

UNDERSTANDING THE NON-FATAL STRANGULATION OFFENCE: INTERVIEWS WITH DOMESTIC VIOLENCE SERVICE WORKERS KEY OUTCOMES

Strangulation is the act of restricting a person's breath through pressure to the neck. This can occur manually, for example through hands or limbs, or via ligatures using belts or cords. **Non-fatal strangulation can cause a range of short- and long-term health issues** including loss of or change in voice, difficulty in swallowing or breathing, physical injuries including bruising around the neck, petechial haemorrhages, and injury to the brain through hypoxia resulting in unconsciousness, headaches, depression and anxiety and problems with memory and concentration¹. Strangulation has also been associated with miscarriage and pre-term births².

It is a highly gendered form of violence that **often leaves few or no injuries**, with **women up to 13 times more likely to experience this type of violence** than men. When the act is non-fatal and occurs within the context of domestic violence, women are at an 8-fold greater risk of becoming a victim of homicide or very serious harm in the near future. The recognition of the potential for injury and increased risk of harms led to the introduction of the of the [non-fatal strangulation offence](#), s315A, into the Queensland Criminal Code - 'Choking, Suffocation or strangulation in a Domestic Setting, with a maximum penalty of 7 years imprisonment.

Following the introduction of the offence, 929 matters were sentenced for offences of non-fatal strangulation in the first 4 years and 96% of those convicted were men³. Of those sentenced, where strangulation was the most serious offence, 99% of offenders pleaded guilty. However, this is only part of the story, since about **half of cases with strangulation charges do not proceed**, and fewer still result in a charge at all.

To better understand the operation of this offence, we conducted focus groups and interviews with domestic violence service workers. The aim of these interviews was to understand how DV workers understood and responded to strangulation, if and how they and their clients were experiencing the impacts of the offence, and their opinions on its operation.

SUGGESTED CITATION

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WHAT DOES THE SECTOR THINK?

We conducted 12 focus groups involving 23 domestic violence support workers, 11 men's behaviour change workers, and two child and family counsellors. All participants delivered services to domestic violence victims or their perpetrators in Queensland. All focus groups took place online via Zoom and participants represented domestic violence services across Queensland.

Focus groups were semi-structured in nature with the aim of exploring service providers' knowledge and responses to strangulation, how strangulation and the legislation affects victim-survivors, and their experience of the new legislation on reports of strangulation. **The findings reflect the central themes from the interviews.**

THEMES:

1

STRANGULATION IS A COMMON TOOL TO CONTROL AND PUNISH

Participants reported a high prevalence of strangulation among clients presenting to domestic violence services. Strangulation was reported as being used in various contexts of violence, and was primarily identified as an action to control and punish victim-survivors.

"...IT CAN BE SUCH A POWERFUL CONTROL THAT YOU DON'T NEED TO NECESSARILY EXHIBIT THE SAME LEVEL OF CONTROL AFTER YOU'VE DONE THAT. SO, WE FIND THAT SOME PERPETRATORS SEEM TO USE IT MORE SPORADICALLY BECAUSE THEY DON'T NEED TO CONTINUALLY USE IT, BECAUSE ONCE IT'S DONE, WE FIND THAT WOMEN WILL [BE] COMPLIANT"

2

IT'S HOW YOU ASK THE QUESTION

When identifying strangulation, the language of disclosure is often non-technical and goes beyond the language provided in typical risk assessment tools. Participants agreed that disclosure requires trust, rapport, and follow-up conversations to explore the violence that a victim-survivor has experienced, and at times, the victim-survivor may not recognise they have experienced it.

"UNLESS I'M ASKING IT IN DIFFERENT LANGUAGE AND PROVIDING DIFFERENT OPPORTUNITIES TO EXPLORE THE VIOLENCE, I DON'T THINK MANY OF THE WOMEN WOULD ACTUALLY GO, YES, I HAVE BEEN STRANGLED. IT'S HOW YOU ASK THE QUESTION AND HOW YOU PRESENT THE QUESTION TO THE WOMAN"

3

STRANGULATION IS NORMALISED AND MINIMISED

Participants described a culture of normalisation and minimisation in relation to strangulation. At times, victim-survivors described strangulation as a routine part of sex with the perpetrator. Participants also noted the popular culture references to strangulation as a normalised and 'safe' part of sex perpetuated by *magazines* and pornography.

"AND SO, THIS IS SAYING TO WOMEN THAT THIS IS WHAT MEN WANT. AND ACTUALLY, IF HE'S DOING IT PROPERLY, THERE WON'T BE A RISK TO YOU. IT'S JUST, YES, IT'S VERY PREVALENT IN PORN..."

This normalisation and minimisation of the harms also prompted concerns around 'consent' in the legislation. That strangulation may not be objected to, particularly during sex, where protest may lead to other forms of violence and control.

"SOME WOMEN IN DV RELATIONSHIPS, THEY HAVE SEX CONSENSUALLY BUT FOR THEIR SAFETY...IS CONSENSUAL MEANING THEY ENJOY IT OR THAT THEY'VE SAID YES? SO EVEN THAT LANGUAGE IS A LITTLE BIT HARD."

"THERE SHOULDN'T BE CONSENT AT ALL. YOU CAN'T CONSENT TO BEING MURDERED."



IN QUEENSLAND AROUND 41% OF COMPLAINANTS WITHDRAW FROM THE PROSECUTION ON NON-FATAL STRANGULATION. IN THOSE CASES WHERE THE COMPLAINANT WITHDRAWS THE RESULT IS THAT THE NON-FATAL STRANGULATION CHARGE WAS WITHDRAWN AND AN ALTERNATIVE CHARGE OR CHARGES PROCEEDED, OR THE MATTER WAS DISCONTINUED. (D)

4

EVIDENCE GATHERING AND REPORTING

Most clients chose not to, or were not able to, pursue charges for strangulation. In part, this was due to mistrust in police ability to ensure their safety, and a lack of evidence gathering and minimisation from police, particularly when victims had no visible injuries. The consequences of a lack of injuries, and sometimes visible defensive wounds on perpetrators, sometimes resulted in victims becoming respondents on domestic violence orders.

"HE WAS IN THE PROCESS OF CHOKING HER, AND SHE BIT HIM AND SCRATCHED HIM... THE POLICE CAME. THEY GOT HIS STORY. SHE WAS HYSTERICAL. SHE WAS NAMED AS THE RESPONDENT BECAUSE THEY SAW SCRATCH MARKS AND A BITE MARK ON HIM."

"...THERE'S NO FOLLOW-UP FROM POLICE OR CHILD SAFETY OR ANYONE... UNLESS THAT PARENT IS GOING TO PUT IN A CHARGE, POLICE WON'T DO ANYTHING BECAUSE IT'S A FAMILY LAW COURT MATTER AND THAT'S FEDERAL."

Family counsellors identified a lack of evidence gathering was especially prevalent where children had been strangled.



INTERVIEWS WITH LAWYERS INVOLVED IN PROSECUTING AND DEFENDING CASES OF NON-FATAL STRANGULATION IDENTIFIED THAT WHILE THE PRESENTATION OF SOME FORM OF MEDICAL EVIDENCE WAS COMMON IN NON-FATAL STRANGULATION CASES, IT USUALLY DID NOT ASSIST IN THE PROSECUTION OR DEFENCE OF THESE CASES. LAWYERS SAID THAT MOST DOCTORS, IF CALLED, FOUND MEDICAL EVIDENCE AMBIVALENT AT BEST. HOWEVER, LAWYERS DID IDENTIFY THE IMPORTANCE OF THE COMPLAINANT'S TESTIMONY IN NON-FATAL STRANGULATION CASES. (A)

IN QUEENSLAND AROUND 7% OF NON-FATAL STRANGULATION COMPLAINANTS ARE CHILDREN UNDER 18 YEARS OF AGE. CHILDREN ARE PRESENT WHEN NON-FATAL STRANGULATION OCCURS TO ANOTHER PERSON IN AT LEAST 43% OF CASES. (D)

5

SAFETY & BAIL AND COURTS

Navigation of the justice system is complex where advocacy from service workers could only go so far to alleviate a sense of lost agency and lack of safety resulting from the court process for victim-survivors. This was predominantly indicated by a lack of information regarding bail and courts.

“BUT THE PROBLEM IS AFTWARDS, THAT NORMALLY PEOPLE WHO HAVE EXPERIENCED STRANGULATION ARE SO VULNERABLE BECAUSE THEY’RE AT SUCH RISK OF DOMESTIC VIOLENCE. AND THEN THERE CAN BE THIS, THEN ISOLATION FROM THE COURT PROCESS AND NOT KNOWING WHAT’S HAPPENING.”

6

INCONSISTENT KNOWLEDGE & TRAINING ACROSS SECTORS

Since the introduction of the legislation, participants felt knowledge of the dangers and appropriate responses to strangulation has increased dramatically among domestic violence workers. However, this did not translate to health practitioners or police who have often been difficult to engage with and convince regarding health needs of a victim following an incident of strangulation.

“[A CLIENT] ACTUALLY IDENTIFIED THAT SHE HAS HAD SUCH DIFFICULTY IN GETTING THAT REFERRAL [FOR SCANS]. SHE’S BEEN TO A NUMBER OF DIFFERENT GPs WHO DON’T... SHE SAID SHE FEELS JUST DON’T HAVE THE KNOWLEDGE AROUND THE IMPACT AND HOW SIGNIFICANT THAT CAN BE EVEN AS TIME PASSES.”

Training about strangulation has not been made available to all service workers. Instead, there was a trend of training only being available for a select few members within a team, whose responsibility it then becomes to share knowledge and pass that training along.

“IN THE FIVE YEARS, I’VE NEVER HAD [TRAINING]. I’VE JUST HAD SOME RESOURCES SHARED BY COLLEAGUES...”

7

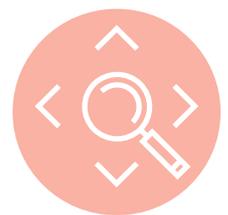
PRISON AS A TIME FOR SAFETY AND CHANGE?

Generally, participants felt imprisonment lengths were short especially when accounting for time served on remand and eligibility for parole. This was seen as only providing a short window of opportunity for safety where women had certainty in the sentence.

“HE’S AWARE OF WHAT’S BEING SAID... AND THEN IF HE ONLY GOT A THREE-MONTH SENTENCE, IT DOESN’T GIVE HER MUCH TIME TO GET HER LIFE IN ORDER... BECAUSE HE’S GOT THREE MONTHS TO SIT THERE AND STEW.”

A lack of opportunities for rehabilitation of perpetrators both during remand or imprisonment and in community was criticised with men’s behaviour change programs being seen as inaccessible. This was notable during remand, where programs are not available before sentencing and this was seen as increasing the risk for perpetrators to reoffend against victim-survivors after release.

“FOR ONE PARTICULAR CLIENT, HE WAS SITTING THERE SEETHING AND BREWING AND HE WAS ALMOST WORSE WHEN HE CAME OUT”



IN QUEENSLAND, OFFENDERS SPEND AN AVERAGE OF 8-9 MONTHS ON REMAND WITH AN AVERAGE SENTENCE OF 25 MONTHS. THIS MEANS A SIGNIFICANT PROPORTION OF THE SENTENCE IS SERVED ON REMAND WITHOUT ACCESS TO REHABILITATIVE PROGRAMS. (D)

8

COMMUNITY EDUCATION

Services workers consistently discussed community lack of awareness of the dangers of strangulation and its association with domestic violence. Suggestions from workers were clear that educational campaigns around the dangers and the offence similar to previous domestic violence awareness campaigns would be beneficial toward broader recognition and reporting of strangulation.

“THERE’S NO POINT OF CREATING A POLICY OR CHANGING IT IF THERE’S NO COMMUNITY EDUCATION AND THE PEOPLE THAT ARE SUPPOSED TO BE ABLE TO POLICE IT OR REPORT IT.”

REFERENCES

1. Bichard H, Byrne C, Saville CWN, et al. The neuropsychological outcomes of non-fatal strangulation in domestic and sexual violence: A systematic review. *Neuropsychol Rehabil*. Published Online First: 2021. doi:10.1080/09602011.2020.1868537
2. Foley A. Strangulation: Know the symptoms, save a life. *J Emerg Nurs*. 2015;41(1):89-90. doi:10.1016/j.jen.2014.10.013
3. Sharman, L. S., Fitzgerald, R. & Douglas, H. 2022. Non-Fatal Strangulation offence convictions and outcomes: Insights from Queensland Wide Inter-linked Courts (QWIC) data, 2016/2017-2020/2021 (The University of Melbourne/The University of Queensland).

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ETHICS

Ethics for this study was approved by the University of Queensland (2020000553).

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