribal context raises urgent legal and medical considerations deeply intertwined with sovereignty, access to care, and systemic invisibility. Addressing it requires cultural humility and respect for Indigenous protocol, ways of knowing, and healing.

The case *Cherokee Nation v. Georgia* (1831) established that tribes are recognized as "domestic dependent nations" with inherent self-governing powers. This grants them the authority to regulate their members, enact laws, and establish courts. However, their jurisdiction over non-members is limited unless Congress explicitly grants them that power.

What It Means

- Domestic: Tribes exist within the boundaries of the United States.
- Dependent: Tribes rely on the federal government for certain protections, resources, and recognition.
- Nations: Tribes are sovereign entities with their own governments, laws, and cultural identities.

This status establishes a trust relationship in which the federal government is responsible for protecting tribal interests while also placing limitations on tribal legal authority, particularly in criminal matters.

The status of tribes as domestic dependent nations creates a tension. While they have inherent sovereignty, this sovereignty is limited by federal oversight. Federal systems are often slow, underfunded, and culturally disconnected.

In cases of strangulation, this limitation means that tribes may not have all the necessary legal tools to protect their citizens, even though they are in the best position to understand the cultural and community context of the violence.

The limitations that hinder tribes from fully safeguarding their communities place them in an untenable position, exposing significant flaws in the system. Many tribal leaders and

legal scholars assert that, although the current framework has historical significance, it is both outdated and paternalistic.

Intersection with Medical Realities

The “domestic dependent nation” status limits tribal autonomy in ways that directly affect the medical treatment of strangulation. Survivors face not just physical harm, but systemic neglect. Here's how the legal status intersects with medical realities:

A. Access to Forensic Medical Care

Strangulation often leaves no visible injuries, requiring specialized medical evaluation (e.g., CT scans, laryngoscopy, forensic nursing). As domestic dependent nations, tribes depend on federal funding and infrastructure, which is often inadequate or delayed. Many tribal clinics lack forensic nurses or strangulation protocols, meaning victims may not receive a proper diagnosis or documentation.

Impact: Without medical evidence, strangulation cases are harder to prosecute, and survivors may not receive life-saving care.

B. Delayed or Missed Diagnoses

Symptoms like memory loss, voice changes, or dizziness may be misattributed to other causes or dismissed entirely. The “dependent” status means tribes cannot always control or expand their medical services without federal approval or resources.

Impact: Survivors may suffer long-term neurological or vascular damage without ever being diagnosed or treated.

C. Cultural Disconnect in Medical Response

Many survivors experience intergenerational trauma, distrust of Western medicine, or prefer traditional healing practices. Medical providers unfamiliar with tribal culture may fail to build trust, leading to underreporting or refusal of care. As domestic dependent nations, tribes have limited autonomy to integrate culturally grounded care into federally regulated systems.

Impact: Survivors may avoid medical help altogether, leaving strangulation injuries invisible and untreated.

Understanding VAWA & Tribal Sovereignty

Connecting the issue of strangulation in tribal communities to the Violence Against Women Act (VAWA) highlights how federal law can both empower and restrict tribal responses to intimate partner violence.

VAWA is not just a law; it is a vital resource for survivors and a means of asserting tribal sovereignty. Each reauthorization has brought us closer to fully acknowledging the humanity and legal rights of Native people. However, ongoing advocacy is crucial to ensure that tribes have the power, funding, and respect necessary to protect their communities.

VAWA is a powerful tool—but its impact depends on tribal sovereignty, infrastructure, and culturally grounded implementation. Strangulation cases expose the urgency of making VAWA work for Native survivors.

VAWA promotes solutions to violence that are led by tribal nations, rather than imposing a one-size-fits-all federal approach. It recognizes that tribal nations are best equipped to understand and address the unique needs of their communities.

VAWA highlights the importance of using culturally appropriate approaches to address violence in tribal communities. This involves incorporating traditional healing practices, indigenous languages, and community-based advocacy into forensic and legal systems.

Survivors are more likely to seek help when the services provided align with their values and traditions, particularly for less visible injuries, such as strangulation. To effectively utilize VAWA in addressing strangulation, tribal communities require:

- Increased funding for forensic medical services
- Legal support to codify and prosecute strangulation
- Training for tribal law enforcement and healthcare providers
- Federal accountability to uphold the trust responsibility.

This represents a shift from dependency to empowerment, allowing tribes to take the lead under VAWA.

VAWA Passage & Reauthorizations

The Violence Against Women Act (VAWA) was first enacted as part of the Violent Crime Control and Law Enforcement Act of 1994. Authored by then-Senator Joe Biden, it was the first significant federal legislation aimed at addressing domestic violence, sexual assault, dating violence, and stalking. VAWA established funding streams for various initiatives, including:

- Victim services
 - Law enforcement training
 - Prosecution of gender-based violence
 - The creation of the Office on Violence Against Women (OVW) within the Department of Justice
- A. *2000 Reauthorization*: Expanded protections for immigrant survivors by allowing them to self-petition for legal status under the U visa. It also strengthened support for victim services and transitional housing.
- B. *2005 Reauthorization*: Recognized the unique needs of tribal communities, rural areas, and LGBTQ+ survivors. It established the Tribal Domestic Violence and Sexual Assault Coalitions Grant Program and funded culturally specific services and prevention efforts.
- C. *2013 Reauthorization*: Marked a significant expansion of tribal jurisdiction. It allowed tribes to prosecute non-Native offenders for domestic violence, dating violence, and violations of protection orders under the Special Domestic Violence Criminal Jurisdiction (SDVCJ). This was a major step forward in restoring tribal sovereignty in the realm of criminal justice.
- D. *2022 Reauthorization*: Tribes can prosecute non-Native individuals for serious crimes like child abuse and sexual assault. The Tribal Special Assistant U.S. Attorney Program improves collaboration between tribal and federal prosecutors. More financial resources for tribal victim services and culturally relevant healing programs. Support for Underserved Communities and enhanced assistance for elderly survivors and individuals with disabilities.

Washington State Laws & Tribal Codes

In the state of Washington, felony strangulation is prosecuted as Assault in the Second Degree in accordance with RCW 9A.36.021. The codes governing such offenses vary among tribal nations.

Felony Strangulation

Strangulation is classified as Assault in the Second Degree, which is a Class B felony. It is defined as either: “Knowingly inflicting bodily harm that intentionally causes pain or agony equivalent to that produced by torture” or “Assaulting another person by strangulation or suffocation.”

The maximum sentence for this offense is up to 10 years in prison and/or a fine of \$20,000, unless the crime is enhanced by sexual motivation, in which case it becomes a Class A felony. According to the Washington Pattern Jury Instructions (WPIC 35.53), strangulation is defined as “the compression of the neck that obstructs blood flow or breathing.”

Tribal Codes and Felony Strangulation

Federally recognized tribes possess sovereignty and have the authority to enact their own criminal codes. Many tribes define strangulation under the category of felony assault, often aligning closely with state definitions. However, tribal courts have limitations on sentencing unless enhanced by specific legislation.

Tribal Law and Order Act (TLOA): This act permits sentences of up to 3 years per offense, fines up to \$15,000, and a maximum of 9 years total, if due process standards are followed.

The Violence Against Women Act (VAWA) 2013 & 2022 allows tribes to have jurisdiction over non-Native offenders for crimes like strangulation, but only if they opt into the *Special Domestic Violence Criminal Jurisdiction (SDVCJ)*.

Legal Framework, Challenges, and Opportunities Supporting Tribal Felony Prosecution

Federally recognized tribes possess inherent sovereignty to govern their legal systems. However, tribal courts are subject to federal limitations unless they implement enhanced tribal codes and sentencing provisions aligned with state laws, VAWA 2013 & 2022, SDVCJ, and TLOA.

A. *What Is SDVCJ?* The Special Domestic Violence Criminal Jurisdiction (SDVCJ) enables federally recognized tribes to prosecute non-Native individuals for specific crimes committed on tribal land. These crimes include:

- Domestic violence
- Dating violence
- Violations of protection orders

Prior to the enactment of SDVCJ, tribes lacked the authority to prosecute non-Native offenders, even when the crime occurred on tribal territory and the victim was a tribal member. This jurisdictional gap resulted in many violent acts going unpunished. SCVDJ was established in VAWA 2013, and expanded in VAWA 2022 to include:

- Sexual assault
- Child abuse
- Stalking
- Sex trafficking
- Obstruction of justice
- Assault of law enforcement or court personnel

B. *Requirements for Tribes to Exercise SDVCJ.* To implement SDVCJ, tribes must meet certain due process standards, including:

- Providing defense counsel for indigent defendants
- Ensuring impartial judges
- Maintaining public criminal laws and procedures
- Recording court proceedings

- Providing jury trials that reflect the community

Not all tribes have opted into SDVCJ due to resource limitations, legal complexities, and infrastructure gaps, such as the lack of public defenders and court recording systems. Some tribes experience federal delays in funding or technical assistance.

Examples of Tribal Courts in Washington integrating Codes to Address Strangulation Felony



The Tulalip Tribal Court operates under a comprehensive criminal code. While strangulation may not be recognized as a separate offense, it is frequently prosecuted as “Aggravated Assault” or “Domestic Violence Assault” when it involves substantial bodily harm or intent to cause serious injury.

Tulalip has adopted the Violence Against Women Act’s Special Domestic Violence Criminal Jurisdiction (SDVCJ), which allows for the prosecution of non-Native offenders for crimes like strangulation committed on tribal lands.



The Colville tribal code includes felony-level assault provisions, which cover cases of strangulation when it results in serious bodily injury or is committed with the intent to intimidate or control. Additionally, the Colville Tribal Court has received federal funding to support forensic documentation and victim services, which strengthens its ability to prosecute high-lethality crimes such as strangulation.

The Yakama Nation's criminal code includes offenses for "Assault in the First Degree" and "Assault in the Second Degree." These charges can be applied to cases of strangulation, depending on the severity of the act and the intent behind it. The tribe has



also engaged in federal initiatives aimed at enhancing tribal justice systems, which include training specifically focused on responding to incidents of strangulation.

Psychological Harm, and Survivor Empowerment

Strangulation is a lethal assault and a psychological weapon. Protecting confidentiality, honoring consent, and upholding survivor rights are essential for restoring power, dignity, and safety for survivors within legal and cultural frameworks.

Strangulation in intimate partner violence is more than just a physical assault; it serves as a powerful psychological weapon. Survivors often describe this experience as the moment they believed they would die. This act instills deep terror, creates lasting trauma, and often leads to hidden brain injuries.

Strangulation is rarely an impulsive act; it is a deliberate display of control over life and death. Perpetrators often use it to convey a powerful, unspoken message: "I control whether you live or die." Research shows that this method is frequently employed to instill fear, silence victims, and reinforce their dependency. It represents a tangible form of psychological terror and reflects a pattern of coercive control rather than just a one-time act of violence.

Understanding this dynamic is crucial for advocates, law enforcement, and healthcare providers, as they must recognize strangulation as attempted homicide, rather than merely referring to it as "just choking."

In this context, confidentiality, consent, and survivor rights are crucial for survivor empowerment. Confidentiality allows survivors to speak about their experiences with strangulation without worrying about retaliation or being exposed.

Consent gives survivors the power to determine how their information is shared, whether with law enforcement, medical professionals, or community advocates. Upholding survivor rights—through federal protections such as the Violence Against Women Act (VAWA) and respect for tribal sovereignty—ensures privacy, safety, and culturally sensitive support. These protections help counter the psychological harm caused by strangulation by restoring agency and dignity to survivors.

Blending Law & Culture in Tribal Victim Advocacy

Confidentiality, consent, and culturally grounded practices transform advocacy from compliance to empowerment. Survivors move from terror to empowerment when federal protections and tribal sovereignty work together.

A. Federal Protections

1. Violence Against Women Act (VAWA):

- Mandates confidentiality and prohibits disclosure of survivor information without consent.
- Expands tribal criminal jurisdiction to include strangulation, sexual violence, and stalking—even when committed by non-Native offenders.

2. Survivor Rights:

- Privacy, safety, and access to justice are guaranteed under federal law.

Key Takeaway: VAWA confidentiality rules protect survivors from retaliation and ensure their information is only shared with consent.

B. Tribal Sovereignty

1. Cultural Practices:

- Ceremony, language, and elders reinforce dignity and resilience.

2. Confidentiality as Culture:

- Privacy is not only legal—it is a cultural value rooted in respect and trust.


Key Takeaway: Tribal sovereignty ensures advocacy is culturally grounded and survivor-centered.

From Terror to Empowerment

Federal frameworks provide consistency and enforceability, while tribal sovereignty upholds cultural relevance and community trust. Emphasizing confidentiality, consent, and culturally informed practices shifts advocacy from mere compliance to true

empowerment. When these elements work together, survivors can transition from fear to dignity, offering both legal protections and cultural support.

The Psychological Aspects of Strangulation for Native Victims

Victim Impacts	
 Neurological Injury (TBI)	Strangulation restricts oxygen and blood flow to the brain, leading to traumatic brain injury (TBI), memory loss, confusion, and long-term cognitive changes. Survivors often describe strangulation as the moment they believed they would die. This creates intense post-traumatic stress, anxiety, and depression.
Trauma & Fear Invisible Scars	Survivors may experience nightmares, hypervigilance, and emotional detachment. These invisible scars are often overlooked by medical and legal systems, compounding the survivor’s sense of invisibility and isolation.
Native Victim Impacts Lack of Culture-Specific Behavioral Health Services & Survivor’s Groups	
Cultural Disconnection & Identity Threat	Strangulation may re-ignite intergenerational trauma rooted in colonization, forced assimilation, and violence against Native peoples. Survivors experience compounded distress, linking their personal assault to broader patterns of oppression.
Historical Trauma Activation Community Deterioration	Being silenced through strangulation can symbolically echo historical suppression of Native languages and traditions. Survivors internalize blame and shame, reflecting centuries of imposed narratives that devalued Native women’s lives.
Shame & Internalized Oppression	Strangulation trauma is rarely individual—it reverberates through families and communities. Survivors fear stigma and judgment within their community, adding another layer of psychological burden.
Distrust of Systems	Native victims may hesitate to report strangulation due to jurisdictional confusion and past experiences of systemic neglect, reinforcing

feelings of invisibility, abandonment, and isolation.

INJURY WHERE BLOOD DOES NOT FLOW

PYSCHOLOGICAL ASPECTS OF STRANGULATION

From Terror to Empowerment



Guiding Principles

1. Confidentiality (Self-worth)
2. Consent (Body Sovereignty)
3. Culturally Grounded Practices (Identity Restoration))
4. Tribal Sovereignty (Community Protection)





Harm to One is Harm to All

Begin with Cultural Safety, Move to Body Sovereignty

The Indigenous concept of "Harm to one is harm to all" embodies a profound understanding of cultural safety. Interconnectedness, collective responsibility, and relational accountability comprise a fundamental principle that is prevalent in many Indigenous cultures throughout North America and beyond--wholeness. This principle emphasizes that individual well-being is inextricably linked to the health of the community, the land, and the spirit.

Indigenous knowledge systems often perceive all beings—humans, animals, plants, spirits, and the land—as interconnected within a vast web of relationships. When one thread is damaged, the entire web experiences the strain. Violence against one woman disrupts the balance of the entire community.

Strangulation against Native women is not merely an individual act of violence; it resonates throughout entire tribal communities. Violence against Native women embodies the principle that “harm to one is harm to all.”

Strangulation is an extremely lethal form of intimate partner violence that instills fear and control. For Native women, the impact is even more significant, as it intertwines with historical and systemic traumas.

Indigenous women face a disproportionate impact from strangulation and other forms of gender-based violence. This vulnerability is linked to historical legacies of dehumanization, existing jurisdictional gaps, and insufficient policing practices.

Cultural Safety & Addressing the Legacy of Violence

Cultural safety is vital for addressing strangulation and sexual assault against Native women because it ensures that responses honor Indigenous identity, traditions, and sovereignty—fostering healing, justice, and trust within tribal communities.

Cultural safety, now widely accepted in Western health and social services, originated from Indigenous critiques of colonial practices. It urges Western institutions to progress beyond cultural competence towards care that is aware of power dynamics and driven by equity.

Cultural safety is not solely a Western concept; it is a response to Indigenous leadership. This approach encourages institutions to decolonize their practices and prioritize the voices of those most affected.

Cultural safety is a powerful framework for decolonization, healing, and Indigenous governance. It provides the following benefits:

- A counter-narrative to Western law by emphasizing relationships over individualism.
- A pathway for cultural revitalization, particularly in areas like justice, education, and health.
- Guidance for respectful coexistence, especially for non-Indigenous institutions operating on Native lands.

Cultural Safety advocates for Indigenous evaluation frameworks, survivor-centered services rooted in ceremony, and community accountability and relational healing.

Cultural safety acts as a vital bridge connecting trauma to transformation. It recognizes and honors the inherent sacredness of Native women, acknowledging their unique roles and experiences within their communities.

Cultural safety is an approach that not only supports individual and collective transformation but also reinforces the traditional knowledge and practices that are essential for the empowerment and resilience of Native communities. Cultural safety is foundational, not optional.

Origins of Cultural Safety

Cultural safety was developed in Aotearoa (New Zealand) by Māori nurse Irihapeti Ramsden in the 1980s as a response to systemic racism and the inability of Western healthcare to meet the needs of Māori patients. Ramsden argued that true safety is defined by the individual receiving care rather than the provider. This perspective shifted the focus from simply learning about other cultures (cultural competence) to examining power dynamics, institutional bias, and historical trauma.

Recent Scholarship Refined Definition

According to a 2025 study published in the *International Journal for Equity in Health* by Curtis et al., cultural safety is:

“An outcome of care that empowers individuals and communities, ensuring they feel respected and safe in expressing their identity. It requires health professionals and systems to examine power imbalances, institutional racism, and historical trauma.”

Key Concepts

This definition builds upon the foundational work of Māori nurse Dr. Irihapeti Ramsden and expands it to include the following key concepts:

1. *Structural Accountability*: Institutions must address systemic inequities rather than focusing solely on individual behaviors.
2. *Power Awareness*: Practitioners need to reflect on their own privilege and positionality within the healthcare system.
3. *Patient-Defined Safety*: The individual receiving care determines whether the environment is culturally safe for them.

This definition of cultural safety highlights the importance of creating environments where individuals feel respected, empowered, and free from discrimination, especially regarding their cultural identity and lived experiences. It is defined by the individual receiving care, not by the provider.

The Intersection of Sexual Assault and Strangulation

Sexual assault and strangulation are serious forms of violence often seen in intimate partner violence and stranger attacks. Sexual assault involves any non-consensual sexual act, while strangulation is a tactic used to exert control over a person—the ultimate life-ending power.

The Training Institute on Strangulation Prevention defines strangulation as asphyxia caused by external pressure on the neck, obstructing blood vessels and airflow, which leads to reduced oxygen to the brain and potentially death. Both of these acts have significant physical, psychological, and legal consequences.

Sexual assault and strangulation frequently intersect as methods of coercion, control, and intimidation, particularly in the context of intimate partner violence. These two forms of abuse are often employed together to instill fear and assert dominance, resulting in a profound impact on the victim's sense of safety and autonomy.

Victims may endure compounded trauma that affects them physically, emotionally, and spiritually, leading to long-lasting effects on their overall ability to move through life in a balanced, healthy way. In addition, victims face significant barriers to obtaining justice, especially within marginalized communities where systemic inequalities hinder equitable access to legal resources and culture-specific support systems.

Sexual assault and strangulation are particularly injurious issues that need more awareness and intervention to help victims and prevent future incidents. The legal, medical, and justice complexities surrounding these acts make it difficult for victims to seek justice and find protection from their attackers.

Additionally, victims may suffer from anxiety, depression, and post-traumatic stress disorder, which can impede their healing and ability to seek justice and rebuild their lives.

Dynamics of Strangulation in Intimate Partner Violence

Strangulation is one of the most lethal and under-recognized forms of violence:

- **High lethality:** A single incident of strangulation increases the risk of homicide by 750%.
- **Invisible injuries:** Victims may appear stable but can suffer from internal injuries, such as brain damage or stroke, which can lead to death hours later.
- **Control and terror:** Strangulation is often used to silence, intimidate, and dominate victims.
- **Poor documentation:** Medical and legal systems frequently overlook or downplay the signs of strangulation.

According to the Training Institute on Strangulation Prevention, strangulation can take several forms:

Manual strangulation: where hands are used.

Ligature strangulation: which involves objects used to apply pressure.

Positional strangulation: where the position of the body restricts airflow.

It's important to note that strangulation is often incorrectly referred to as "choking."

Choking specifically means an obstruction of the airway, not the compression of blood vessels.

Key Elements Emphasized - According to the Institute, strangulation is a strong predictor of future homicide. Victims of non-fatal strangulation are up to 750% more likely to be killed by their abuser later. They emphasize:

1. Strangulation and choking are distinct. Choking is caused by an internal blockage of the airway, often from food, while strangulation involves external pressure on the neck from hands or objects.
2. Strangulation is primarily a form of brain trauma that cuts off blood flow to the brain, rather than just obstructing airflow.

3. Unconsciousness can occur within seconds, and death can follow within minutes, even if there are no visible injuries.

Medical and Legal Implications

The intersection of sexual assault and strangulation presents serious medical risks and complex legal issues. Together, these factors heighten trauma, increase the risk of death, and demand specialized responses from healthcare and justice systems.

Strangulation during sexual assault is a medical emergency, even if symptoms are subtle or delayed. It can lead to severe consequences. There is no “safe way to choke” during sex.

Strangulation can cause brain injury and stroke by restricting blood flow and oxygen, leading to potential neurological damage. Victims may experience memory gaps due to hypoxia or trauma-induced dissociation. Internal injuries to the throat and carotid arteries can occur without visible bruising. Delayed symptoms like headaches, vision changes, hoarseness, and difficulty swallowing might appear later. Survivors may also face urinary or fecal incontinence, leading to shame and reluctance to seek help.

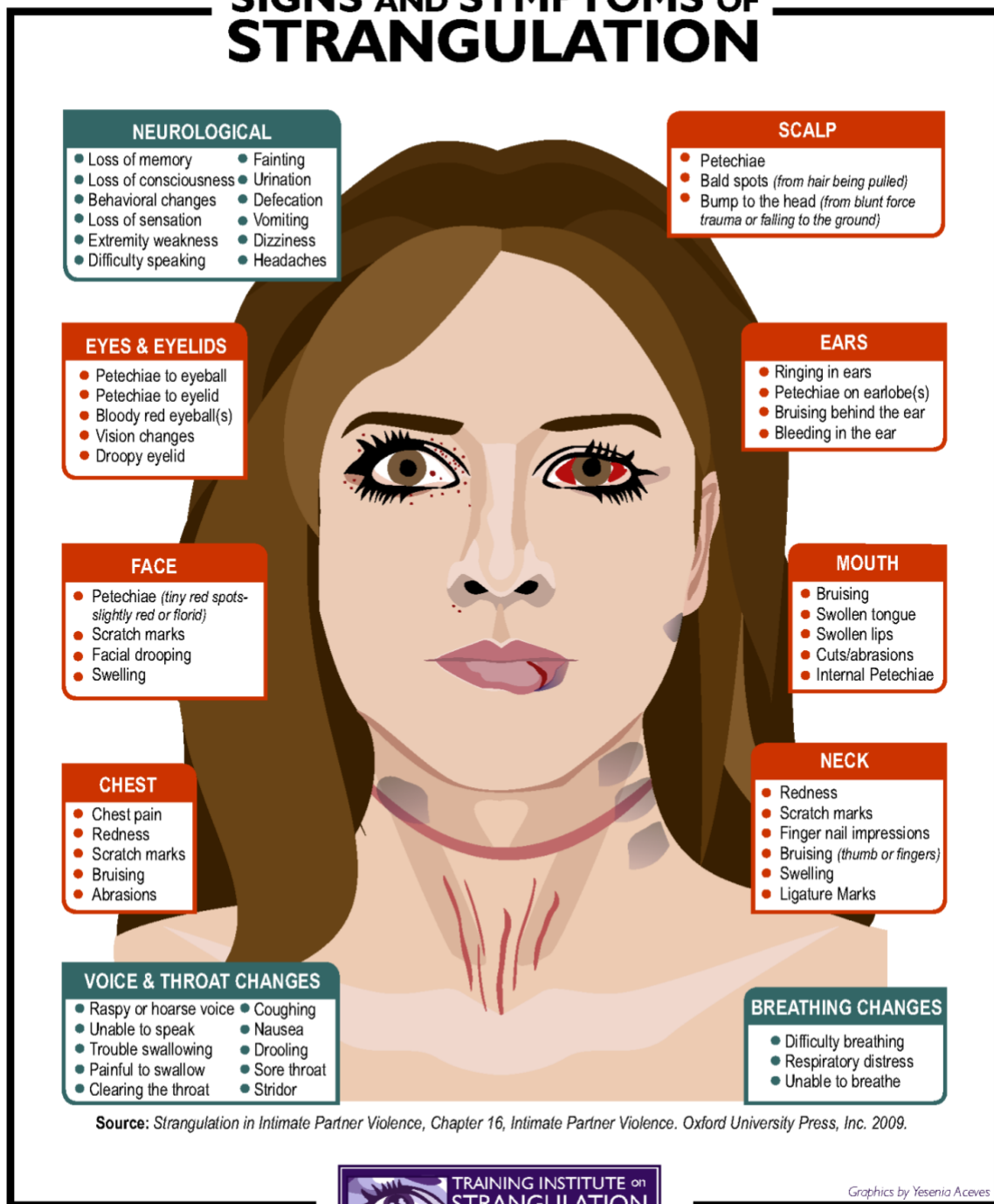
Medical Implications - Healthcare providers should check for strangulation when assisting sexual assault victims. They should ask routine questions and use trauma-informed care.

Strangulation is considered a felony in many jurisdictions; however, it is frequently misunderstood or misclassified. Misidentification as “choking” can downplay severity, leading to undercharging or dismissal. Legal systems often focus too much on visible injuries, ignoring internal trauma.

Legal Implications - Legal professionals need training to spot abuse signs, understand risks, and support survivors.

Courts now view strangulation as a high-risk factor, and some states require it to be considered in bail and sentencing decisions. Prosecutors must recognize the overlap between strangulation and sexual assault to pursue the right charges and protect survivors, as failing to do so can weaken cases and endanger victims.

SIGNS AND SYMPTOMS OF STRANGULATION



- NEUROLOGICAL**
- Loss of memory
 - Loss of consciousness
 - Behavioral changes
 - Loss of sensation
 - Extremity weakness
 - Difficulty speaking
 - Fainting
 - Urination
 - Defecation
 - Vomiting
 - Dizziness
 - Headaches

- SCALP**
- Petechiae
 - Bald spots (from hair being pulled)
 - Bump to the head (from blunt force trauma or falling to the ground)

- EYES & EYELIDS**
- Petechiae to eyeball
 - Petechiae to eyelid
 - Bloody red eyeball(s)
 - Vision changes
 - Droopy eyelid

- EARS**
- Ringing in ears
 - Petechiae on earlobe(s)
 - Bruising behind the ear
 - Bleeding in the ear

- FACE**
- Petechiae (tiny red spots-slightly red or florid)
 - Scratch marks
 - Facial drooping
 - Swelling

- MOUTH**
- Bruising
 - Swollen tongue
 - Swollen lips
 - Cuts/abrasions
 - Internal Petechiae

- CHEST**
- Chest pain
 - Redness
 - Scratch marks
 - Bruising
 - Abrasions

- NECK**
- Redness
 - Scratch marks
 - Finger nail impressions
 - Bruising (thumb or fingers)
 - Swelling
 - Ligature Marks

- VOICE & THROAT CHANGES**
- Raspy or hoarse voice
 - Unable to speak
 - Trouble swallowing
 - Painful to swallow
 - Clearing the throat
 - Coughing
 - Nausea
 - Drooling
 - Sore throat
 - Stridor

- BREATHING CHANGES**
- Difficulty breathing
 - Respiratory distress
 - Unable to breathe

Source: Strangulation in Intimate Partner Violence, Chapter 16, Intimate Partner Violence. Oxford University Press, Inc. 2009.



www.strangulationtraininginstitute.com

Graphics by Yesenia Aceves

The Physical Assault & Spiritual Violation of Strangulation

Indigenous knowledge systems are holistic, deeply spiritual, and rooted in relationships with the land, ancestors, and community. Native people regard the body, voice, and life force as sacred expressions of one's spirit and cultural identity. For Native women, strangulation is not merely a physical assault; it is also a profound spiritual violation.

Her body is far more than a mere physical form; it serves as a profound vessel of ancestral memory, brimming with the echoes of generations past. It embodies a unique spiritual energy, intricately woven with the stories and experiences of those who came before. This connection transcends her, anchoring her firmly to her lineage and the ancestral land, nurturing a deep sense of communal responsibility and belonging that ties her to both heritage and home.

Her voice resonates with an undeniable power, pulsing through the air like a vibrant drumbeat. It finds its place in the sacred spaces of ceremony, weaving tales of wisdom and wonder in vibrant storytelling, soaring through melodies in song, and invoking deep connection in prayer. To speak one's truth is not merely an act but a sacred ritual, a profound expression of the soul. When her voice is silenced, it is not just an absence of sound; it is perceived as a spiritual wound, a deep hurt that echoes within the community, disrupting the harmony of existence.

Her life force—the essence of her breath, spirit, and vibrant energy—animates her soul. This vital energy is lovingly nurtured through sacred ceremonies, meaningful relationships, and a deep respect for all living beings. Each of these cultural threads is woven together to create a rich blanket of connection, empowering her spirit to thrive.

Understanding strangulation through Indigenous knowledge systems highlights its deeper impact: it is not just a crime but also a spiritual violation. Healing must therefore involve not only justice but emphasize the importance of cultural reclamation and health equity.

Why Metaphor & Symbolism Matters

For Native women, the body represents more than just flesh; it embodies land, language, and lineage. When violence occurs, it is not merely a personal violation but also a disruption of cultural continuity. These metaphors enable Indigenous women to express their truth while honoring the sacredness of their experiences.

Poets like Natalie Diaz (Mojave) and Layli Long Soldier (Oglala Lakota) often use the body as a metaphor for land and language. Though not all write explicitly about strangulation, their work offers frameworks for understanding how violence against the body is also violence against culture.

These metaphors are emotional translations of trauma. They allow writers and survivors to express the inexpressible, to give shape to pain that resists plain language. Sexual assault and strangulation become evocative landscapes, ancestral memory, and spiritual imagery, expressing the pain and resilience that resonate with Indigenous healing.

Using metaphor and symbolism is not just a communication strategy—it's a form of respect. It honors the ways Native women have always told stories, survived violence, and reclaimed power. To use metaphors and symbolism effectively:

- **Listen first:** Let survivors choose metaphors that resonate with their own tribal traditions.
- **Avoid pan-Indigenous generalizations:** Each tribe has distinct symbols, stories, and meanings.
- **Use ceremony and art:** Invite survivors to express themselves through beadwork, song, or storytelling.
- **Collaborate with cultural leaders:** Elders, medicine people, and tribal advocates can guide respectful use of metaphors.

Metaphors and symbolism connect clinical understanding with Indigenous worldviews, enabling survivors to express themselves in ways that feel safe, sacred, and heard. It helps reframe strangulation as a rupture that can be mended.

Poetic Voices and Expressing Violence

Indigenous knowledge systems are reflected in the works of poets such as Jennifer Brant (Mohawk), Anna Marie Sewell (Ojibwe/Mi'gmaq), and Heid E. Erdrich (Turtle Mountain Band of Ojibwe). These poets utilize literature as a means to resist colonial violence and reclaim their identities. Likewise, survivors often employ metaphor to convey truths that are too painful to express directly, particularly in communities where silence has been a necessary strategy for survival.

<p>“Red pollen trails” (facial petechiae)</p> <p>“Spider’s tears” (eye petechiae)</p>	<p>Petechiae, particularly those caused by strangulation or trauma, are more than mere medical signs; they might be described as berries pressed into the skin, a metaphor for a bruised spirit and broken boundaries.</p>
<p>My dreams were stolen by shadows” (PTSD described as spiritual theft)</p>	<p>Writers frequently use metaphor to convey the emotional and physical toll of violence. Bruises and beatings are rarely described literally; instead, they become landscapes of pain or silent testimonies like, “The land remembers every strike”</p>
<p>“My ears rang with the ghosts of his voice” (Echoes of verbal abuse linger like spirits)</p>	<p>Ears, as gateways to listening and memory, are frequently described in terms of what they experience. In Joy Harjo’s work, when the sacred act of listening is violated, it results in a spiritual wound. Her poetry often addresses “the songs we are no longer allowed to hear,” which refers to both cultural suppression and personal trauma.</p>
<p>The trail vanished in the fog” (memory loss, disorientation and loss of direction)</p>	<p>For many Native women, the trauma of strangulation is not just personal—it echoes the historical silencing of Indigenous voices. The neck becomes a symbolic battleground where colonialism, patriarchy, and violence intersect.</p>
<p>“He yanked the stories from my head” (oral history and memory silenced)</p>	<p>In many Indigenous cultures, hair is not just aesthetic—it is spiritual. It represents strength, connection to ancestors, and the flow of life. Pulling or tearing it out during violence is seen as a profound violation.</p>

HARM TO ONE IS HARM TO ALL

Women Spirit
COALITION

METAPHOR & SYMBOLISM OF STRANGULATION

NEUROLOGICAL

- forgotten songs
- thoughts scattered like leaves
- smoke of prayer snuffed
- trail vanishing in the mist
- stars no longer guiding

HAIR

- He ripped the roots of my spirit from my head. I couldn't hear the ancestors anymore."

HEAD

- "The ringing in my skull louder than the drum at sundance."

EYES (Petechiae)

- clouded windows
- spider's tears

FACE (Petechiae)

- crushed berries
- red pollen trails

EARS

- "He poured thunder into my ears."

LIPS

- "He stitched my lips with shadow."

THROAT

- "He wrapped my throat in winter. I could not sing to the moon."

BODY

- "The land remembers every strike."

VOICE /THROAT CHANGES

- pressed silence in the throat
- a river damned by fear
- the scream grew roots
- songs curled up behind teeth
- a broken drum

BREATHING CHANGES

- stolen names from breath
- drumbeat fading from bones
- songs buried in chest
- wind stolen from spirit
- ancestors weeping

The Interplay between Cultural Shaming and Strangulation

The interplay between cultural shaming and strangulation in intimate partner strangulation (IPS) among tribal members reveals a complex form of abuse—one that merges psychological, physical, and cultural trauma.

Suicide and shame are closely linked in IPS relationships among tribal members, with strangulation introducing an especially dangerous form of trauma. These issues not only affect Native women but also have a broader impact on their tribal communities, exacerbating historical wounds and disrupting cultural continuity.

Cultural shame is often used as a weapon in IPS among tribal members. This type of psychological abuse isolates victims from their community and spiritual support, making it more difficult for them to seek help. The feeling of shame is further heightened by intergenerational trauma, which includes the legacies of boarding schools, forced relocation, and systemic violence. These factors have fostered silence and stigma in many tribal contexts.

Strangulation is a significant predictor of future homicide in cases of IPS, and is strongly associated with suicidal thoughts in Native women due to its traumatic and symbolic implications. The risk of suicide increases when victims feel culturally shamed, unsupported, and trapped, particularly in communities where law enforcement or tribal justice systems are under-resourced or mistrusted.

IPS and suicide within tribal communities can disrupt kinship networks, interfere with ceremonial roles, and perpetuate cycles of trauma. The loss of a community member to suicide, particularly after experiencing IPS, can lead to collective grief, reinforce distrust in systems, and exacerbate historical wounds.

The shame and silence surrounding IPS often prevent open discussions, leaving survivors without the support they need and allowing perpetrators to avoid accountability. It is essential for tribal leaders, law enforcement, and healthcare workers to understand the nuanced connection between cultural shaming and strangulation.

Weaponizing Suicide, Staged Suicides, & Homicides in Native Contexts

In many tribal cultures, community and kinship hold sacred significance. Causing harm to another person, especially resulting in death, can lead to profound spiritual and social repercussions.

Abusers often take advantage of this belief by making victims feel responsible for a suicide, which can be particularly devastating in cultures where grief is shared collectively and spiritual accountability is taken seriously. Native victims may fear being blamed by their family, tribe, or spiritual leaders if the abuser dies, even if the relationship was abusive.

Victims often feel disconnected from their cultural support systems, and threats of suicide can intensify this isolation. In small tribal communities, where privacy is limited, victims may fear that speaking out will bring shame not only to themselves but also to their entire family or clan.

When an abuser dies by suicide, the community may find it hard to balance grief with accountability, especially if the abuser was well-respected. This dynamic can be especially dangerous when combined with strangulation or other lethal forms of IPV, which already carry high risks of homicide and suicide.

When an abuser uses suicide as a weapon in IPV, it becomes a form of psychological manipulation that exploits cultural values related to kinship, responsibility, and community grief. This tactic can entrap Native victims in cycles of guilt, silence, and emotional captivity. Abusers may employ phrases such as:

'You're not a real Native woman,' 'You've abandoned your traditions,' 'You dishonor your ancestors by speaking out'

The aim of these tactics is to:

- Undermine a victim's sense of belonging, identity, and authenticity.
- Suggest that the victim has deviated from their cultural roots
- Silence victims by framing their actions as betrayals of their heritage and lineage

Compounded Long-term Health Impacts

Native women who survive IPV/IPS and simultaneously encounter cultural shaming and the trauma of strangulation suffer from complex and long-lasting health effects. These effects manifest in multiple dimensions: physically, through injuries and chronic health conditions; psychologically, with increased rates of anxiety, depression, and post-traumatic stress disorder; and spiritually, leading to a disconnection from cultural identity and community support.

Neurological and Physical Health Impacts of Strangulation	
Withdrawal from ceremonial roles, language use, or community gatherings	Strangulation is a traumatic brain injury (TBI): Even a single incident can cause memory loss, dizziness, vision problems, and long-term cognitive impairment.
Disconnection leading to spiritual crisis and suicide	Survivors may experience chronic headaches, voice changes, and difficulty swallowing, often without visible injuries, making diagnosis and treatment difficult.
Guilt for perpetuating cycles of silence and shame - intergenerational trauma	Repeated strangulation increases the risk of stroke, seizures, and death, even weeks or months after the event
Psychological and Emotional Toll of Cultural Shaming	
Shame and fear of community backlash, judgement, and rejection	Cultural shaming—such as being told “you’re not a real Native woman” or “you’ve dishonored your ancestors”—can lead to internalized oppression, depression, and suicidal ideation.
Cultural shame pathologized as a personal failing, not a colonial wound	This form of abuse severs ties to cultural identity, which is often a key source of resilience and healing in Native communities.
Ineffective Mainstream interventions for addressing cultural shaming	When shame is used to silence or isolate survivors, it can result in emotional numbing, dissociation, and long-term PTSD.



Returning Breath

“To breathe again is to live again”

Strangulation is not just a medical emergency; it signifies a profound spiritual emergence. Survivors often grapple with memory loss, persistent headaches, labored breathing, or even changes in their voice. Still, the impact on a Native woman’s life stretches far beyond the physical realm.

Finding direct scholarly reports that delve into the experiences of Native women who have survived strangulation is quite rare. While much of the existing research addresses the broader issue of violence against Indigenous women—often including strangulation as a facet of intimate partner violence—there’s a notable lack of detailed survivor narratives.

What we do have mostly consists of policy analyses, public health reports, and prevention studies that are culturally informed. These materials effectively underscore the grave nature of strangulation and its profound spiritual and psychological repercussions, yet they often overlook the personal stories that can truly illuminate these issues.

When a Native woman endures the harrowing experience of strangulation, it transcends mere survival from an assault. It represents a fierce resistance against an attempt to take her spirit, her future, and the legacy of generations to come. This act of survival, ‘returning breath,’ is not just personal; it echoes through time, empowering not only her but all those who will follow in her footsteps.

In many tribal traditions, breath is honored as the sacred life force given by the Creator, a precious gift passed down through generations. When breath is taken away, it is not just the body that suffers; the spirit also cries out, longing to live again.

Inequity from Missing Narratives

The absence of Native women's perspectives results in the spiritual, cultural, and psychological dimensions of surviving strangulation being inadequately represented in mainstream research and policy. Denying Native women the opportunity to articulate their experience and recovery perpetuates inequity.

The inequity is not limited to the violence itself; it also stems from the absence of survivor-centered narratives. Without the accounts of Native women who have "come back from the brink," scholarship, policy, and healing frameworks remain incomplete. This perpetuates invisibility and denies Indigenous communities the full acknowledgment of their resilience and the restoration of their culture.

Finding scholarly reports that specifically examine the experiences of Native women who have survived strangulation is notably rare. Although much existing research addresses the broader issue of violence against Indigenous women—often including strangulation as a component of intimate partner violence—there is a significant lack of detailed survivor narratives.

Numerous studies predominantly concentrate on prevalence rates, medical outcomes, or responses within the criminal justice system. Federal and state responses often rely on this generalized data. The absence of first-person accounts in academic literature leads to a significant deficiency in cultural grounding, resulting in the underrepresentation of tribal perspectives.

Without the narratives of Native women, prevention and intervention programs risk becoming culturally misaligned and less effective within tribal communities. Survivor stories are essential for the development of restorative practices, such as ceremonies, storytelling, and community healing. Inequities can be effectively addressed by empowering Native women to establish their own criteria for intervention, prevention, and recovery.

In their narratives, Native women are not only survivors but also sacred beings with the agency and power to reclaim their breath and spirit - to live again.

What the Literature Shows

Violence Against Indigenous Women (Policy & Prevalence)

Indigenous women in the U.S. face violence at **2.5 times** the rate of non-Indigenous women, with murder being the third leading cause of death. Strangulation is often underreported but is recognized as a lethal form of intimate partner violence in these contexts.¹

Public Health & Trauma Studies

A recent survey conducted by the Urban Indian Health Institute is collecting data on traumatic brain injuries among Native survivors of sexual assault and domestic violence, including those related to strangulation. Survivors have reported issues such as memory loss and dementia-like symptoms, along with profound impacts on their daily lives—experiences that resonate with the notion of "coming back from the brink."²

Cultural-Based Prevention Strategies

The Journal of Federal Law and Practice discusses prevention strategies for Missing and Murdered Indigenous People (MMIP), highlighting the importance of tribal healing. It emphasizes the integration of traditional ceremonies, elder wisdom, and community restoration, advocating for a holistic approach to address the challenges faced by Indigenous communities.³

Missing and Murdered Indigenous Women (MMIW)

Research published in The Lancet highlights systemic violence and high rates of disappearance among Native women, placing acts of strangulation within a broader

¹ Benjamin, A., & Gillette, E. D. (2021). Violence against Indigenous women in the United States: A policy analysis. *Columbia Social Work Review*, 19(1), 112–127. <https://doi.org/10.7916/308r-1n90>

² Stateline. (2025, October 31). Domestic violence in Native communities is focus of new survey. Stateline. <https://stateline.org/2025/10/31/domestic-violence-in-native-communities-is-focus-of-new-survey/>

³ U.S. Department of Justice. (2024). *Journal of Federal Law and Practice* (Vol. 69, No. 4). Office of the Assistant Secretary for Administration, Administration for Native Americans. <https://acf.gov/sites/default/files/documents/ana/Department%20of%20Justice%20Journal%20of%20Federal%20Law%20and%20Practice%20vol-69%20num4.pdf>

context of violence against Native women, emphasizing the severe challenges that Indigenous women face.⁴

⁴ The Lancet Regional Health – Americas. (2023). Missing and murdered Indigenous women and girls: Addressing a public health crisis. *The Lancet Regional Health – Americas*, 23, 100135. <https://www.thelancet.com/journals/lanchi/article/PIIS2352-4642%2823%2900135-9/fulltext>

Soul Reparation: Coming Back From the Brink

A Native woman’s healing is socially situated. Healing after strangulation requires more than medical care. It requires soul reparation — restoring balance between body, spirit, and community. Programs can support soul reparation by creating intentional spaces for healing through a framework that converges cultural concepts and universal learning principles. Integrating survivor narratives honors survival as the sacred knowledge at the heart of prevention.

An Integration Framework	
	Representation - Breath as Sacred: What does breath mean in your tradition? How does breath connect you to ancestors? Do you have a term in your tribal language to symbolize the sacredness of breath?
	Engagement - Ceremonial Healing: What practices are part of your ceremonial traditions? Which elders and medicine people guide spiritual restoration? What gatherings affirm communal healing?
	Action & Expression - Survivor Resilience: What culturally safe spaces do you provide for survivors to share their stories? What arts and crafts activities support their voice reclamation? What grounding practices, like breathing or drumming, do you offer?

Survivor Narratives: The Heart of Prevention

Survivors who share their experience of crossing into death and returning offer a powerful reframing of strangulation: not just as violence, but as a spiritual threshold. This language affirms the lethality of strangulation while honoring the survivor’s resilience — making it harder for systems to dismiss or minimize the harm.

Soul Reparation: An Integration Framework



SURVIVOR NARRATIVES - SOURCE OF SACRED KNOWLEDGE

Advocates
Support
Survivor Agency

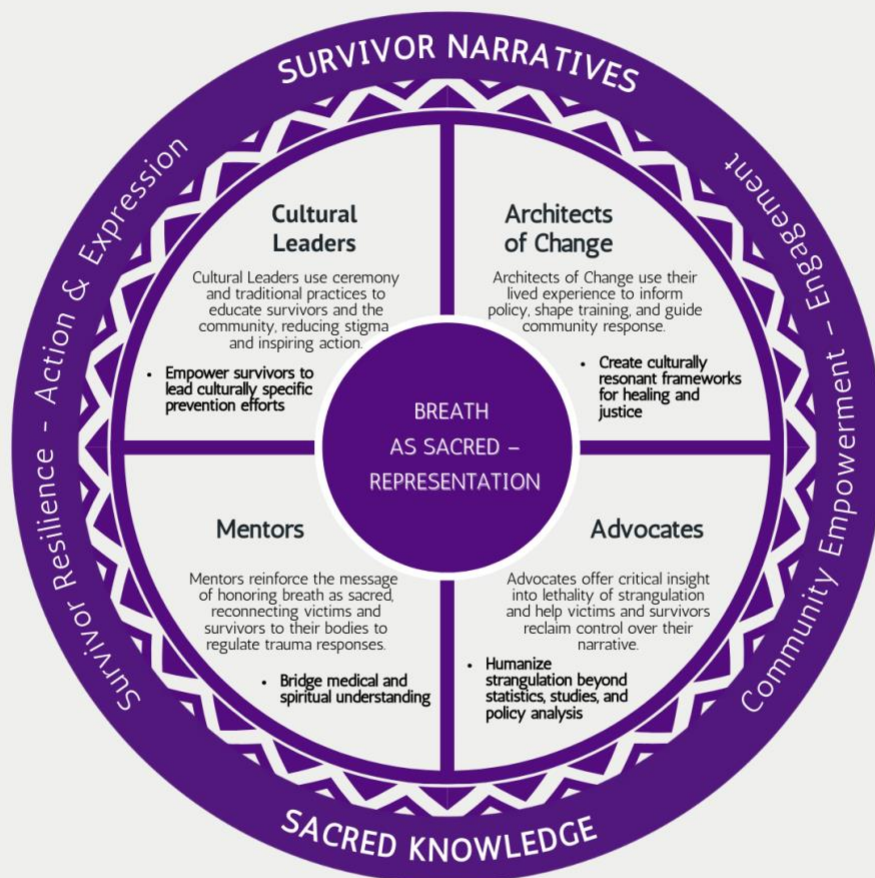
Mentors
Restore
Survivor Dignity

Cultural Leaders
Empower
Survivor Leadership

Architects of Change
Voice
Lived Experience

Soul Reparation Wheel: Integrated Impact

Returning Breath, Reclaiming Spirit, and Honoring Survival as Sacred Knowledge.



**WA State Native American
Coalition Against Domestic
Violence and Sexual Assault**



Strangulation Prevention Wheel: Integrated Impact

Note: Concept developed by Anna Mayes (2025) for WomenSpirit Coalition.



The Illusion of Protection

When Those We Depend on Fail Us

The Western criminal justice system is grounded in the ideals of protection, accountability, and impartiality. Its institutions—including courts, police, healthcare services, and legal frameworks—are intended to uphold the rule of law and safeguard those who are vulnerable. For survivors of violence, especially those who have suffered strangulation, this system claims to provide a pathway to safety, justice, and healing. However, for many Native survivors, this promise is often unfulfilled.

The experiences of Native women in relation to violence illustrate a disturbing pattern of systemic neglect and misunderstanding. Rather than receiving the protection they require, Native women often encounter skepticism from authorities. Accountability mechanisms are frequently inadequate, leading to the dismissal of their concerns and experiences. Instead of facilitating healing, existing systems can inadvertently retraumatize Native women, largely due to a lack of comprehension regarding their unique cultural contexts and the severe nature of the violence they face.

Empirical data reveal alarming trends: Native women are disproportionately affected by violence, yet their cases suffer from significant underreporting, inadequate investigations, and insufficient prosecution. The National Institute of Justice indicates that over 84% of Native women experience violence in their lifetimes, with strangulation representing one of the most dangerous forms.

This section prepares us for a deeper exploration of these fragilities. It poses the question: What does justice look like when the systems intended to deliver it become sources of harm?

More Protections for Perpetrators Than Victims

The Western criminal justice system often fails Native survivors of strangulation due to systemic issues, including jurisdictional confusion, institutional bias, and a lack of understanding about the risks associated with strangulation.

In Indian Country, crimes can be governed by tribal, state, or federal authorities based on who the victim and perpetrator are, the nature of the crime, and where it occurred. This overlapping jurisdiction often leads to gaps where no agency steps in to assume responsibility.

Tribal courts often lack the authority to prosecute non-Native offenders, while federal agencies may choose not to pursue cases due to limited resources. Additionally, state systems may not fully understand tribal sovereignty or the cultural context involved.

The 2023 reauthorization of the Violence Against Women Act enhanced tribal authority to prosecute non-Native offenders and allocated resources for tribal justice systems. However, ongoing legal challenges regarding defendants' rights have hindered progress, leaving tribal communities uncertain in their pursuit of justice. As a result, the justice system tends to protect perpetrators more than it does victims.

Examples of Jurisdictional Failures

- Families reported that when Navajo women like Ella Mae Begay went missing, tribal, state, and federal agencies blamed each other, leaving them without answers.
- In Wyoming, Indigenous women are found to remain missing far longer than white women, partly because law enforcement agencies delayed action while debating jurisdiction.

Consequences of Chaos

- Non-prosecution: Dropped cases; no agency claims authority; perpetrators escape accountability.
- Lost evidence: Delays in investigation mean critical forensic evidence is lost or contaminated.

- Survivor retraumatization: Families and survivors are forced to relive trauma as they plead with multiple agencies, only to be dismissed or ignored.

Case Study: A Family Lost in Jurisdictional Chaos

When 62-year-old Navajo elder Ella Mae Begay disappeared from her home in Sweetwater, Arizona in 2021, her family immediately reported her missing. What followed was not a coordinated investigation but a maze of jurisdictional confusion.

- Tribal police responded first but explained their authority was limited because the primary suspect was non-Native.
- State police hesitated, claiming the crime occurred on tribal land and was therefore outside their jurisdiction.
- Federal authorities were eventually contacted, but the FBI did not immediately open a case, citing resource constraints and evidentiary thresholds.

For weeks, Ella Mae's family was left to navigate this bureaucratic tug-of-war. Each agency pointed to another, and no one took full responsibility. By the time federal investigators became involved, critical evidence had been lost—footprints erased by weather, potential witnesses gone, and leads grown cold.

The family's grief was compounded by retraumatization: they had to repeatedly retell their story to different agencies, reliving the trauma while begging for action. With no clear point of contact and no agency accountable, Ella Mae's case remains unresolved, emblematic of the systemic failures that allow perpetrators to escape justice.



Photo by Cedar Attanasio

✦ Why This Matters

Jurisdictional chaos is not an abstract legal issue—it is a lived reality that deepens trauma and perpetuates violence against Native women, leaving families without closure and survivors without protection.

Bias and Disbelief in Systems of Protection

Indigenous survivors of violence frequently face skepticism and dismissal when they reach out for assistance from law enforcement or medical services. This troubling reality is deeply embedded in racial stereotypes and a long history of erasure, which unjustly portrays Native women as less credible and undeserving of protection. The question of whom we tend to believe is not abstract—it determines whether Native survivors receive justice or are silenced.

Systemic Patterns of Disbelief

1. **Law enforcement bias:** Officers often dismiss survivors as unreliable witnesses, subjecting them to retraumatization.
2. **Medical bias:** TBI symptoms like memory loss, confusion, and cognitive decline are often misinterpreted or dismissed by medical providers.
3. **Historical erasure:** Systemic neglect has normalized disbelief, silencing Native voices.

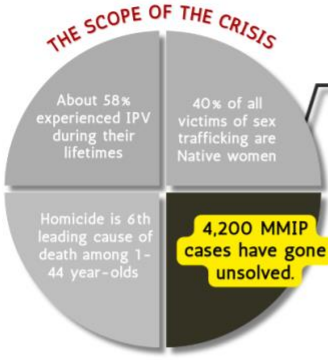
Legacy of Systemic Racism

To address this issue effectively, it is essential to empower Native voices and respect tribal sovereignty. The U.S. must confront its colonial past and acknowledge that violence against Native women, especially amplified in the Missing and Murdered Indigenous Women (MMIW) crisis, is not just a Native issue; it is a national crisis rooted in systemic racism and violence that continues to affect American society.

This approach is crucial for dismantling the legal and cultural structures that have allowed this epidemic of violence to persist. Only by taking these steps can the U.S. begin to foster genuine healing and justice for Native communities.

<i>Data for AIAN people in Washington State, 2025 Report of the WA State MMIWP Task Force.</i>		
The homicide rate for AIAN people is 79.3 per 100,000, which is more than 2.5 times higher than the 30.9 per 100,000 rate for non-Native people.	Native people were over 2 times more likely to be homicide victims compared to their share of the population.	Native people were 2.5 times more likely to have unsolved-open homicide cases compared to their share of the population.

Sovereign Voices, Silenced Lives: The Invisible Epidemic



Strangulation Lethality

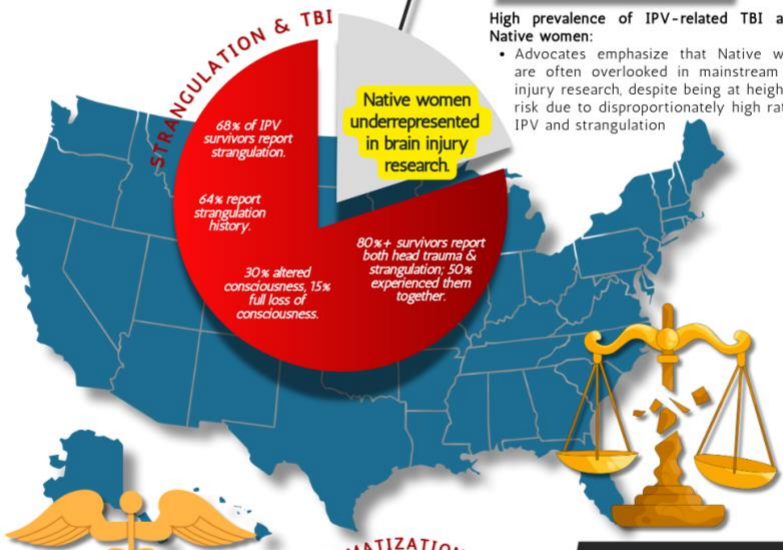
Disproportionate Representation in Murder Statistics:

- Because Native women are such a small percentage of the population (1% of all females) but face homicide rates far above the national average, they account for a much larger proportion of murdered women nationally than their population share would suggest. IPV was a factor in 38% of homicides.

IPV & Hidden Injuries

High prevalence of IPV-related TBI among Native women:

- Advocates emphasize that Native women are often overlooked in mainstream brain injury research, despite being at heightened risk due to disproportionately high rates of IPV and strangulation



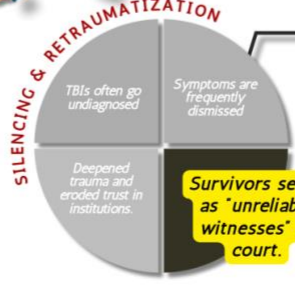
Systemic Bias

Justice System Bias:

- Overlapping tribal, state, and federal jurisdictions resulting in delays, non-prosecution, lost evidence, and retraumatization for survivors and families.

Medical System Bias:

- Native women face additional barriers—bias in medical systems, underreporting, and lack of culturally appropriate care.



SOURCES:
 1. CDC. Violence Against Native Peoples Fact Sheet, 2023
 2. US Dept. of Interior, Indian Affairs. Missing and Murdered Indigenous People Crisis
 3. Operation Lady Justice Task Force. (2019–2021). Executive Order 13896

Case Study Spotlight: Hidden Brain Injuries Among Native Survivors

Context: In 2025, the Urban Indian Health Institute launched a national survey to uncover the prevalence of traumatic brain injuries (TBIs) among Indigenous survivors of domestic and sexual violence.

Example: One Native mother in her 30s began experiencing memory loss and dementia-like symptoms after years of repeated blows to the head and strangulation by her partner. Despite clear neurological signs, her injuries went undiagnosed by medical providers, who misattributed her symptoms to stress.

Supporting Evidence:

- Mass General Brigham study: Among IPV survivors, 64% reported strangulation, with 30% altered consciousness and 15% full loss of consciousness—strong indicators of brain injury.
- Service-seeking survivors study (2025): 80%+ reported lifetime exposure to both head trauma and strangulation; nearly 50% experienced them together in the same violent episode.

Impact:

- Survivors live with invisible injuries that impair memory, concentration, and emotional regulation.
- Medical bias leads to dismissal of symptoms, leaving TBIs untreated.
- Injustice compounds as survivors are seen as “unreliable witnesses” in court.

Key Takeaway:

Native women are disproportionately living with IPV-related TBIs. Strangulation prevention and recognition must be central to intervention efforts.



Interactive Worksheet:

Hidden Brain Injuries Among Native Survivors

Instructions: Read the case study spotlight. Use this worksheet to identify symptoms, practice responses, and brainstorm prevention strategies.

Part 1: Case Study Reflection

What signs of traumatic brain injury (TBI) did the survivor exhibit?

How were these signs misinterpreted by providers?

What systemic barriers contributed to her injuries being overlooked?

Part 2: Spot the Symptoms: Take action.

Symptom	Possible Cause	What Immediate Action Will You Take?
Memory Loss	Oxygen Deprivation	
Voice Changes	Throat Trauma	
Dizziness	Head Trauma	
Confusion	TBI	

Interactive Worksheet

Hidden Brain Injuries Among Native Survivors

Instructions: Read the case study spotlight. Use this worksheet to identify symptoms, practice responses, and brainstorm prevention strategies.

Part 3: Role-Play Scenario

Activity: Small groups role-play responding to a survivor who reports strangulation.

Scenario: A survivor says, "I feel dizzy and forget things since the incident."

Write down two culturally respectful questions you would ask:

Identify one immediate referral step:

Part 4: Prevention & Advocacy

- How can tribal programs raise awareness that strangulation = lethality?
- What culturally grounded approaches (ceremony, community education, elders' involvement) could strengthen prevention?
- List one policy or protocol change your program could adopt:



Annotated Bibliography

Theme 1: Strangulation & Traumatic Brain Injury (TBI)

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Provides a legal overview of Washington's strangulation statutes, highlighting how strangulation is treated as a felony assault. Useful for understanding the legal framing of strangulation in IPV cases.

Alliance for HOPE International. (n.d.). The advocacy toolkit for survivors of strangulation / suffocation. Alliance for HOPE International.

Offers practical resources for advocates supporting survivors of strangulation, including medical, legal, and safety planning guidance.

Battered Women's Support Services. (2021, February 11). No safe word: How strangulation crosses the line in intimate encounters. BWSS. <https://www.bwss.org/no-safe-word-how-strangulation-crosses-the-line-in-intimate-encounters/>

This article highlights the severe risks of strangulation in intimate relationships, framing it as a critical warning sign of escalating violence. It is a credible advocacy resource useful for understanding strangulation as a form of IPV.

Domestic Violence Services Network. (2025, March). Strangulation – Detailing dangers & demystifying misconceptions.

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International Association of Forensic Nurses. (2021). The evaluation and treatment of non-fatal strangulation in the health care setting: Position paper.

Clinical guidelines for healthcare providers on identifying and treating strangulation injuries, stressing the importance of early detection.

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National Sexual Violence Resource Center. (n.d.). SART Toolkit Section 5.8: Strangulation.

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This piece explores the psychological motives behind strangulation and its lasting impact on victims. Though not peer-reviewed, it offers accessible insights into the mental and emotional dimensions of IPV.

SAFE Alliance. (n.d.). The violent reality of strangulation.

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Theme 2: Systemic Violence and Injustice

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Arboleda, A. (2024). Delaying justice: How jurisdictional gaps fuel the Missing and

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Federal overview of the MMIWP crisis, including statistics and initiatives to address systemic violence.

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Leslie A. Hagen

Federal Criminal Jurisdiction

Victimization rates in American Indian and Alaska Native populations

The issues of domestic violence, sexual assault, and child abuse are significant, and they have deservedly received greater attention by the public, criminal justice systems, social service systems, and the medical community during the past several decades. American Indian/Alaska Natives (AI/ANs) experience much higher rates of victimization than do the rest of the population. Studies suggest that American Indian women are 2.5 times more likely than the national average to experience certain violent crimes, such as nonfatal strangulation. *See United States v. Lamott*, 831 F.3d 1153, 1154 (2016). Therefore, it is important for criminal justice and social service personnel responding to crime in Tribal communities to know of the types and frequency of abuse perpetrated on the first Americans. In addition, all must be mindful of the painful experiences Native Americans have suffered at the hands of the federal and state governments: forced removal from their ancestral homelands, boarding school, slavery, and sexual abuse. Benjamin Thomas Greer, *Hiding Behind Tribal Sovereignty: Rooting Out Human Trafficking in Indian Country*, 16 J. GENDER RACE & JUST. 453, 455–59 (2013).

Federal criminal jurisdiction over crimes committed in Indian country can be complex. It is important to understand the legal definition of terms like Indian country and determine who is an Indian¹ for purposes of federal criminal jurisdiction. Let's start with a discussion of some of these important terms.

What is the definition of Indian Country?

The term "Indian country" is statutorily defined as: (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

18 U.S.C. § 1151.

Who is an Indian?

Federal criminal jurisdiction over crimes occurring in Indian country arises mainly out of two statutes, 18 U.S.C. §§ 1152 (the General Crimes Act), 1153 (the Major Crimes Act). Though section 1152 and section 1153 cover different crimes and have different requirements as to when federal law supersedes Tribal law, courts have applied the same general rule to determine an individual's Indian status for the purpose of determining if federal criminal jurisdiction applies. Federal statutory law has not offered a unified definition of an Indian for the purpose of federal criminal jurisdiction; however, courts have filled in the gap in providing clarification on the issue. The generally accepted rule for determining Indian status for the purpose of federal criminal jurisdiction is that the individual must (1) have some

¹ This article uses the term Indian because it is quoting federal law. Federal statutes and caselaw use the term Indian. Use of the term here is not intended to offend; it is merely a recitation of the law.

degree of Indian blood and (2) be a member of or affiliated with a federally recognized Tribe, though courts differ in how they interpret each prong of the test. Though previous Supreme Court cases alluded to a two-part test based on blood ties as well as membership in the Tribe as a political entity, the Court first spelled out this rule for the purposes of determining Indian status in employment criteria in *Morton v. Mancari*. 417 U.S. 535 (1974). There, the Court stated that the individual “must be one-fourth or more degree Indian blood and be a member of a Federally-recognized Tribe.” *Id.* at 553 n.24. In *United States v. Antelope*, the Court adopted *Mancari*’s two-prong test for purposes of criminal jurisdiction. 430 U.S. 641, 646 n.7 (1977). The first element for the rule requires some amount of Indian blood, though courts differ as to the language used to explain this rule. Courts have tended not to make exact specifications regarding the amount of blood required to satisfy the element as the court did in *Mancari*, instead favoring broader qualifications of the amount.

Though courts lack a precise definition of how much Indian blood is required to satisfy the first element, courts agree that some amount is necessary. Because the requirement of “some” blood is not specific, courts have clarified what it means to have some amount of Indian blood. In *United States v. Bruce*, the Ninth Circuit Court of Appeals held that “evidence of a parent, grandparent, or great-grandparent who is clearly identified as an Indian is generally sufficient to satisfy this prong.” 394 F.3d 1215, 1223 (9th Cir. 2005). Evidence may take the form of “reliable or undisputed documentation” of the individual’s Indian blood or testimony to the individual’s ancestry. *United States v. Reza Ramos*, 816 F.3d 1110, 1121 (9th Cir. 2016). The Ninth Circuit also held in *United States v. Alvirez*, that a “Certificate of Indian Blood or an enrollment certificate” may also be used to satisfy the requirement that an individual possesses a quantum of Indian blood. 831 F.3d 1115, 1121 (9th Cir. 2016). The blood does not need to be traced to a federally recognized Tribe. *United States v. Zepeda*, 792 F.3d 1103, 1113 (9th Cir. 2015). The court in *Zepeda* specifically points out the requirement that an individual belongs to or is affiliated with a federally recognized Tribe satisfies the second prong, not the first. *Id.* at 1113 (holding “Indian status under the IMCA requires only two things: (1) proof of some quantum of Indian blood, whether or not that blood derives from a member of a federally recognized Tribe, and (2) proof of membership in, or affiliation with, a federally recognized Tribe”).

The Tribe as a quasi-governmental entity is a political classification, not a racial one, and *Zepeda* reflects this by rejecting its ruling in *United States v. Maggi*, which held that the individual’s Indian blood must be linked to a federally recognized Tribe. 598 F.3d 1073 (9th Cir. 2010); *Zepeda*, 792 F.3d at 1113. The second prong of the general rule, that classification as an Indian for purposes of federal criminal jurisdiction that an individual must be a member of or affiliated with a federally recognized Tribe, has its roots in the view of Tribes as “once-sovereign political communities” and of Tribe members as “‘a separate people’ with their own political institution.” *Antelope*, 430 U.S. at 647 (citing *Mancari*, 417 U.S. at 553 n.24). To qualify as an Indian, the individual must have not only been a member or affiliate of a federally recognized Tribe but must also have been a member or affiliate of the Tribe at the time of the offense. *Zepeda*, 792 F.3d at 1114.

To prove the individual was a member of or affiliated with a federally recognized Tribe, courts have considered various pieces of evidence to show the membership or affiliation. In *St. Cloud v. United States*, the Eighth Circuit presented the following list of accepted evidence to show membership or affiliation with a Tribe: “1) enrollment in a Tribe; 2) government recognition formally and informally through providing the person assistance reserved only to Indians; 3) enjoying benefits of Tribal affiliation; and 4) social recognition as an Indian through living on a reservation and participating in an Indian social life.” 702 F. Supp. 1456, 1461 (D.S.D. 1988). Other circuits, notably the Ninth Circuit, have adopted almost identical factors in determining whether an individual belonged to a federally recognized Tribe for

purposes of criminal jurisdiction. *Zepeda*, 792 F.3d at 1114. The Ninth Circuit has also weighed the factors, holding that they appear, as in *St. Cloud*, in order of importance in providing evidence of an individual's recognition as a member or affiliate of a federally recognized Tribe. *Id.* Though the first factor may on its own provide sufficient evidence to satisfy the second prong of the rule, its absence is not necessarily determinative of an individual's Indian status, if other indications exist that the individual "lived on the reservation and 'maintained Tribal relations with the Indians thereon.'" *Antelope*, 430 U.S. at 647 n.7 (citing *Ex parte Pero*, 99 F.2d 28, 30 (C.A.7 1938)). In the absence of an enrollment certificate, courts look to the other three factors to determine if an individual is recognized by a Tribe for purposes of criminal jurisdiction.

Evidence for the second factor can include medical care provided by an Indian hospital or federal housing assistance. *St. Cloud*, 702 F. Supp. at 1461–62. The third factor can be a benefit such as enrollment in an alcohol treatment program, as it was in *St. Cloud*. *Id.* Participation in Tribal social life, particularly if the individual is not integrated into non-Indian society, can serve as evidence towards the factors fulfilling the second prong. *Id.* In *State v. Nobles*, the North Carolina Court of Appeals clarified that social involvement included participation in cultural and social events, as well as religious ceremonies. No. COA17-516, 2018 WL 3232721, at *8 (N.C. Ct. App. July 3, 2018). Thus, though enrollment can determinatively affirm an individual's status as a member or an affiliate of a federally recognized Tribe, courts have looked to other evidence as well to ascertain an individual's status as an Indian for the purposes of federal criminal jurisdiction.

Canadian Tribes are not considered federally acknowledged and their members are not to be treated as Indians, either as perpetrators or victims, under 18 U.S.C. §§ 1152 or 1153. *See United States v. Dennis*, No. CR91-99WD (W.D. Wash. June 21, 1991).

General Crimes Act

The General Crimes Act, codified at 18 U.S.C. § 1152, provides an avenue for federal jurisdiction to cover non-major crimes committed by Indians against non-Indians and crimes committed by non-Indians against Indians. 18 U.S.C. § 1152 provides:

Except as otherwise expressly provided by law, the general laws of the United States as to the punishment of offenses committed in any place within the sole and exclusive jurisdiction of the United States, except the District of Columbia, shall extend to the Indian Country.

This section shall not extend to offenses committed by one Indian against the person or property of another Indian, nor to any Indian committing any offense in the Indian country who has been punished by the local law of the Tribe, or to any case where, by treaty stipulations, the exclusive jurisdiction over such offenses is or may be secured to the Indian Tribes respectively.

The General Crimes Act applies to places under exclusive federal jurisdiction as listed in 18 U.S.C. § 7, generally referred to as federal enclaves. Section 1152 extended federal jurisdiction past the enclaves enumerated in 18 U.S.C. § 7 to encompass Indian country to fill what Congress perceived as a gap in federal jurisdiction regarding crimes occurring on Tribal land between an Indian and a non-Indian or a non-Indian and an Indian. WILLIAM C. CANBY, JR., *AMERICAN INDIAN LAW IN A NUTSHELL* 174–75 (6th ed. 2014). The exceptions in the second paragraph of section 1152 mean that the General Crimes Act does not apply to those crimes where both the perpetrator and victim are Indians. In those situations, we look to see if the offense is classified as a major crime under section 1153, the Major Crimes Act.

Though the General Crimes Act contains an exception for crimes in which the perpetrator has already been punished under Tribal law, in *United States v. Webster*, the Eighth Circuit held that the “absence of Tribal prosecution is not an element of § 1152.” 797 F.3d 531, 536 (8th Cir. 2015). The court reasoned that once a defendant raised the issue of Tribal punishment, the defendant bore the burden of proving the punishment occurred; the government did not bear the considerably heavier burden of proving a negative, that such punishment had not already taken place at the Tribal jurisdictional level. *Id.* (“It is far more manageable for Webster to initially show he was ‘punished by the local law of the Tribe’ than it is for the government to initially show the negative—that Webster has *not* been punished.”).

Major Crimes Act

In contrast to the General Crimes Act, which applies depending upon the site of the crime and the ethnicity of the victim and/or perpetrator, the Major Crimes Act applies when an Indian commits one of the following enumerated crimes in Indian country:

- murder
- kidnapping
- maiming
- sexual abuse under chapter 109A
- incest
- a felony assault under section 113
- an assault against an individual who has not attained the age of 16 years
- felony child abuse or neglect
- arson
- burglary
- robbery
- a felony under section 661

18 U.S.C. § 1153.

Thus, the three requirements of the Major Crimes Act are (1) the crime is one of the statutorily enumerated crimes; (2) the perpetrator is Indian; and (3) the crime occurred in Indian Country.

Lesser included offenses under The Major Crimes Act

In *Keeble v. United States*, the Supreme Court held that an Indian defendant charged with an offense under 18 U.S.C. § 1153, was entitled to request and receive an instruction on a lesser included offense not enumerated in the Major Crimes Act, even though the defendant could not have been charged with such an offense in the first instance. 412 U.S. 205 (1973). The Court said this result was compelled by 18 U.S.C. § 3242, which provides that Indians charged with violations of 18 U.S.C. § 1153 “shall be tried in the same courts and in the same manner as are all other persons committing such offense within the exclusive jurisdiction of the United States.” 18 U.S.C. § 3242.

If the jury returns a guilty verdict for the lesser offense, the court has jurisdiction to impose a sentence for the lesser offense even though it would not have had jurisdiction over the offense initially. The rationale is this result must have been intended by the Supreme Court when it handed down the ruling in *Keeble*. See *United States v. Bowman*, 679 F.2d 798 (9th Cir. 1982); *United States v. John*, 587 F.2d 683 (5th Cir. 1979); *United States v. Felicia*, 495 F.2d 353, 355 (8th Cir. 1974).

Assimilative Crimes Act

The Assimilative Crimes Act, 18 U.S.C. § 13, also addresses crimes taking place in areas of federal jurisdiction, or federal enclaves. It provides:

Whoever within or upon [a federal enclave] . . . is guilty of any act or omission which, although not made punishable by any enactment of Congress, would be punishable if committed or omitted within the jurisdiction of the State, Territory, Possession, or District in which such place is situated, by the laws thereof in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment.

18 U.S.C. § 13(a).

The Assimilative Crimes Act uses federal law to apply state law to those places under federal jurisdictional control as laid out in 18 U.S.C. § 7. This law is a “general law” as stated in the General Crimes Act and is thus extended to Indian country as well as other federal enclaves. *See Canby, supra* at 172.

Crimes of General Federal Applicability

Federal law also contains a separate category of crimes known as crimes of general applicability, which fall under federal criminal jurisdiction no matter where they occur and no matter by whom they are perpetrated. These crimes affect either interstate commerce or a federal interest and draw their authority from an individual statute. WILLIAM C. CANBY, JR., *AMERICAN INDIAN LAW IN A NUTSHELL* 170–173 (6th ed. 2014). These crimes are not subject to the exception in the General Crimes Act for crimes perpetrated by an Indian against an Indian or to the laws covered under PL 280. *Id.* at 172. Courts have held, however, that the federal government maintains criminal jurisdiction over crimes of general applicability. *See United States v. Begay*, 42 F.3d 486, 299 (9th Cir. 1994) (extending federal jurisdiction and holding that “a federal criminal statute of nationwide applicability . . . applies equally to everyone everywhere within the United States, including Indians in Indian Country”). The court in *Begay* also noted that federal criminal laws apply to Indians unless abrogated by treaty. *Id.*

The Indian Civil Rights Act—Sentencing Provisions

The Indian Civil Rights Act (ICRA) was enacted in 1968 to apply certain provisions in the United States Constitution to Indian country to guarantee certain rights and protections afforded all other United States citizens. ICRA gave individuals within the Tribal court system most, but not all, of the rights enumerated in the Bill of Rights, such as freedom of speech, equal protection of the laws, and protection against unreasonable search and seizure. 25 U.S.C. §§ 1301–04. In Section 1302(a)(7), ICRA limits sentencing for one offense to no longer than one year imprisonment, no fine greater than \$5,000, or both. The law as originally written provided limitations of less than six months’ imprisonment and limited the fine to under \$500; however, this limitation was lessened to its current iteration with the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986. Pub. L. 99-570, 100 Stat. 3207-146 (1986). The limitation was further amended by the Tribal Law and Order Act of 2010 (TLOA). Pub. L. 111-211, 124 Stat. 2261 (2010). The TLOA added subsections allowing Tribal courts to impose sentences of up to three to nine years’ imprisonment, fines up to \$15,000, or both, for certain offenses. The courts may impose the greater sentences if the defendant “(1) has been previously convicted of the same or a comparable offense by any jurisdiction in the United states; or (2) is being prosecuted for an offense comparable to an offense that would be punishable by more than 1 year of imprisonment if prosecuted by the United States or any of the States.” 25 U.S.C. § 1302(b)(1)–(2).

The TLOA also amended section 1302 by imposing certain requirements on a Tribal government, implementing a sentence longer than one year of imprisonment on a defendant. According to section 1302(c), in such cases a Tribal court must do the following:

- (1) provide to the defendant the right to effective assistance of counsel at least equal to that guaranteed by the United States Constitution; and
- (2) at the expense of the Tribal government, provide and indigent defendant the assistance of a defense attorney licensed to practice law by any jurisdiction in the United States that applies appropriate professional licensing standards and effectively ensures the competence and professional responsibility of its licensed attorneys.

Id. § 1302(c)(1)–(2). Section 1302(c)(3) goes on to require that the judge presiding over the criminal proceeding must have sufficient training and be licensed to practice law in any United States jurisdiction; that the court make public the Tribe’s criminal laws, rules of evidence, and rules of criminal procedure; and that the court maintain a record of the criminal proceeding. *Id.*

Finally, the TLOA gives courts imposing a sentence longer than one year the option to require a defendant serve out the sentence in a specific facility or serve an alternative form of punishment. 25 U.S.C. § 1302(d).

Tribal Court Authority Over Non-Indian Defendants

In *Oliphant v. Suquamish Indian Tribe*, the Supreme Court ruled that Tribal courts have no criminal jurisdiction over non-Indian offenders. 435 U.S. 191 (1978). Therefore, if the victim is Indian, the federal government has exclusive jurisdiction pursuant to the General Crimes Act, 18 U.S.C. § 1152. And, if the victim is non-Indian, the state has exclusive jurisdiction. *See United States v. McBratney*, 104 U.S. 621 (1882). This jurisdictional framework began to shift with passage of the Violence Against Women Reauthorization Act of 2013 (VAWA 2013). Pub. L. No. 113-4, 127 Stat. 54 (2013).

More than a decade ago, the Violence Against Women Reauthorization Act of 2013 was passed. Violence Against Women Reauthorization Act of 2013 (VAWA 2013), Pub. L. No. 113-4, 127 Stat. 54 (2013). Title IX of VAWA 2013 is titled “Safety for Indian Women.” Section 904 of this Title, Tribal Jurisdiction over Crimes of Domestic Violence, amended the Indian Civil Rights Act (ICRA). 25 U.S.C. § 1304. Section 1304(b)(1) states that “the powers of self-government of a participating Tribe include the inherent power of that Tribe, which is hereby recognized and affirmed, to exercise special domestic violence criminal jurisdiction over all persons.” 25 U.S.C. § 1304(b)(1). However, a Tribe’s ability to prosecute a non-Indian offender was limited to violations of “domestic . . . or dating violence . . . occur[ring] in the Indian country of the participating Tribe” and violations of a qualifying protection order. 25 U.S.C. § 1304(c)(1)–(2). Implementing Tribes had to provide non-Indian defendants appearing in Tribal court with a host of due process protections. 25 U.S.C. § 1304(d).

On March 15, 2022, the VAWA Reauthorization 2022 was signed into law. Many of its provisions, however, did not go into effect until October 1, 2022. The most significant change is that the ICRA was once again amended, and special domestic violence criminal jurisdiction (SDVCJ) is replaced with special Tribal criminal jurisdiction (STCJ). The list of “covered crimes” for STCJ includes the following: assault of Tribal justice personnel; child violence; dating violence; domestic violence; obstruction of justice; sexual violence; sex trafficking; stalking; and violation of a protection order. 25 U.S.C. § 1304(a)(5). The term “sex trafficking” means conduct within the meaning 18 U.S.C. § 1591(a). A participating Tribe may not exercise STCJ over an alleged offense, other than obstruction of justice or

assault of Tribal justice personnel, if neither the defendant nor the alleged victim is an Indian. 25 U.S.C. § 1304(b)(4).

Effective October 1, 2022, for a Tribal court to prosecute a non-Indian defendant pursuant to STCJ, the Tribe must afford the defendant certain due process protections:

- (1) all applicable rights under this Act;
- (2) if a term of imprisonment of any length may be imposed, all rights described in section 1302(c) of this title;
- (3) the right to a trial by an impartial jury that is drawn from sources that--
 - (A) reflect a fair cross section of the community; and
 - (B) do not systematically exclude any distinctive group in the community, including non-Indians; and
- (4) all other rights whose protection is necessary under the Constitution of the United States in order for Congress to recognize and affirm the inherent power of the participating Tribe to exercise special domestic violence criminal jurisdiction over the defendant.

25 U.S.C. § 1304(d).

Section 1302(c), enacted as part of the Tribal Law and Order Act of 2010, provides defendants with the following rights:

- (1) provide to the defendant the right to effective assistance of counsel at least equal to that guaranteed by the United States Constitution; and
- (2) at the expense of the Tribal government, provide an indigent defendant the assistance of a defense attorney licensed to practice law by any jurisdiction in the United States that applies appropriate professional licensing standards and effectively ensures the competence and professional responsibility of its licensed attorneys;
- (3) require that the judge presiding over the criminal proceeding--
 - (A) has sufficient legal training to preside over criminal proceedings; and
 - (B) is licensed to practice law by any jurisdiction in the United States;
- (4) prior to charging the defendant, make publicly available the criminal laws (including regulations and interpretative documents), rules of evidence, and rules of criminal procedure (including rules governing the recusal of judges in appropriate circumstances) of the Tribal government; and
- (5) maintain a record of the criminal proceeding, including an audio or other recording of the trial proceeding. 25 U.S.C. § 1302(c); Tribal Law and Order Act of 2010, Pub. L. 111-211, 124 Stat. 2258, 2261 (2010). A Tribe's decision to implement STCJ does not "create or eliminate any Federal or State criminal jurisdiction over Indian country." 25 U.S.C. § 1304(b)(3)(A). In short, the Tribe's exercise of this inherent power is "concurrent with the jurisdiction of the United States, of a State, or of both." 25 U.S.C. § 1304(b)(2). VAWA 2022 makes STCJ available to any participating Tribes in the State of

Maine. 25 U.S.C. § 1304(b)(1). Previously Tribes in Maine were unable to exercise SDVCJ authority because of the Maine Indian Claims Settlement Act of 1980. ME. STAT. 30 §§ 6201–6214 (1980).

Double Jeopardy for Successive Federal and Tribal Prosecutions

An Indian defendant cannot raise the Double Jeopardy Clause as a bar to federal prosecution following a Tribal prosecution based on substantially the same acts or underlying elements. Tribes have sovereign authority to prosecute criminal offenses over all Indians. 25 U.S.C. § 1301(2). This power does not derive from federal authority, but “[r]ather, it enlarges the Tribes’ own ‘powers of self-government’ to include ‘the inherent power of Indian Tribes . . . to exercise criminal jurisdiction over all Indians,’ including nonmembers.” *United States v. Lara*, 541 U.S. 193, 198 (2004) (citing 25 U.S.C. § 1301(2)). Thus, Tribes act as separate sovereigns when conducting their own criminal prosecutions. *See id.* at 209–10. Absent a showing that a Tribal court’s power to prosecute a case derived from federal power, the doctrine of dual sovereignty is applied and the “Double Jeopardy Clause does not prevent the federal government from. . . prosecut[ing] . . . a discrete federal offense.” *Id.* at 210.

Strangulation Offenses in Indian Country

Police and prosecutors are learning what survivors of non-fatal strangulation have known for years: “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.” CASEY GWINN, STRANGULATION AND THE LAW, THE INVESTIGATION AND PROSECUTION OF STRANGULATION CASES 5 (2013).

Police, prosecutors, and medical providers across the country have begun to appreciate the inherent lethality risks for strangulation and suffocation crimes. The overwhelming majority of states and some Indian Tribes have enacted strangulation-specific laws that range from misdemeanor offenses to felonies. *See Legislation Map*, TRAINING INSTITUTE ON STRANGULATION PREVENTION, <https://www.strangulationtraininginstitute.com/resources/legislation-map/> (last visited Jan. 28, 2026). Because domestic violence and sexual assault remains primarily a matter of state, local, and Tribal jurisdiction, the federal government historically lacked jurisdiction over some intimate partner violence crimes. VAWA 2013 changed that by providing the federal government with additional statutory tools to prosecute intimate partner violence. Pub. L. No. 113-4, 127 Stat. 54 (2013). With the passage of VAWA 2013, Congress recognized the gravity of strangulation and suffocation crimes and, accordingly, amended the federal assault statute to include a specific charge of assault or attempted assault by strangulation or suffocation. 18 U.S.C. § 113. This important change in the law became effective March 7, 2013. *Id.*

Under section 113, it is now possible to prosecute perpetrators in Indian country for the specific offenses of strangulation and suffocation. Section 113(a) provides:

whoever, within the special maritime and territorial jurisdiction of the United States, is guilty of an . . . assault of a spouse, intimate partner, or dating partner by strangling, suffocating, or attempting to strangle or suffocate, [shall be punished] by a fine under this title, imprisonment for not more than 10 years, or both.

18 U.S.C. § 113(a)(8).

In this section, 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.” *Id.* § 113(b)(4). The definitions of spouse, intimate partner, and dating partner are found in 18 U.S.C. § 2266.

Prior to the passing of VAWA 2013, strangulation cases were typically prosecuted as an Assault Resulting in Serious Bodily Injury (ARSBI), pursuant to 18 U.S.C. § 113(a)(6). ARSBI is punishable by a fine, imprisonment for not more than 10 years, or both. 18 U.S.C. § 113(a)(6).

It is important to note that section 113(a)(8) only addresses situations where the victim is the spouse, intimate partner, or dating partner of the defendant. Consequently, a defendant who commits a strangulation offense outside this context will not be charged in federal court as a violation of section 113(a)(8). The prosecutor will instead look to the crimes of ARSBI, attempted murder, or murder, depending on the facts.

While this new charging tool is frequently used by federal prosecutors to combat violent crime in Indian country, there are very few appellate decisions interpreting the statute. The most significant reported opinion to date is *United States v. Lamott*. 831 F.3d 1153 (9th Cir. 2016). Lamott and his victim, both Native Americans, were living on the Blackfeet Indian Reservation in Montana at the time of the offense. *Id.* at 1155. The couple had been out with friends and Lamott was drinking. Lamott became jealous of the attention one of the victim’s friends paid to the victim at the party. *Id.* When the couple returned to Lamott’s house, he strangled the victim multiple times, including one episode that left her unconscious. *Id.* The prosecutor charged Lamott with one count of assault by strangulation under 18 U.S.C. § 113(a)(8) and one count of ARSBI under 18 U.S.C. § 113(a)(6). *Id.* After a two-day jury trial, Lamott was convicted on the charge of assault by strangulation. *Id.* The jury hung on the ARSBI and the charge was dismissed. Defendant was sentenced to 32-months’ imprisonment and timely appealed his conviction. *Id.*

On appeal, Lamott argued that the trial court erred when it instructed the jury to disregard evidence of his voluntary intoxication. *Id.* at 1156. Defendant argued this was reversible error was because the crime of assault by strangulation is a specific intent crime. *Id.* Accordingly, the court had to determine if the crime of assault by strangulation is a specific or general intent crime. The Ninth Circuit first looked to the text of the statute and found that “the statute does not specify a mens rea requirement.” *Id.* The court also noted that only the first three crimes in the federal assault statute include the words “with intent to” and that the strangulation part of the statute does not include this language. *Id.* at 1156–57. In addition, the federal statute provides that the crime of strangulation can be done knowingly or recklessly and because the definition explicitly disclaims the requirement of “any intent to kill or protractedly injure,” it is unlikely that Congress intended the federal assault statute to require specific intent. *Id.* at 1157. Moreover, an examination of the legislative history indicates that Congress intended that general and not specific intent is required. *Id.* at 1158. Accordingly, the Ninth Circuit found that assault by strangulation is a general intent crime and that Lamott’s voluntary intoxication was not relevant. The trial court did not err by instructing the jury to disregard it. *Id.*

Lamott also argued that the jury was improperly instructed to determine whether the defendant had “wounded,” rather than “assaulted” the victim. *Id.* The prosecutor asked that the jury be instructed that in order to convict, the jury must find “the defendant assaulted [the victim] by intentionally striking or wounding her . . . [and] the defendant did so by strangling” the victim. *Id.* Lamott did not object to this proposed instruction but argued on appeal that the court should have instructed the jury to determine whether “the defendant intentionally assaulted [the victim] by strangling her.” *Id.* The appellate court agreed that use of the word “assaulted” instead of “wounded” would have more closely tracked the statute and the indictment, but the court disagreed that the instruction used changed the outcome of the trial. *Id.*

The appellate court stated that “[t]he district court’s inclusion of the word ‘wounded’ may have been superfluous, but if anything, the inclusion of ‘wounded’ in the instruction required that the government meet a higher burden than was necessary because section (a)(8) does not require proof of a wound or injury.” *Id.* at 1159. Lamott’s conviction was affirmed. *Id.*



Strangulation and the Law, A Legal Compendium for Washington

By Gael Strack, Esq. and Casey Gwinn, Esq.

"I thought I was going to die. It felt like my head was going to explode. After awhile, I was almost numb ... like somebody is just laying on top of you, on top of your throat and you just can't breathe, or nothing. No matter how hard you want to grasp for air, it's just not there.

*Survivor in a Strangulation Assault
State v. Paige, 103 Wash.App. 1035 (2000, Pierce County)*

Introduction and Context:

For the last 25 years, the Training Institute on Strangulation Prevention (Institute), a program of Alliance for HOPE International, has been monitoring how courts are ruling on strangulation and suffocation laws that have passed across the United States.¹ Historically, professionals treated strangulation and suffocation assaults as minor simple assaults, reducing felony charges to misdemeanors and/or not prosecuting strangulation cases at all. In recent years, we have seen tremendous progress with new laws, case law, resources, training, protocols, research, the development of multi-disciplinary response teams, and specialization in handling the handling of strangulation cases in Family Justice Centers. Just last year, researchers from the University of Exeter analyzed the impact of the strangulation laws that have been passed in the United States since 2000 and concluded that focusing on strangulation assaults saves lives both for women and men, approximately 1500 individuals in their estimate.² Their research validated what we have known for years, focusing our attention on strangulation assaults is homicide prevention.

The 1995 San Diego Study

The movement to pass strangulation laws across America all started as a result of two domestic violence homicides in 1995, Casondra Stewart (17 years old) and Tamara Smith (16 years old). Their deaths made San Diego realize how the criminal justice system was failing high-risk victims of non-fatal strangulation. We quickly realized there was a huge gap of knowledge among medical, legal and advocacy professionals when it came to non-fatal strangulation cases. Everyone had missed it. To find answers, the San Diego City

¹ As a resource for professionals, the Institute tracks strangulation statutes and relevant cases on the website of our Institute at www.strangulationtraininginstitute.com/resources/legislation-map/.

² De Assis D, Ghosh A, Oreffice S and Quintana-Domeque C, Disrupting Violence Protecting Lives: Strangulation Laws and Intimate Partner Homicides, University of Exeter (2025), <https://ideas.repec.org/p/exe/wpaper/2501.html>

Attorney's Office conducted a study of 300 existing "choking" cases being prosecuted within the office. The findings of the study were ultimately published in a special edition of the Journal of Emergency Medicine in 2001. The findings were sobering and eye opening.³

- Findings from the San Diego Study:
 - There were many more victims being strangled than we realized; Survivors of strangulation were at high risk of later being killed;
 - Victims were suffering serious health consequences but rarely seeking medical attention;
 - Strangulation was a weapon of choice by repeat offenders and evidence of escalation;
 - Strangulation was a gendered crime (mostly men strangling women);
 - Strangulation was being minimized by everyone;
 - Victims reported being "choked," professionals called it "attempted strangulation" and rarely did medical professional treat "choking" cases as an emergency medical condition requiring a full examination and/or imaging;
 - Serious, life-threatening cases were being minimized due to lack of visible injury, lack of victim "cooperation" or a lack of corroborating evidence

Across the country, we are seeing an improved understanding of non and near-fatal strangulation assaults, better investigations, more specialization, advanced training, diverse professionals testifying as experts and more strangulation and suffocation cases being prosecuted as felonies, including as attempted murder cases. And **Washington is one of the states that has been taking strangulation and suffocation cases very seriously since their law passed in 2007.**

A Focus on Washington: While this Compendium provides a national overview of strangulation criminal case law and the trends across the nation, **the focus will be on Washington.** This Compendium seeks to help Washington professionals understand how issues related to the strangulation assaults are being resolved not just in Washington but other jurisdictions. Failure to intervene early even with one victim is a missed opportunity to prevent the next assault, internal injury or even murder from happening. Neurological, physiological, and traumatic impacts of strangulation assaults are cumulative in victims and often produce suicidal ideation if the violence is not stopped.⁴

Overall, the body of case law that is developing in strangulation cases is very favorable for criminal felony prosecution and ultimately homicide reduction. Only a few cases have been reversed on appeal and for good reason such as the failure to allow a defense attorney to voir dire the jurors on battered women's syndrome, failure to allow the defense attorney a continuance to call an expert to rebut the prosecutor's expert testimony or insufficient evidence due to a lack of training and evidence gathering. While this Compendium only

³ Pritchard A, Reckdenwald A, Nordham C, Holton J, Nonfatal Strangulation as Part of Domestic Violence: A review of research. *Trauma, Violence & Abuse*, 1-18 (2015).

⁴ Monahan K, Bannon S, Dams-O'Connor, Nonfatal Strangulation (NFS) and Intimate Partner Violence: A Brief Overview, *Journal of Family Medicine*, (2020) and Strack, G and Gwinn, C, Robbed of HOPE: Is the Suicide of a Battered Woman Murder?, *Domestic Violence Report*, Aug/Sept 2019.

focuses on criminal cases, the Institute is starting to see more cases involving strangulation cases in family court, juvenile dependency, juvenile delinquency and civil court. A Civil Legal Compendium is anticipated to be published in 2026-2027. The next few paragraphs will provide a brief overview of why strangulation cases must be taken seriously.

Strangulation is the calling card of a killer. Most women in the United States are shot to death but before they are killed, they have been previously strangled. In 2008, researchers determined if a victim was strangled even one time, she is 750% more likely to be killed by her abuser compared to a victim abused in some other way. By 2018, researchers realized that most victims are not just strangled one time, most are strangled multiple times thereby increasing the risk of murder, attempted murder, and long-term health consequences.⁵ Given the lethality and seriousness of non and near-fatal strangulation, it is critical we hold the most dangerous offenders accountable for the felonious crimes they commit, including sexual assault, torture, stalking, witness intimidation and attempted murder. We will reference all cases as *strangulation cases* in this compendium without generally distinguishing between strangulation and suffocation or delineating between fatal, non-fatal, and near-fatal strangulation assaults. However, we do carefully distinguish between suffocation and strangulation assaults as either fatal, non-fatal and near-fatal assaults in our training and work with victims and offenders.

Link to cop killers and mass shootings: Stranglers have been consistently linked to domestic violence homicides, the suicides of their victims, the killing of police officers and mass shootings. Casey Gwinn is often quoted as saying: “Men who strangle women are the most dangerous men on the planet.” And a strangler with a gun is even more dangerous.⁶ Reducing strangulation charges to misdemeanors or allowing stranglers to divert out of the criminal justice system sends the wrong message to offenders and puts victims and the general public at heightened levels of risk.

Power and Control. Strangulation demonstrates a dangerous escalation in the relationship and a form of power and control that can have devastating psychological effects on victims in addition to potentially fatal outcomes, including suicide.⁷ While most abusers do not strangle to kill their partner, they want them to know that they can kill them at any time. Most victims who are strangled believe they are going die (70% to 99%). Survivors of non-fatal strangulation have known for years what many professionals are only recently learning – many domestic violence perpetrators use strangulation and suffocation to silence their victims, gain control, torture and kill them. In doing so, the strangler conveys a very powerful and credible threat of imminent death which is an essential element of

⁵ Messing J, Patch M, Wilson J, Kelen GD Campbell J, Differentiating Among Attempted, Completed and Multiple Nonfatal Strangulation in Women Experiencing Intimate Partner Violence. *Women's Health Issues*, 28(1):104-111 (2018).

⁶ Gwinn C, “Men who strangle women also kill cops”, *Domestic Violence Report*, Civic Research Institute, Vol. 19, No. 6, 81-100 (2014); Gwinn C, Hellman C, *Hope Rising: How the Science of Hope Can Change Your Life* (2018).

⁷ Strack G, Gwinn C, On the Edge of Homicide: Strangulation as a Prelude, 26 Fall *Criminal Justice* 32 (2011); Pritchard A, Reckdenwald A, Nordham C, Holton J, Nonfatal strangulation as part of domestic violence: A review of research. *Trauma, Violence & Abuse*, 1-18 (2015).

establishing and maintaining coercive control.⁸ Evan Stark has described coercive control as resulting in a “condition of unfreedom and a feeling of entrapment for survivors.”⁹ Strangulation survivors learn to comply with their abusive partner’s escalating violence and coercive control as a survival strategy while abusers realize it is an effective tool to maintain control of the victim without legal consequences. Strangulation becomes their weapon of choice.

Prevalence: Recent studies have estimated that between 3% and 10% of the general population have experienced non-fatal strangulation. However, the prevalence of non-fatal strangulation in intimate partner cases varies between 68% to 80%¹⁰ and many of those victims believed they were going to die (between 70% to 99%).¹¹ For stranger sexual assault cases, the prevalence has ranged between 15% to 35%, depending on the study. However, in a recent retrospective chart review of 1,396 records, researchers from Texas found 243 non-fatal strangulation cases (17.4%) with victims ranging in age from 1 to 73 years. Of those cases, 15.2% involved adult victims and 2.2% involved children.¹² Partner/spouse perpetrators represented the highest percentage at 60.4% compared to children at 12.5%. And 97.1% of all non-fatal strangulation cases involved perpetration by a male. Only 10 cases involved female perpetrators, most commonly with a parent as the victim. **They also found that 53.9% of non-fatal strangulation cases involved sexual assault. Children (mostly adolescents) who had experienced non-fatal strangulation had a markedly higher prevalence of concurrent sexual assault (67.7%) compared to adults (51.9%).** While women do strangle children, other women, and men, this Compendium generally refers to victims as women and perpetrators as men because strangulation is a gendered crime perpetrated primarily by men against women based on all studies that have been reviewed since 2001.¹³

Health Consequences: Devastating and life-long consequences can happen immediately or can be delayed. The seriousness of the internal injuries, even with no external injuries, may take a few hours to be appreciated and delayed death can occur days, weeks, or months later.¹⁴ Victims of multiple non-fatal strangulation assaults “who had experienced more

⁸ Thomas K, Joshi, M, Sorenson S, Do you know what it feels like to drown? *Psychology of Women Quarterly*, 38(1), 124-137 (2013).

⁹ Stark E, *Coercive Control: How Men Entrap Women in Personal Life* (2009).

¹⁰ Wilbur, et al, Survey Results of Women Who Have Been Strangled While in an Abusive Relationship, *Journal of Emergency Medicine*, 21(3): 297-301 (2001); Messing, et al, Differentiating Among Attempted, Completed and Multiple Strangulations in Women Experiencing Intimate Partner Violence, *Women’s Health Issues*, 20(1): 104-111 (2018).

¹¹ Wilbur, et al, (2001); Thomas, et al, Do You Know What it Feels Like to Drown?: Strangulation as Coercive Control in Intimate Relationships, *Psychology of Women Quarterly*, 38(1): 124-137 (2013).

¹² Knutson, et al, Prevalence and Characteristics of Nonfatal Strangulation in Medical Forensic Examination: A Retrospective Chart Review, 2017-2023, *Violence Against Women*, 1-16 (2025).

¹³ Strack, et al, (2001).

¹⁴ Hawley D, McClane G, Strack G, A review of 300 attempted strangulation cases Part III: Injuries in fatal cases, *The Journal of Emergency Medicine*, 21(3), 317-322 (2001).

than one strangulation attack, on separate occasions, by the same abuser, reported neck and throat injuries, neurologic disorders and psychological disorders with increased frequency.”¹⁵ Between 2-14% of women who are strangled may have vascular injuries that could lead to a stroke or other potentially dangerous injuries.¹⁶

- In *State v. Roman*, 182 Wash.App.1019 (2014, **Lewis County**) Not Reported. Where Defendant placed the Victim in a headlock. Victim reported seeing stars, difficulty breathing, difficulty swallowing and her throat hurting. The responding Officer noticed the Victim coughing more as he interviewed her and encouraged her to seek medical attention. She was later examined by Dr. Bilodeau who documented petechiae, redness, swelling and difficulty swallowing. Her CTA scan revealed **fractured thyroid cartilage and significant edema in her neck** – consistent with strangulation. Pain to the throat lasted 5 weeks. She had difficulty turning her neck and yawning. The jury found Defendant guilty of strangulation and aggravated domestic violence. He was sentenced to six months in custody.
- In *State v. Clark*, 20 Wash.App2d 1045 (2022, **King County**) Not reported. Defendant Stepson argued with his Stepdad (72), punched, strangled and threatened to kill him. Mom intervened and called the police. Responding Officers saw visible injuries, noticed he appeared dazed and in shock. Paramedics were called. The Victim obtained subsequent medical care and had trouble communicating with doctors who testified **the victim “had a couple of strokes after the incident.” An expert witness also testified that strokes are consistent with strangulation.**

These two local cases from Washington confirm what case law, researchers and experts have consistently found – strangulation can cause great bodily injury, poses a substantial risk of death and strangled victims need imaging (CTA/MRI) in order to rule out internal, life-threatening injuries. Researchers have also identified the link between strangulation and traumatic brain injuries and even chronic traumatic encephalopathy (CTE).¹⁷

Main Topics: Lastly, this Compendium will cover topics that represent the most relevant and prevalent emerging trends across the United States to assist Washington Professionals, such as the Evolution of Strangulation Laws, Washington Law and Case Law, Legislative Intent, the Benefit of unreported cases, court considerations such as bail, use of expert,

¹⁵ Smith, D, et al, “Frequency and Relationship of Reported Symptomology in Victims of Intimate Partner Violence: The Effect of Multiple Strangulation Attacks,” 21 *J. Emergency Med.*, 3: 323, 325–326 (2001).

¹⁶ Ruder T, et al, “Imaging of Alert Patients after Non-self-inflicted Strangulation: RMI is Superior to CT, *European Radiology*, 34:3813-3822 (2024).

¹⁷ Strack G, Gwinn C, Domestic Violence Report, The Consequences of Strangulation Assaults: What Professionals Need to Tell Victims, Civic Research Institute, Vol. 30, No 2:17-40 (2025)

recantation, misidentification of the dominant aggressor, common defenses, the consent defense, sentencing,

Evolution of Strangulation Laws

The first strangulation stand-alone law in the United States was passed in 2000 in Missouri. By 2014, 37 states and one U.S. Territory (Virgin Islands) had passed some form of a felony strangulation and suffocation law. Today, all 50 states, DC and three U.S. Territories (Virgin Islands, Guam and Puerto Rico) have added strangulation and/or suffocation to their criminal codes, including at least 20 Tribal Codes which includes 5 Tribes from Washington alone. Strangulation and suffocation assaults are also included in federal law and the Uniform Code of Military Justice (UCMJ). Most states have simply added strangulation and suffocation to their existing aggravated assault statutes. Sixteen states passed separate stand-alone strangulation and suffocation statutes, and a few states simply changed their definition of bodily injury (South Carolina) or added a definition of strangulation and suffocation under a separate code section thereby allowing prosecutors to charge strangulation as a felony. Most strangulation statutes protect any person while others limit strangulation laws to family members and/or a dating relationship. Strangulation has been recognized as a general intent crime. **Visible injury is explicitly not required to prove the crime in the federal Violence Against Women Act (VAWA) the UCMJ, Delaware, Hawaii, Idaho, Nebraska, Pennsylvania, and Tennessee.**¹⁸

Federal law has one of the most comprehensive definitions of strangulation and suffocation. Under Federal law, Title 18 USC § 113, strangling, suffocating, or attempting to strangle or suffocate, 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...”. A violation of this code section is a felony and punishable up to 10 years.

Strangulation is external pressure to the neck, by any means, that impedes airflow or blood flow or both. Suffocation is the obstruction of airflow to and from the lungs making it difficult to breathe. Continuous pressure and obstruction of blood flow and/or airflow can lead to unconsciousness within seconds and death within minutes. Some use the terms “strangulation” and “suffocation” interchangeably, but they are distinctively different mechanisms. Only Idaho still refers to strangulation as attempted strangulation. Historically, everyone called it “attempted strangulation” because most thought if the victim was strangled she was dead. Today, we know most victims of strangulation do not die during the assault. While many victims call it “choking,” it is not “choking.” Choking is usually accidentally, most often food lodged in the throat. Strangulation is intentional, lethal and deadly. But victims refer to the assault as “choking” and professionals should clarify by asking her, “What does choking mean to you?” The term “strangulation” should

¹⁸ Strack G, Gwinn C, Domestic Violence Report, The Law is Keeping its Promise: Laws that Give Us HOPE, Civic Research Institute, Vol. 30, No. 2:17-40 (2025).

always be used in reporting when external pressure is applied to the neck even when a victim's statement describes it as being "choked."¹⁹

Today, experts are now distinguishing between non-fatal and near-fatal strangulation. Near-fatal strangulation is the same application of external pressure that partially or fully blocks airflow and/or blood flow but also includes statements of the victim or witnesses or signs and/or symptoms that demonstrate the victim was seconds away from death such as ongoing pressure after unconsciousness in the victim including evidence of urination, defecation, or other signs or symptoms indicating brain damage or cessation of the functioning of the autonomic nervous system. *Talbott v. State*, 2024 N.E.3d 288 (2023, Indiana). Fatal strangulation assaults can result in the death or the delayed death of a victim. A victim may even be strangled to death without any external visible injuries which can pose significant challenges in forensic and criminal investigations.²⁰ Homicides by strangulation in intimate partner relationships are the most common homicides to be staged as a suicide, accident and/or overdose.²¹ As such, it is important for professionals to pay close attention to deaths with a history of domestic violence, and utilize our nationally recognized "Ten Factors of a Suspicious Death".²²

The effort to understand the significance of strangulation and suffocation in the United States didn't go unnoticed by other countries. Countries such as Australia (2016)²³, New Zealand (2018),²⁴ Canada (2019),²⁵ the United Kingdom (2021),²⁶ and Ireland (2023)²⁷ have all passed similar stand-alone strangulation laws.

Washington Statute and Case Law

Washington passed its strangulation law in 2007 as a result of passionate advocates, prosecutors, law enforcement and medical examiners bringing forward numerous cases where women had been nearly killed by strangulation, but because they survived and had

¹⁹ Taliaferro, E., Hawley, D., McClane, G., & Strack, G. (2009). Strangulation in intimate partner violence., Chapter 16, In C. Mitchell & D. Anglin (Eds.), *Intimate partner violence: A health-based perspective* (pp. 217–235). Oxford University Press.

²⁰ Petreca V, et al, The Grip of Crime: Analyzing Strangulation and Asphyxiation Typologies in Homicide Cases, *J Forensic Sci*, 70:1094-1104 (2025).

²¹ Miller M, et al, "911 What's Your Emergency?": Deception in 911 Homicide and Homicide Staged as Suicide Calls, *Sage Journals*, Vol. 25, Issue 3 (2020).

²² <https://legiscan.com/CA/text/SB989/id/3023396>

²³ A Red Flag for a Homicide: Should Non-Fatal Strangulation be made a stand-alone offense? Heather Douglas, 2018. <https://www.policyforum.net/red-flag-homicide/>.

²⁴ Strangulation: The Case for a New Offense, Report 138, Wellington, New Zealand, March 2016, <https://www.lawcom.govt.nz/assets/Publications/Reports/NZLC-R138.pdf>.

²⁵ The Hidden, Deadly Epidemic in Partner Violence, Mary Fowles, February 8, 2022. <https://thetee.ca/News/2022/02/08/BC-New-Police-Training-Help-Women-Risk-Strangulation/>.

²⁶ Strangulation and Suffocation, Policy Paper, Updated January 2024; <https://www.gov.uk/government/publications/domestic-abuse-bill-2020-factsheets/strangulation-and-suffocation#:~:text=Other%20jurisdictions%20had%20recognised%20this,enabling%20justice%20to%20be%20served.>

²⁷ Non-Fatal Strangulation Law Comes Into Effect in Northern Ireland, Eve Rosato, June 26, 2023; <https://www.bbc.com/news/uk-northern-ireland-66000301>.

no "substantial" visible injuries (like a broken bone), the police could only charge the abuser with a **simple assault misdemeanor**—the same charge as a slap in the face.

The 2007 law focused on "strangulation" (neck compression/blood flow), but in 2011 the law was updated to explicitly include "suffocation" (blocking the nose or mouth/airflow). This closed a loophole where abusers who smothered victims with pillows or hands. Prior to these legislative changes, in 2007 and 2011, strangulation was routinely handled as a simple misdemeanor assault, similar to all states across the United States.

Washington was the first state to provide legislative findings, thereby providing very clear guidance why strangulation must be treated seriously and charged as a felony. The Washington legislature specifically found:

“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 fatalities. ... 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, merits its categorization as a ranked felony offense.²⁸

Washington lawmakers were motivated by the realization that they were effectively "waiting for a murder" to happen before they could legally issue a felony charge and likely prevent a homicide.

Washington Law:

Washington – 2007/2011

- WASH. REV. CODE ANN. = 9A.36.021. ASSAULT IN THE SECOND DEGREE
- (1) A person is guilty of assault in the second degree if he or she, under circumstances not amounting to assault in the first degree:
- (g) Assaults another by strangulation or suffocation.
- (2)(a) Except as provided in (b) of this subsection, assault in the second degree is a class B felony.
- (b) Assault in the second degree with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135 is a class A felony.

Washington – 2007/2011

- WASH. REV. CODE ANN. = 9A.04.110. DEFINITIONS
- (26) "Strangulation" means to compress a person's neck, thereby obstructing the person's blood flow or ability to breathe, or doing so with the intent to obstruct the person's blood flow or ability to breathe;
- (27) "Suffocation" means to block or impair a person's intake of air at the nose and mouth, whether by smothering or other means, with the intent to obstruct the person's ability to breathe;

The Importance of published and unpublished Cases:

²⁸ *State v. Rodriguez*, 187 Wash. App. 922 (2015).

While Washington is one of the top states with the most published court cases involving strangulation cases, it also has many helpful unpublished cases that could assist judges in making important rulings. Published appellate court cases are binding on trial courts, while unpublished cases are not. It is well understood that most courts disfavor the citation of unpublished cases unless the party believes the unpublished opinion persuasively addresses a material issue in the appeal and no published opinion from the court adequately addresses the issue.²⁹ Published and unpublished cases can also help police and prosecutors decide which cases to prosecute.³⁰ The Institute encourages prosecutors to track unpublished strangulation cases and consider requesting publication in the furtherance of justice, consistency and clarification.

Washington Case Law

No Requirement to Show Complete Obstruction of Airflow or Blood Flow

Appellate Courts are sending a clear message: The legislative intent of strangulation statutes is to **prevent** someone causing another person the inability to breathe, however slight or momentarily. The inability to breathe, whether by a lack of blood flow and/or airflow is absolutely terrifying. The respiratory function, like the cardiac function, is essential to life. There is no requirement to completely prevent breathing, nor is there a durational requirement how long breathing must be impaired. Otherwise, prosecutors would be forced to wait until the victim loses consciousness or wait until the victim was almost killed before they could prosecute a strangulation case.

Today, based on the current state of the law and the current research, any intentional effort to apply pressure to the neck, by any means, in order to impede airflow or blood flow should be viewed as a felony strangulation assault and possibly even attempted murder. The perpetrator does not “attempt” the assault. He has completed it as soon as he has applied pressure that blocks blood flow, airflow or both. Strangulation is the only type of crime where the killer must actually stop applying pressure in order to stop killing the victim.

- In *State v. Rodriguez*, 187 Wash.App. 922 (2015, **King County**), the court held there is no need to prove complete obstruction of breathing, **any degree of obstruction is sufficient**. The defendant strangled the victim multiple times making it difficult to breathe. Victim testified she had trouble breathing.
- In *State v. Stout*, 1 Wash.App.2d 1014 (2017, **Kitsap County**) Not Reported. Defendant Mom was found guilty of strangling her 9 year-old daughter. She appealed claiming there was a lack of sufficient evidence and therefore she was

²⁹ Federal and State Court Rules Governing Publication and Citation in Opinions, *Journal of Appellate Practice and Process*, Fall, 2004, 6 J. App. Prac. & Process 349.

³⁰ Strack G, Gwinn C, Trends in Strangulation Case Law, *Family & Intimate Partner Violence Quarterly*, Vol. 13, No. 1 (2020).

denied her due process rights. The Appellate Court disagreed. The State presented evidence that her Mother was angry with her, grabbed her neck and squeezed. She called her Dad. Dad, who is a nurse and saw “bruising around the neck”. He also observed her breathing hard. Victim reported that it felt like blood was rushing to her head, like she was hanging upside down. She described repeated pressure to the neck. Victim reported that she would get away but Mom would catch her and strangle her again. Victim described the pressure was “kind of tight” and “kind of hard to breathe because it was so tight.” Mom held Victim’s throat for 30 to 50 seconds. The jury was presented with photos showing bruising on the victim’s neck. Defendant Mom testified she was not angry at her daughter but just trying to console her because she was upset. She said they fell to the ground and she had no recollection of ever putting her hands on Victim’s neck. While the Defendant provided conflicting testimony, it was solely the jury’s province to determine the credibility of the witnesses. Appellate Court concluded there was sufficient evidence to support the Defendant’s conviction.

- In *State v. Cruz*, 8 Wash.App.2d 1025 (2019, **Pierce County**) Not Reported. Defendant was convicted of second-degree strangulation and unlawful imprisonment. Defendant appealed. He claimed the Judge’s sidebar conversations with attorneys denied him a public trial and there was insufficient evidence of strangulation. Appellate Court disagreed. The court found the jury decides credibility. “We consider circumstantial evidence and direct evidence as equally reliable.” State must prove either the Defendant obstructed another person’s blood flow or ability to breathe or he intended to obstruct another’s blood flow or ability to breathe. Appellate court emphasized that that complete obstruction is not required per *Rodriguez*. **There was sufficient evidence that Defendant put the Victim in a chokehold, his arm was around her throat, she felt like she couldn’t breathe causing her to “freak out”, his hold got tighter on her throat, restricted her breathing “a little bit” and she thought she was going to pass out. Two responding officers saw redness around her neck.** Affirmed.
- In *State v. Perez*, 7 Wash.App.2d 1068 (2019, **King County**) Not Reported. Defendant was found not guilty of strangulation but guilty of simple assault. Defendant raised insufficient evidence of obstruction as a defense to the simple assault conviction, argued a discovery violation and alleged credibility issues because the Victim delayed reporting of strangulation and failing to mention being strangled. **Comment:** Victims of strangulation may not remember to tell responding professionals that they were strangled or “choked” for many reasons. It is important to always ask: “Was any pressure applied to your neck by means?” and/or “Did you have any difficulty or change in your breathing?” See the Institute’s **Advocacy**

Toolkit.³¹

- In *State v. Till*, 2020 WL 3440539 (2020, **Harbor County**) Not Reported. The Defendant (Mom) was convicted for hitting and putting her six-year old son in a chokehold. On appeal, she claimed there was insufficient evidence of obstruction of airflow and/or blood flow because her son was still screaming and never complained he could not breathe. The Appellate court disagreed citing to the *State v. Rodriguez* where the court previously held there is no requirement to completely obstruct air flow or blood flow. **“Just because SWT could scream and yell does not necessarily mean that his airway or blood flow was not at least partially obstructed. Additionally, just because SWT did not claim he had difficulty breathing or felt lightheaded does not prove that his airway was not partially obstructed.”**
- In *State v. Kimmer*, 171 Wash.App. 1031 (2012, **King County**) Not Reported. Defendant was found guilty of hitting and choking the Victim as well as stabbing the Victim in the leg the following day which required medical treatment and stitches. On appeal, Defendant claimed there was insufficient evidence of strangulation because there was no evidence that airflow or blood flow was actually obstructed. The Appellate court disagreed and found there was “ample evidence of obstruction based on the evidence introduced at trial. At trial, the emergency room physician testified Victim’s bruises to neck were consistent with strangulation. He testified that a significant amount of force is required in order to cause bruising. **Essentially, the Appellate court held that obstruction of airflow/blood flow could be inferred from the bruising.**

Strangulation Causes Bodily Injury, Serious Bodily Injury and/or Substantial Risk of Death

Strangulation is an inherently dangerous act that is easily capable of causing death or brain injury with devastating life-long health consequence. Unconsciousness can occur within seconds and death within minutes. The difference between unconsciousness, brain injury or death is only a matter of seconds. For years, prosecutors believed they had to show external visible injury to prove a felony strangulation case. However, most strangulation injuries are internal as opposed to external. Many states, either by statute or case law, do not require prosecutors prove visible injuries to show great bodily injury rather than the actions of the defendant could have caused great bodily injury. There is also no

³¹ <https://www.allianceforhope.org/training-institute-on-strangulation-prevention/resources/the-advocacy-toolkit-for-survivors-of-strangulationsuffocation>

requirement to show significant external injury to prove strangulation. Strangulation has been established with tiny little red spots called petechiae, redness, scratch marks and/or swelling. Strangulation has been established where evidence showed symptoms consistent with strangulation, such as, difficulty breathing, difficulty swallowing, sore throat, hoarse voice and/or almost losing consciousness. There is also no requirement that the victim must seek immediate medical attention.

Recent cases demonstrate the collective impact of trained professionals in multiple states. These cases clearly demonstrate that with improved crime scene investigations, better documentation, collection of more evidence, good use of paramedics, forensic nurses and experts at court, there are more prosecutions of strangulation cases as felonies.

- In *State v. Williams*, 156 Wash.App 482 (2010, **Spokane County**) Defendant was convicted of rape in the first degree and second degree assault with sexual motivation. Strangulation was sufficient force to show victim was forced to have sex against her will. **Strangulation to the point of loss of consciousness and urination amounted to serious bodily injury.**
- In *State v. Bailey*, 157 Wash.App.1026 (2010, **Division 3**) Not Reported. Grandmother calls 911. Officers arrive and see the Defendant holding his girlfriend (the Victim) in a chokehold. Defendant refused to let her go, forcing Officers to tase him until he released the Victim. Victim reported she could not breathe but no visible injury to her neck was noted. She also reported being threatened by the Defendant: "If cops come, he threatened to kill me." Defendant was a known gang member. At trial, Victim recanted. Dr. Daniel Selove, a forensic pathologist, testified as an expert. He testified that "while external marks can be present, it is also possible for there to be no injuries." He further testified that "sustained pressure to the neck can cause permanent brain damage or brain death by preventing oxygen to the brain."

Use of Experts is Permissible and Necessary

Many prosecutors across the United States are obtaining successful felony prosecutions with and without experts, with and without injuries, with and without medical treatment. Obviously, it will depend on the facts of the case and the quality of the investigations. Prosecutors are also making good use of percipient witnesses as experts, learning how to use non-percipient "blind" as experts in non-fatal strangulation cases and developing a wide-ranged of professionals as experts such as paramedics, police officers, detectives, nurses, forensic nurse, emergency room physicians and pathologists. Experts who have received specialized training in the field of non-fatal strangulation, especially the Institute's Advanced Course on Strangulation Prevention, are easily qualifying as experts. *State v.*

Hampton, 2018 WL 4055659 (2018, Minnesota). Case law supports the liberal interpretation of whether a witness is qualified as an expert. If an expert meets the “liberal minimum qualifications,” his/her level of expertise generally goes to credibility and weight, not admissibility. *State v. Delgado*, 303 P. 3d 76 (2013, Arizona).

Despite defense arguments that strangulation is common knowledge, courts are ruling that the ordinary juror does not have the same ability as a trained law enforcement officers, paramedics, nurses and/or doctors to evaluate cases, assess injuries and/or understand the histories of victims who have been strangled. Experts trained in non-fatal strangulation cases can assist judges and jurors in understanding the subtle evidence of strangulation assaults. These experts can help explain why the strangled victim may not have external injury, why victims may not seek medical attention, why medical professionals may even miss an internal injury, why victims may forget to tell someone about the “choking” incident or why victims may have difficulty sharing what happened in a linear fashion due to trauma and even brain injury.

Experts can help judges and jurors not only understand strangulation but also domestic violence dynamics, the identification of the dominant aggressor, the impact of children witnessing domestic violence, depending on the facts and charges in the case. Prosecutors should be ready to address these objections and file trial briefs to provide all the necessary case law on each charge, educate the judge on the facts, and make the case for expert testimony.

As police and prosecutors begin to pursue more felony strangulation prosecutions, the defense bar will become more aggressive in opposing expert testimony. Prosecutors should anticipate defense attorneys will seek to exclude their expert witnesses from testifying in court for any number of reasons, including the witness is not qualified, it will take too much time, insufficient notice, failure to follow local court rules, the testimony is not necessary nor helpful. See our newest book, *Addressing Strangulation in Florida Courts*, Chapter 7, *the Use of Experts in Strangulation Cases*.³²

- In *State v. Bailey*, 157 Wash.App. 1026 (2010, **Division 3**) Not Reported. Dr. Daniel Selove, **a forensic pathologist**, was permitted to testify as an expert in a strangulation case over the Defendant’s objection. The Defendant argued that expert testimony on strangulation was not necessary because the average juror would likely understand strangulation could lead to death. The Appellate Court disagreed and upheld the expert testimony of a forensic pathologist to explain what would cause loss of consciousness during strangulation, the different ways a person can be

³² <https://www.allianceforhope.org/resources/addressing-strangulation-in-florida-courts-a-critical-resource>

strangled, the physical processes in the body that are affected by strangulation and what could occur as a result of strangulation. The Appellate Court held this testimony was not cumulative and most likely beyond the knowledge of a common juror.

- In *State v. Cissner*, 17 Wash.App.2d 1079 (2021, **Grays Harbor County**) Not Reported, Defendant was convicted of strangulation. Witness called 911. Responding **Patrol Officer** interviewed the reporting party and the victim. He was unable to interview the Defendant as he had already left the property. The officer took photos of the injuries on Victim's neck. The Victim reported "difficulty breathing." At trial, the Officer testified that "**based on his training and experience, the photographs were consistent with someone being strangled or assaulted in the area of their neck**". He essentially testified as an expert without any objection. Defense argued the Defendant had no intent to strangle. He just wanted to get her into the house. He also argued her airway was not cut off, she did not require medical attention and there was no evidence of strangulation. Defendant was convicted and appealed on sufficiency and his sentencing score. On appeal, Defendant argued other cases affirming convictions of second degree strangulation have involved stronger evidence of obstructed airflow. In this case, all there was "difficulty breathing." Appellate Court disagreed. The State conceded sentencing issues.
- In *State v. Clark*, 20 Wash.App.2d 1045 (2022, **King County**) Not reported. The State called a **registered nurse** Cassandra Klakken Viramontes to testify on the effects of strangulation. The Defendant objected arguing: (1) the expert testimony was not helpful to the jury because most people are familiar with the concept of strangulation; (2) strangulation is an element of the charged crime so testimony on that topic would invade the province of the jury and (3) in the alternative, the State provided no information on the established scientific methodology behind the proposed testimony so a Frye Hearing was necessary. The Appellate Court disagreed. Generally, the public will know some symptoms to blocking the flow of breath and/or blood such as petechia (sic) that the trier of fact may not be aware of. Admittance of testimony is still subject to prior foundation being laid as an expert and defense counsel may question qualifications.
- In *State v. Baker*, 25 Wash.App.2d 1049 (2023, **Pierce County**) **Not Reported**. The trial court properly admitted the expert testimony of a **nurse** to explain the general causes and effects of strangulation, the sign and symptoms of strangulation, terminology and the significance of the evidence that was collected as part of the forensic exam. The Appellate court further found that her testimony was not

cumulative, confusing nor prejudicial simply because the treat emergency room physician also testified in the case. **Furthermore, her medical testimony about the lack of oxygen to the brain, neck anatomy and pressure necessary to block veins and arteries did not involve novel scientific knowledge requiring a Daubert hearing.**

- In *State v. Rivers*, 533 P.3d 410 (2023, [King County](#)), the Supreme Court of Washington held the **trial court did not abuse its discretion in allowing the expert testimony by a SANE, Theresa Stewart, on the correlation between strangulation and memory loss.** Defendant argued Stewart was not qualified and her testimony was not helpful. The Supreme Court disagreed. Stewart had extensive education, training and experience which included 500 sexual assault patients and estimated that approximately 15% of all sexual assault victims report strangulation. She had specifically received training on neurobiology and received training from Dr. Rebecca Campbell, a neurobiologist who studies the effects of trauma. Furthermore, her testimony was helpful to the trier of fact because it established that strangulation could have contributed to the Victim's memory loss from the evening of the alleged assault.
- In *State v. Speer*, 34 Wash.App.2d 1037 (2025, [Snohomish County](#)) Not Reported. **Detective** permitted to testify as an expert even though she was married to the prosecutor. Before trial, the Defense objected to her testimony on the grounds of a conflict of interest, improper and irrelevant. During the trial, Defense failed to object to her testimony. Nevertheless, Appellate Court found no abuse of discretion nor impropriety. Further, her testimony was relevant to understanding strangulation assaults.

Strangulation Can be Proved Without the Victim's Participation

It is common for victims of domestic violence to recant their initial statements made to law enforcement after a 911 call for help. There are many reasons why, including love, shame, children, housing, finances and/or fear. Domestic violence cases are notorious susceptible to intimidation. As a result, they will drop charges, refuse to testify, claim they cannot remember and/or become unavailable. While DV has traditionally viewed as a private matter, since 1800s courts have recognized that dv is a crime against the state and there is a need to intervene early in order to avoid more serious assaults and/or death. Over the last 30 years, some prosecutors have identified dv as a priority and have adopted aggressive prosecution policies committing themselves to prove domestic violence crimes with or without the victim's participation. Similar to prosecutors proving murder without the victim's participation, prosecutors can prove domestic violence, sexual assault and

strangulation without the victim's testimony with making good use of well-established exceptions to the hearsay rule: excited utterances, present-sense impressions, medical-diagnosis exception and/or the doctrine of forfeiture by wrongdoing.

Excited Utterances:

- In *State v. Reed*, Wash.App. 203 (2012, **King County**), the victim's statements during her 911 call to police and statements to responding officers were admissible as excited utterances and were nontestimonial.

Medical Diagnosis Exception:

- In *State v. Price*, 126 Wash.App 617 (2005, **Pierce County**) there was a long history of domestic violence including strangulation. After the incident involving strangulation, the Victim ended the relationship. Defendant immediately began stalking her. Two weeks later, Defendant shot her to death. During his trial for murder, prosecutors properly admitted evidence of prior strangulation through medical diagnosis exception. Victim's statements to Emergency Room Physician concerning the prior strangulation held admissible **including the identity of the Defendant**.
- In *State v. Saunders*, 132 Wash. App. 592 (2006, **King County**), the Defendant "choked" the Victim until she felt dizzy. The Victim's statements to the paramedic and emergency room physician admissible as medical diagnosis exception, **including Defendant's identity**. Responding Officer saw marks on her neck that appeared to be a handprint. Her statements were not testimonial. She had neck pain, red marks to neck, difficulty flexing her neck, tenderness about her larynx. She was prescribed painkiller. Defendant was found guilty by a jury. Defendant appealed on the basis of insufficient evidence. Appellate court upheld the conviction finding sufficient evidence of substantial pain.
- In *State v. Williams*, 137 Wash.App. 736 (2007, **Pierce County**), Defendant argued the Victim's statement to forensic nurse should not be admissible as an exception to hearsay rule because the purpose of the exam was for forensic purposes not medical purposes. Appellate court disagreed. "In domestic violence and sexual assault situations, a declarant's statement disclosing identity of a closely-related perpetrator is admissible under ER 803(a)(4) because part of reasonable treatment and therapy is to prevent recurrent and future injury." Statements still admissible even where there is a combination of purposes – medical as well as forensic.

Forfeiture by Wrongdoing:

- In *State v. King*, 10 Wash.App.2d 1015 (2019, **King County**) Not Reported. Defendant was convicted of domestic violence in the second degree and witness tampering. He was sentenced to life in prison under the Persistent Offender Accountability Act. Defendant appealed arguing, the court violated his right to present a defense and abused his discretion by denying his motion to admit out-of-court statement of the Victim because she did not appear in court; by admitting redacted jail calls; and his attorney provided ineffective assistance of counsel. Appellate Court affirmed. Defendant made hundreds of jail calls to the Victim in violation of the no contact order which limited the calls to family matters only as they had three kids. But almost every call involved witness intimidation from “write a letter to the prosecutor”, “have it notarized”, “tell them you lied”, to “don’t show up” and “take the Fifth”.
- Defense attorney anticipated the State was going to file a motion to admit the Victim’s Statements under Forfeiture by Wrongdoing and subpoenaed the victim advocate to testify at trial. The State filed a motion to quash. Defense requested the victim advocate be ordered to submit to an interview. State argued not enough good cause for an interview or to testify but did order the advocate to write the statement provided by the victim which was “she did not want to appear in court and was not pressing charges.” Prosecutor identified 26 jail calls to play to the jury.
- On the first day of trial, the Victim did not show up. The Prosecutor requested the court issue a material witness warrant which was granted. On the second day of trial, the Prosecutor filed a motion under the Doctrine of Forfeiture by Wrongdoing citing to threats the Defendant made to the Victim at the time of his arrest and the jail calls. Together, they showed his intent to her not testify against him by not showing up.
- Victim was subpoenaed. She was told she needed to appear. They were in good contact with the victim. While she said she didn’t want to testify, she never recanted her statement as to what happened. When the Victim failed to show up for court, the advocate and Detective McCammon drove to the victim’s house. **The court granted the Forfeiture Motion and found the state proved by clear, cogent and convincing evidence that King forfeited and waived his right to confrontation and hearsay.** The Defendant’s threats, history of domestic violence and persistent jail calls and demands for the Victim to not testify are the actual cause of her unavailability at trial.
- State called responding officers, the paramedic, jail sergeant and forensic nurse to testify. They testified about the Victim’s statements, audio and video recordings, her injuries, the evidence that was collected and the threats the Defendant made to the victim in their presence. The court admitted photos of the victim, photos of the blood in the bathroom and damage to the bathroom door and photos of blood on the Defendant’s hands.

- Forensic nurse also testified as an expert to explain strangulation, signs and symptoms, pressure, and the Victim's signs and symptoms were consistent with strangulation. No objection by the Defense.
- The court denied the Defense's motion to admit the advocate's statement that the Victim did not want to testify. The Defendant did not testify. The Jury found the Defendant guilty of assault in the second degree and witness tampering. By special verdict they further found that the Defendant and the Victim were family members at the time of the crime.
- The Victim wrote a letter to the court before sentencing recanting her statement for the first time and asking the court to "please REDUCE my husband's sentence at the sentencing hearing."
- Appellate Court upheld the conviction.

Other Court Considerations: Bail in Domestic Violence Cases

As a general rule, a defendant not charged with a capital offense is normally entitled to bail. Most state courts may deny bail if a defendant is charged with a felony involving acts of violence on another person if the court finds (1) the facts are evident or the presumption great that the defendant committed the offense and (2) there is "clear and convincing evidence that there is a substantial likelihood the person's release would result in great bodily harm to others." In determining whether there is a "substantial likelihood" that the defendant will cause great bodily harm to others if released, the court must review the specific circumstances on a case-by-case basis.

There are approximately five states that have specifically included consideration of strangulation assaults and/or risk factors to consider: Ohio (Amy's Law 2006), Illinois (Diane's Law 2009), Louisiana (Gwen's Law, 2014), Virginia's No-Bail Presumption for strangulation cases involving domestic violence and Pennsylvania (Tierne's Law, 2018) permitting judges to use risk assessment tools to set bail in domestic violence cases. These bail statutes are known in the field as "tombstone" statutes because they were passed based on a victim being killed after their abuser was released on a minimal bond with no effective release conditions or after they had obtained a protection order. These states painfully realized the danger domestic violence offenders, particularly stranglers, pose to their victims, their family members and the general public after separation, arrest and/or a protection order is issued. There has also been tremendous discussion and bail reform across the United States just in the last five years. Paying specific attention to domestic violence offenders, especially stranglers is critical. Some states do a better job than others

but bail conditions with stranglers are an issue across the country.³³

In Washington, bail hearings are governed by specific court rules and statutes including Court Rule 3.2 for Superior Court. At a bail hearing, a Washington judge can only deny release on personal recognizance if they find one of two things: risk of non-appearance and/or likely substantial danger to the victim or the public.

In domestic violence strangulation cases, the relevant factors are listed under Court Rule 3.2(c) to determine if the defendant will appear in court and Court Rule 3.2(e) to determine if there is a showing of substantial danger. Among those considerations relevant to a strangulation case are: (1) the accused criminal record; (2) the willingness of responsible members of the community to vouch for the accused's reliability and assist the accused in complying with condition of release; (3) the nature of the charge; (4) the accused's reputation, character and mental condition; (5) the accused past record of threat to victims or witnesses or interference with witnesses or the administration of justice; (6) whether or not there is evidence of present threats or intimidation directed to witnesses; (7) the accused's past record of committing offenses while on pretrial release, probation or parole; and (8) the accused's past record of use of or threatened use of deadly weapons or firearms, especially to victims or witnesses.

This is quite an impressive list of considerations. And when a defendant is charged with strangulation, he should be treated with more scrutiny. It is now well understood that strangulation is one of the most accurate predictors of future domestic violence. Utilizing risk assessment tools for bail hearings is an excellent way to provide judges with additional information they need to determine a showing of substantial danger. The use of risk assessment tools by judges at bail hearings has been determined to be a best practice.³⁴ If released, judges should consider stricter pre-trial conditions such as orders of protection, surrender of firearms, GPS monitoring, opportunities for victims and family members to be heard and notified of release in order for them to take extra safety precautions. In California, at the time of arrest, police officers have a "duty to warn" victims of strangulation about their danger, the need for medical treatment and safety planning.

Despite recent reform, research has continuously shown that domestic violence offenders generally escalate their violence after separation and arrest. Recidivism is to be expected and understood. As articulated by Prof. Brigner in his paper on Ohio's bail statute, the

³³ Sicilia J, Pretrial Release in Domestic Violence Cases: How States Handle the Notoriously Private Crime, Saint Louis University Law Journal, Vol. 66, No. 3 (2022).

³⁴ Saffren J, Using Judicial Knowledge of Lethality Factors in Civil Domestic Violence Matters, Domestic Violence Report, (2016); By statute Pennsylvania permits the use of risk assessment tools by judges at bail hearings and sentencing at <https://pcs.la.psu.edu/guidelines-statutes/risk-assessment/>.

reasons are apparent: The abuser is angry over being arrested, and more angry over the loss of control that represents. The abuser often blames the victim for the arrest. Arrest is a vivid message that the relationship is ending, which often triggers fatal violence. And domestic violence perpetrators generally have greater access to their victims, including their children, families, financial records, and workplaces than any other type of criminal defendant.³⁵

A National Institute of Justice study concluded that a domestic violence victim is especially vulnerable to retaliation or threats by the defendant during the pre-trial period. Thereby making the bail hearing one of the most important hearings in order to ensure victim and public safety. As discussions concerning bail and jail reform continue to take place, it will be important for Judges to balance the constitutional rights of both victims and offenders and factor the dangerousness of the defendant in order to determine the amount of bail and appropriate bail conditions. To make this determination, all available evidence and factors should be considered including statements from victims and witnesses, criminal history, the police report, 911 tapes and risk assessment tools. Across the United States, Appellate Courts have upheld setting cash bail or no bail in domestic violence and/or strangulation cases when no conditions of release would adequately protect the victim nor the public from serious bodily injury.³⁶

- In *Commonwealth v. Soto*, 475 Mass. 79 (2016, [Massachusetts](#)), the Defendant was arrested for assaulting and threatening his pregnant girlfriend. After being booked, he posted bail in the amount \$1,000. Two days later, the state filed charges against him and he appeared in court as required. At that time, the court held a dangerousness hearing per their statute. Based on the facts of the case, the Court ordered Soto to be held without bail pursuant to their bail statute. Soto appealed. In upholding the court's order, the Supreme Court of Massachusetts discussed the legislative intent of their bail statute: **"Government has no more important obligation than protecting the safety of its citizens and yet dangerous arrestees who clearly pose an ongoing danger to our community too often are released out on bail or personal recognizance. Innocent lives, particularly the lives of women victimized by domestic violence continue to be put at risk.** This legislation is critical to our ability to reduce, if not eliminate that risk." In sum, the Supreme Court Soto was properly subject to a dangerousness hearing within a timely manner.

Commons Defenses to Strangulation

³⁵ Brigner M, Amy's Law: New Ohio Domestic Violence Bail Statute Adds Safety Precautions for Crime Victims and the Public, *Domestic Relations Journal of Ohio*, 18:3, 17-27 (2006).

³⁶ *State v. Spaulding*, 172 N.H. 205 (2019, New Hampshire), *State v. Choplin*, 192 So.3d 799 (2016, Louisiana); *People v. Duncan*, 2024 IL App (5th) 240588, (2024, Illinois).

The most common defenses in any domestic violence case have traditionally been denial and/or self-defense. Generally, courts have permitted one defense or the other but not both. For strangulation cases, the common defense tactic has been to attack the “lack of”, meaning the lack of victim participation, the lack of visible injuries, the lack of symptoms, the lack of petechiae, the lack of medical treatment, the lack of complete obstruction of airflow or blood flow to show insufficiency of evidence to prove strangulation and/or suffocation as a felony. However, the legal defenses remain the same for strangulation cases, either it didn’t happen (denial) or it did. If it did happen, then self-defense is the most common defense. With self-defense in strangulation cases, two issues have emerged: 1) the use of strangulation (deadly force) in response to non-deadly force and 2) the issue of identifying the dominant aggressor.

Misidentification of the victim as the aggressor: Strangulation victims who believe they are going die and cannot breathe may likely defend themselves and even fight for their lives.³⁷ One study found it could be as high as 65%. While California has a predominant aggressor law, not every officer may be adequately trained in trauma informed interviewing, the signs and symptoms of strangulation or how to identify the dominant aggressor.³⁸ The victim may have no visible injuries while the perpetrator may have significant injuries which could cause an officer or a judge to misidentify the dominant aggressor if they rely solely on the presence of injuries. It is common, particularly in a near-fatal strangulation assault, for the true victim to have less external visible injuries than the suspect. If the victim is fighting for her life, she will bite, scratch, claw, and do almost anything to stay alive. The failure to identify the true victim can have tremendous negative consequences. In Washington, when the officer has probable cause to believe that family or household members or intimate partners have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary aggressor. In making this determination, the officer shall make every reasonable effort to consider: (A) The intent to protect victims of domestic violence under RCW **10.99.010**; (B) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and (C) the history of domestic violence of each person involved, including whether the conduct was part of an ongoing pattern of abuse.

- In *State v. Crudup*, 415 S.W. 3d 179 (2013, **Missouri**), Defendant was convicted of first degree domestic assault and felonious restraint. Defendant argued that he was entitled

³⁷ Thomas K, Joshi M, Sorenson S, “Do You Know What It Feels Like to Drown?": Strangulation as Coercive Control in Intimate Relationships, *Psychology of women Quarterly*, Vol. 38(1): 124-137 (2013).

³⁸ Strack G, Gwinn G, Bianco J, Fineman J, Rincon D, Important Takeaways from the Murder of Gabby Petito, *Domestic Violence Report*, Vol. 27, No. 5 (2022).

to a self-defense instruction. He claimed he only strangled the victim to the point of unconsciousness because she would not stop hitting him. The appellate court found that Defendant's argument was without merit. Defendant was not entitled to this defense because there was no evidence that Defendant was ever in fear of serious bodily injury or death. Defendant testified that he strangled her to get her to stop hitting him, not that he feared injury, even minor, from her. Therefore, the **court found that applying deadly force by strangling her was not in self-defense and therefore not justified.**

- In *State v. Fogle*, 288 Wis.2d 460 (2005, **Wisconsin**), the Defendant was convicted of witness intimidation, false imprisonment, battery and disorderly conduct. The victim initially reported that during an argument the Defendant became physical and held her against a wall by her throat and subsequently choked her. At trial, the victim recanted. Initially, the Defendant claimed self-defense. **The state called an expert witness who testified that injuries to the victim's throat were consistent with strangulation and that it would be common for a person who was strangling another to have been injured by the person trying to resist strangulation.** After this testimony, the defense withdrew a request for a self-defense instruction. On appeal, the Defendant claimed insufficiency of evidence for false imprisonment because it was only a minute and ineffective assistance of trial counsel for abandoning the defense of self-defense. However, at a subsequent hearing, defense counsel testified that during the trial it became clear from expert testimony that the defendant's injuries were more consistent with being the aggressor than defending himself which made the self-defense difficult to prove. Defense counsel also testified that the decision to abandon the defense was made by the Defendant after they discussed all the options. Appellate Court found no errors and affirmed the judgment.

Recantation and the Consent Defense

We continue to see victims of domestic violence and strangulation recant and, after the initial police report, later claim they consented to the act of strangulation. Two things are critical to remember. First, there is a science to recantation. You should expect it and be ready to explain it to a judge or a jury. Co-written by Washington prosecutor, David Martin, the seminal article on this topic is "Meet me at the Hill Where We Used to Park" and provides everyone the tools to explain recantation.³⁹ But, second, we are seeing a rise in the use of the so-called "consent" defense. The consent defense has also emerged within the context the choking game and/or applying pressure to the victim's neck as part of consensual sex or rough sex – often called sexual choking. Approximately 60% of college students reporting being "choked", mostly without their consent and with the same if not

³⁹ Bonomi A, Gangamma R, Locke C, Katafiasz, Martin D, Social Science & Medicine, 73:1054-1061 (2011).

more health consequences as violent strangulation assaults.⁴⁰ The increase of women dying during “consensual” sex has caused the UK and Ireland to eliminate the rough sex defense when there is harm or death with similar efforts beginning in the US. Instead of saying “It didn’t happen. I lied”, “The officer got it wrong” or “It was all my fault, I hit him first”, victims are now claiming the strangulation was consensual. This defense can generally and quickly be eliminated by the initial 911 call. If strangulation was consensual, why call 911? The 911 call is the best defense to the consent defense. The 911 call is generally considered a spontaneous and trustworthy statement. You can hear the terror in the voices of victims as they explain what just happened to them, why they need emergency assistance and often explaining they thought they were going to die. This defense usually comes up after arraignment. However, given the prevalence of sexual choking, investigators need to eliminate this defense at the scene and prosecutors need to be ready to address it in court.

Remember, defense attorneys go to trainings, have their own manuals and write articles too. However, prosecutors have been successful overcoming such defenses and/or claims with thorough investigations and the use of experts to explain a more logical and reasonable explanation of the facts in the case. Here are some cases to assist you in keeping irrelevant evidence out of the courtroom, first from Washington:

- In *State v. Weber*, 137 Wash.App. 852 (2007), in a case involving two prisoners, Defendant was charged with second degree assault. There was a fight between two prisoners. Weber strangled his Victim. Weber claimed it was mutual combat. Holt agreed to fight him. Weber threw the first punch. Holt was injured, broken nose, abrasions, bruising and scratches. The Appellate court upheld the conviction. In its published opinion, the court discussed how traditionally consent was a defense to assault. However, courts are now more hesitant to permit a defense of consent because “society” has an interest in punishing assaults as against public policy. **Consent is not a defense to a crime that is against public policy. Therefore, this court holds consent is not a defense to the charge of second degree assault between two prisoners.** Citing to *Durr v. Mississippi*, 95 CT 00488 Miss. 1998; *Jake v. Indiana*, 539 NE 2d 14 (1989); *Lyons v. Florida*, 437 so.2d 711 (1983); *New Mexico v. Fransua*, 85 NM 173 (1973).

Across the nation, one cannot consent to an act which is likely to produce grievous bodily harm or death. *U.S. v. Outhier*, 45 M.J. 326 (1996). A teenager could not consent to the “choking game” due to the inherent risk of serious bodily injury and/or risk of death. *People v. Ford*, 2015 IL App3d 130810. Even in a consensual BDSM context, due to the risk

⁴⁰ Herbenick D, Patterson C, Wright P, Kawata K, Fu T, Sexual Choking/Strangulation During Sex: A review of the Literature, Current Sexual Health Reports, Springer (2023).

of serious physical injury, courts continue to rule consent is not a defense to strangulation, *John Doe v George Mason University*, 149 F. Supp 3d 602 (2016, Virginia). While BDSM is legal, strangulation is not, *State v. Dudas*, 391 Wis.2d 494 (2020). For policy reasons, courts have found that states have a right to make strangulation illegal and there is no constitutional right to consensual asphyxiation. *State v. Christel*, 2022 WI App 7 (2021, Wisconsin). Most recently, in *State v. Stone*, 324 Or.App. 688 (2023, Oregon), Stone was charged and convicted of felony strangulation of an intimate partner and unlawful use of a weapon. The main issue was consent and the intent of the legislature in passing their strangulation law. At trial, the Stone admitted to strangling the victim with a cord until she lost consciousness, dragging her to the bedroom and handcuffing to the closet rod. The victim testified it was not consensual. Stone testified the victim consented to the sexual choking and they were into BDSM. He further testified that he was careful to watch if she tapped out or struggled and was convinced that the victim did not lose consciousness. He believed she was enjoying it. He also testified that his intent was to deprive the victim of air only to the point that it was pleasurable and not to the point of unconsciousness or injury. On cross-examination Stone admitted he knew strangulation is dangerous and could cause death. After being convicted of strangulation, Stone appealed and claimed the trial court erred by telling the jury, in response to a jury question, that “there is no consent or non-consent portion or element to the crime of strangulation.” On appeal he further argued the legislature must have intended to allow consent to be a defense to strangulation. However, the Court of Appeal was unpersuaded that the legislature intended consent to be a defense to strangulation and agreed with the trial judge that consent is not an element of the crime of strangulation and therefore not relevant at trial.

In the U.S., strangulation is not considered sexual activity even within sexual assault statutes nor does the National Coalition for Sexual Freedom condone including strangulation in their Explicit Prior Permission contracts.⁴¹ Today, the BDSM community acknowledges on their websites the risk sexual partners take when they engage in activities that may injure or kill a sexual partner. Furthermore, the use of compression such as the vascular neck restraint is viewed as deadly force by statute and case law.

Only five states have included the element of “a lack of consent” in their strangulation statute:⁴²

- Florida – against the will of the other (2007)
- Virginia – without consent (2012)
- Pennsylvania – affirmative defense if victim consented (2016)

⁴¹ National Coalition for Sexual Freedom, Is Erotic Choking Legal?, Explicit Prior Permission, <https://ncsfreedom.org/2023/04/22/is-erotic-choking-legal/>; <https://ncsfreedom.org/2024/12/27/you-cant-consent-to-serious-injury-in-a-sexual-or-erotic-context/>.

⁴² Strack G, Gwinn C, The Domestic Violence Report, Vol. 30, No. 2, 17-40 (2025).

- West Virginia – without consent (2016)
- Kentucky – without consent (2019)

Strangulation during sex is like playing Russian Roulette (the potentially lethal game of chance in which a player places a single round in a revolver, spins the cylinder, places the muzzle against the head or body, and pulls the trigger). Partners cannot legally consent to play Russian Roulette. If the loser of the game dies, the “winner” will be prosecuted for reckless or negligent homicide or manslaughter. Furthermore, the “rough sex” defense is being banned not only by US courts but also in the UK, Canada and Ireland where there is harm, risk of death or death.⁴³

Sentencing Considerations in Strangulation Cases

The basic objectives of sentencing, especially in domestic violence cases, have traditionally been to stop the violence, protect the victim, children and family, protect the general public, hold individuals accountable for their conduct, provide restitution to the victim, rehabilitate the offender and uphold legislative intent to treat domestic violence cases as a serious crime. The Federal Sentencing Guidelines for strangulation provide guidance: “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 as this conduct harms victims physically and psychological and can be a predictor of future serious or lethal violence (79FR25966, Document No. 2014-10264).

The Florida Supreme Court has called strangulation of a conscious victim “heinous, atrocious and cruel.” The victim knows what is happening and knows she is likely dying. *Johnson v. State*, 969 So.2d 938 (2007). The inability to breathe is terrifying. Strangulation is a stand-alone crime for a reason. The act of strangulation in and of itself shows a wanton disregard for human life and an intent to kill.

- In *State v. Garrett*, 354 Wis.2d 324 (2014, **Wisconsin**), **the defendant committed strangulation while out of bail and was sentenced to two years of initial confinement and two years of extended supervision, consecutive to sentences issued on other counts.** The Appellate Court held that in determining the proper sentence, a court must consider the gravity of the offense, the character of the defendant and the need to protect the public. In discussing the gravity of the offense, the trial court considered the bail jumping charges which involved the strangulation of the victim. The trial court was aware the victim reported that the defendant had “choked her until she had popped blood vessels in both eyes” and she “had bruises on her shoulders, face and chest.” Judge Jason Rossell said: **“In this Court’s eyes, strangulation is very aggravating. When you strangle someone, there is only one**

⁴³ Strack G, Gwinn C, The Domestic Violence Report, Vol. 30, No. 2, 17-40 (2025).

thing you have in your mind, that is to kill the person because the only thing strangulation can do is kill the person. You are choking off their breath...Essentially, its attempted homicide, because the end goal... is you really are trying to end their life”.

Multiple-Counts: When defendants are charged with multiple counts, it is important for prosecutors to help judges understand that the felonious assault of strangulation and rape, for example, are two separate and distinct crimes and defendants should be held accountable for the crimes that are committed.

- In *State v. Lee*, 12 Wash. App.2d 378 (2020, **King County**), Defendant was found guilty of rape and strangulation. He appealed on numerous issues including double jeopardy and the conditions of his probation. On appeal, the Appellate court did not find his conviction for rape and strangulation to be the same assault. Rape includes forcible compulsion and strangulation does not. In this case, the Victim was threatened, restrained, straddled and her clothes forcibly removed and raped. She was in fear of her life. Because the trial court found Defendant showed “a total lack of empathy, prioritizing his desire for sexual gratification over her safety and her control over her own body”, he was ordered to complete an MRT program, **ordered to notify his probation officer of any dating relationships and to disclose his sex offender status prior to any future sexual partners. The Trial judge also prohibited any sexual relationship until the treatment provider approves of such.** All these conditions were upheld on appeal as crime related conditions.

Comment: Most recently Tennessee passed the first Domestic Violence Offender Registry law called Savanna’s Law under House Bill 1200 effective January 1, 2026. Does *Lee* open the door for trial judges to order stranglers to disclose their conviction for strangulation and/or domestic violence to future partners as a “crime related condition”?

- However, in *State v. Villanueva-Gonzalez*, 329 P.3d (2014, **Clark County**), the Supreme Court of Washington ruled that assault should be treated as a course of conduct and only one punishment could be imposed for an assaultive course of conduct. In *Villanueva-Gonzalez*, Defendant pulled the Victim out of bedroom, headbutted her, broke her nose and strangled her making it hard for her to breathe. Defendant was convicted of two assaults, strangulation (as an LIO) and headbutting as second degree assault. Defendant appealed based on double jeopardy. The Supreme Court agreed after a thoughtful analysis, legislative intent, review of common law and case law from other jurisdictions. The Supreme Court considered the following factors: The length of time over which the assaultive acts took place; whether the assaultive acts took place in the same location; the Defendant’s intent or motivation for the different assaultive acts, whether the acts were uninterrupted or whether there were any intervening acts or events, and whether

that was an opportunity for the Defendant to reconsider his or her actions.

Ultimately, the Supreme Court concluded an assault is a course of conduct crime by applying the rule of leniency and adopting the rule of interpretation most favorable to the Defendant. Since many victims of strangulation are also sexually assaulted, it would be prudent to always assess every domestic violence case for sexual assault.

Restitution: As part of sentencing in strangulation assaults, it is also important to seek adequate restitution for the victim. Strangulation victims will likely suffer immediate, delayed and long-term health consequences from various assaults they suffer from domestic violence, including traumatic brain injuries from blows to the head resulting in concussions and anoxic and traumatic brain injuries from repeated strangulations.

- In *People v. Baber*, 182 A.D.3d 794 (2020, New York), **the Appellate Court upheld the court's restitution order in the amount of \$20,000 for the victim's medical expenses at the time of the assault and those that occurred after the assault.** The defendant hit the victim in eye and the corner of her mouth, slammed her head against the floor and strangled her.

Strangulation as Attempted Murder: Recently, statutes, case law and researchers have come to recognize that strangulation cases should be charged as attempted murder in certain circumstances. In 2021, researchers reviewed 130 cases of non-fatal strangulation cases to determine whether case characteristics and themes across survivors' on-scene statements can help prosecutors combat common legal defenses raised when victims are unavailable. Researcher found that only 6% of the perpetrators stopped strangling victims on their own which suggested that non-fatal strangulation complaints should be investigated as an attempted murder until the evidence suggests otherwise.⁴⁴

In 2023, the Tennessee legislature added a new subdivision their penal code, allowing prosecutors to charge attempted first degree murder when the victim loses consciousness due to strangulation under § 39-13-202, or attempted second degree murder, under § 39-13-210. The difference between strangulation as an aggravated assault and strangulation as attempted murder is strangulation is a general intent crime and attempted murder is a specific intent crime. However, when a victim is threatened with death, strangled multiple times, whether manually and/or with a use of a ligature, and loses consciousness, prosecutors should consider charging attempted murder. There is no reason to continue applying pressure to a limp and unconscious individual unless you intend to kill them.

⁴⁴ Brady P, Fansher A, Zedaker S, How Victims of Strangulation Survived: Enhancing the Admissibility of Victim Statements to the Police When Survivors are Reluctant to Cooperate, *Violence Against Women*, 1-12 (2021).

Continuing to apply pressure after loss of consciousness significantly increases the chances of brain damage and/or death.⁴⁵

Implementation of Strangulation Laws – The Power of Strangulation Protocols

Passing strangulation laws is important but implementation of strangulation laws and policies is everything. Implementation takes leadership, teamwork and hard work. Researchers from the University of Florida have recognized that legal outcomes in domestic violence and non-fatal strangulation incidents are complicated by a multitude of factors.⁴⁶ For strangulation cases, the challenges include the lack of: external visible injuries, medical treatment, forensic evidence, training, county-wide protocols, forensic nurses to conduct forensic exams, experts to testify in court and victim participation.⁴⁷ Victim recantation also includes a multitude of reasons and factors: fear, intimidation, coercion, brain injury, lack of trust in the criminal justice system, continuances in the criminal case, suspect released from custody after arrest due to no bail or low bail, lack of victim support and services, housing, and/or overall safety concerns.⁴⁸ Yet, when protocols are in place, professionals are trained and evidence is collected by law enforcement or forensic nurses, prosecution and accountability does increase.⁴⁹

The first communities to develop county-wide, multi-disciplinary strangulation protocols were Maricopa, Arizona in 2014, followed by Brevard County, Florida in 2015. Arizona documented an increase in prosecution and a reduction of domestic violence related homicides. Brevard County also saw improvement in filing and accountability. Today, California leads the country in the number of county-wide strangulation protocols including San Diego, Napa, Riverside, Sacramento, Santa Clara County, Contra Costa, Solano, Stanislaus and Ventura. San Diego in particular continues to see increased felony prosecutions and a dramatic drop in domestic violence homicides -- Proving that prioritizing and aggressively prosecuting strangulation cases is homicide prevention. Protocols allow for and include trained professionals, specialized forms, thorough investigations, forensic medical examinations, forensic documentation, use of experts and evidence-based prosecutions. The success of county-wide, multi-disciplinary protocols

⁴⁵ <https://myemail.constantcontact.com/E-News--Charging-Near-Fatal-Strangulation-As-Attempted-Murder-.html?soid=1100449105154&aid=s6HknSE2GFE>

⁴⁶ Reckdenwald A, et al, Factors Associated with Legal Decisions of Nonfatal Strangulation Cases with Forensic Evidence, *Criminal Justice Policy Review*, Vol. 35(5-6): 273-294 (2024).

⁴⁷ Strack G, Gwinn C, On the Edge of Homicide: Strangulation as a Prelude, *Criminal Justice*, 26:3 (2011).

⁴⁸ Douglas H, Fitzgerald R, Prosecuting Strangulation Offenses: Understanding Complainant Withdrawal using a Social Entrapment Lens, *Current Issues in Criminal Justice*, 37:1, 1-18 (2025); Geist K, Applying Pressure: Improving Enforcement of Strangulation Laws, *University of Toledo Law Review*, Vol. 55, 51-76 (2023).

⁴⁹ Reckdenwald, et al, supra, note 21; https://myemail.constantcontact.com/E-News--Strangulation-Protocols.html?soid=1100449105154&aid=oiEwobA9i_g.

have inspired state-wide protocols in Delaware, Indiana, and New Jersey.

The Institute is also helping State Courts publish bench cards to assist judges in the handling of strangulation assaults in states such as Minnesota, Virginia, Florida, Arizona and Ohio.⁵⁰

Conclusion

Washington was one of the first states to pass a strangulation and suffocation law in the United States and provide clear legislative findings and guidance. Washington was also one of the first states to provide access to free forensic medical examinations to victims of strangulation. In reviewing Washington case law, both reported and unreported, it is clear Washington has done an excellent job figuring out how to investigate and prosecute strangulation cases. Washington is training their officers about strangulation at the police academy, consistently sending paramedics and EMTs to evaluate strangled victims at the crime scene. Nurses are trained to evaluate the strangled victim, physicians understand the need for imaging. Prosecutors are taking strangulation cases seriously with or without the victim's participation by making good use of experts, exceptions to the hearsay rule and the doctrine of forfeiture by wrongdoing. And advocates are providing victims with the support and services they need.

Tremendous progress has been made in Washington and across the United States over the years with new county-wide and state-wide protocols, multi-disciplinary teams that include forensic nurses, wraparound services being provided for victims in Family Justice Centers, and new laws providing free strangulation exams including California, Colorado, Nevada and Oregon.

The biggest challenge that remains is statewide implementation. It is one thing to pass a strangulation law; it is **everything** to implement a strangulation law. To prevent homicides, everyone needs to be trained to screen, identify, document, assess, investigate, prosecute, advocate and respond to strangulation assault appropriately and immediately. There continues to be a strong need for multi-disciplinary teams, approaches and protocols in **every county**. Family Justice Centers, the ultimate form of multi-disciplinary teams, are leading the way now by specializing in the handling strangulation cases. More research needs to be done to understand the rage of stranglers and the impact on children who witness their mothers being strangled and/or are strangled themselves.

Stopping stranglers before they kill is homicide prevention. In the midst of a national

⁵⁰ <https://myemail.constantcontact.com/E-News--Training-Institute-on-Strangulation-Prevention-Bench-Cards.html?soid=1100449105154&aid=Ci5unCgjnLc>.

debate about jail and bail reform, one thing remains indisputable. Men who strangle women are the most dangerous men on the planet. Aggressive intervention by the criminal and civil justice system can save lives and prevent a lifetime of health consequences for victims of strangulation and suffocation assaults. The health impacts of strangulation are always cumulative. Our primary goal is to prevent strangulation assaults. If we can prevent them with public awareness and outreach, we can prevent profound physiological and psychological impacts on adult and child victims. If we cannot prevent such assaults, we must intervene as quickly as possible and hold offenders accountable to prevent those cumulative impacts on victims. And if stranglers do end up killing their victims, we must do everything to ensure we accurately determine the cause and manner of death in cases where women die after a prior history of domestic violence. Stranglers are, without question, the most likely killers to stage a crime scene and make the murder look like a suicide, accident, or drug overdose death. Our Institute is determined to ensure prevention and early intervention, and our new Justice Project program is determined to help professionals find staged crime scene homicides involving strangulation and suffocation. Tribal nations in Washington and the State of Washington are uniquely poised to set a national standard on the handling of strangulation and suffocation assaults.

HEALING WITH
H O P E
BEGINS WITH ONE STEP
FORWARD IN FAITH



Washington State Native American Coalition
Against Domestic Violence & Sexual Assault

SAYU'X WEY FAMILY SAFETY CENTER

Victim-Survivor centered multi-service center.
Collaborative hope for all families.