



NATIONAL JUDICIAL TRAINING UPDATE



BAIL HEARINGS IN FELONY STRANGULATION CASES SEVEN (7) MEDICAL-LEGAL FACTS EVERY JUDGE SHOULD KNOW

QUESTION: When making bail decisions in Felony Strangulation cases, what seven (7) well-established medical-legal facts should every judge (and attorney) be aware of?

1. DEFINITION OF STRANGULATION: Strangulation is a form of asphyxia (lack of oxygen) characterized by closure of the blood vessels and/or air passages of the neck as a result of external pressure on the neck.

2. WIDESPREAD LACK OF UNDERSTANDING:

- Many judicial officers and attorneys do not understand the medical and psychological severity of the act of strangulation.
- In many cases, the lack of observable physical injuries to the victim cause judges to minimize the seriousness of strangulation.
- In order to make sure judges understand the seriousness of strangulation, some prosecutors have asked courts for permission to have an expert in the field of strangulation testify at bail hearings as to the following: see 3-7 below.

3. STRANGULATION IS ONE OF THE MOST LETHAL FORMS OF VIOLENCE USED BY MEN AGAINST THEIR FEMALE INTIMATE PARTNERS:

- The act of strangulation symbolizes an abuser's power and control over the victim. The sensation of suffocating can be terrifying.
- Most victims of strangulation are female.
- The victim is completely overwhelmed by the abuser; she vigorously struggles for air, and is at the mercy of the abuser for her life.
- The victim will likely go through four stages: denial, realization, primal and resignation.
- A single traumatic experience of strangulation or the threat of it may instill such intense fear that the victim can get trapped in a pattern of control by the abuser and made vulnerable to further abuse.

4. THE "NECK" IS THE MOST VULNERABLE PART OF THE BODY:

- Blood and oxygen all flow from the body to your brain through the NECK.
- The NECK is the most unprotected and vulnerable part of the body.
- More serious injuries occur from NECK trauma than any other part of the body.

5. MEDICAL FACTS:

- Strangulation **stops the flow of blood** to the brain (carotid artery).
- Lack of blood flow to the brain will cause **unconsciousness in 10 seconds**.
- Lack of blood flow to the brain will cause **death in 4 minutes**.
- It takes **very little pressure to stop blood flow** to the brain (4 psi):
 - a. It takes less pressure than opening a can of soda (20 psi);
 - b. It takes less pressure than an average handshake (80-100 psi);
 - c. It takes less pressure than pulling the trigger of a handgun (6 psi).
- It only takes 33 psi to **fracture a victim's larynx** (far less than a handshake).

6. LACK OF EXTERNAL EVIDENCE ON THE SKIN:

- CAUTION: Lack of visible findings (or minimal injuries) does not exclude a potentially life threatening condition. Strangulation often leaves no marks.
- A study by the San Diego City Attorney's Office of 300 domestic violence cases involving strangulation revealed that up to 50% of victims had no visible injuries.

7. STRANGULATION CAN CAUSE SUBSTANTIAL INJURIES (OFTEN DELAYED) SUCH AS:

- a. **Physical injuries** (e.g. death, unconsciousness, fractured trachea/larynx, internal bleeding (*hemorrhage*) and artery damage (*intimal tears*), dizziness, nausea, sore throat, voice changes, throat and lung injuries, swelling of the neck (*edema*), breathing and swallowing problems, ringing in the ears (*tinnitus*), vision change, miscarriage);
- b. **Neurological injuries** (e.g. facial or eyelid droop (*palsies*), left or right side weakness (*hemiplegia*), loss of sensation, loss of memory, paralysis);
- c. **Psychological injuries** (e.g. PTSD, depression, suicidal ideation, memory problems, nightmares, anxiety, severe stress reaction, amnesia and psychosis);
- d. **Delayed fatality** (e.g. death can occur days or weeks after the attack due to carotid artery dissection and respiratory complications such as pneumonia, ARDS and the risk of blood clots traveling to the brain (*embolization*)).

HISTORICAL FACTS OF INTEREST

1. Historically, strangulation has been minimized by professionals due to the lack of visible injuries and the lack of medical training. It wasn't until the deaths of two teenagers in 1995 that caused the San Diego City Attorney's Office to conduct a study of 300 police reports and realize the lethality and seriousness of strangulation.
2. Thirty-eight states have now passed statutes in the last ten years to recognize this oversight, increase awareness, enhance victim safety and offender accountability.
3. Strangulation is more common than professionals have realized. Recent studies have now shown that 34% of abused pregnant women report being "choked" (Bullock, 2006); 47% of female domestic violence victims reported being "choked" (Block, 2000) and most experts believe the rate is higher given minimization by victims and the lack of education. A recent study at the New Orleans Family Justice Center found almost 60% of the victims seeking services reported prior strangulation (Alliance).
4. Victims of multiple strangulation "who had experienced more than one strangulation attack, on separate occasions, by the same abuser, reported neck and throat injuries, neurologic disorders and psychological disorders with increased frequency." (Smith, 2001).
5. **Almost half of all domestic violence homicide victims had experienced at least one episode of attempted strangulation prior to a lethal or near lethal violent incident (Glass, Sage, 2008).**
6. **Victims of prior attempted strangulation are 7 times more likely of becoming a homicide victim. (Glass, et al, 2008; National Institute on Strangulation Prevention).**
7. Today, training materials on strangulation are readily available at the National Training Institute on Strangulation Prevention at www.strangulationtraininginstitute.com.
8. Juries and some judges have difficulty understanding the serious nature of the crime without clear guidance from expert witnesses and professionals with specialized training.
9. Effective intervention in non-homicide strangulation cases will increase victim safety, hold offenders accountable for the crimes they commit and prevent future homicides.

STRANGULATION IS OFTEN ONE OF THE LAST ABUSIVE ACTS COMMITTED BY A VIOLENT DOMESTIC PARTNER BEFORE MURDER.

2004 Report, Hennepin County Domestic Fatality Review Team (Minneapolis, MN)

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