

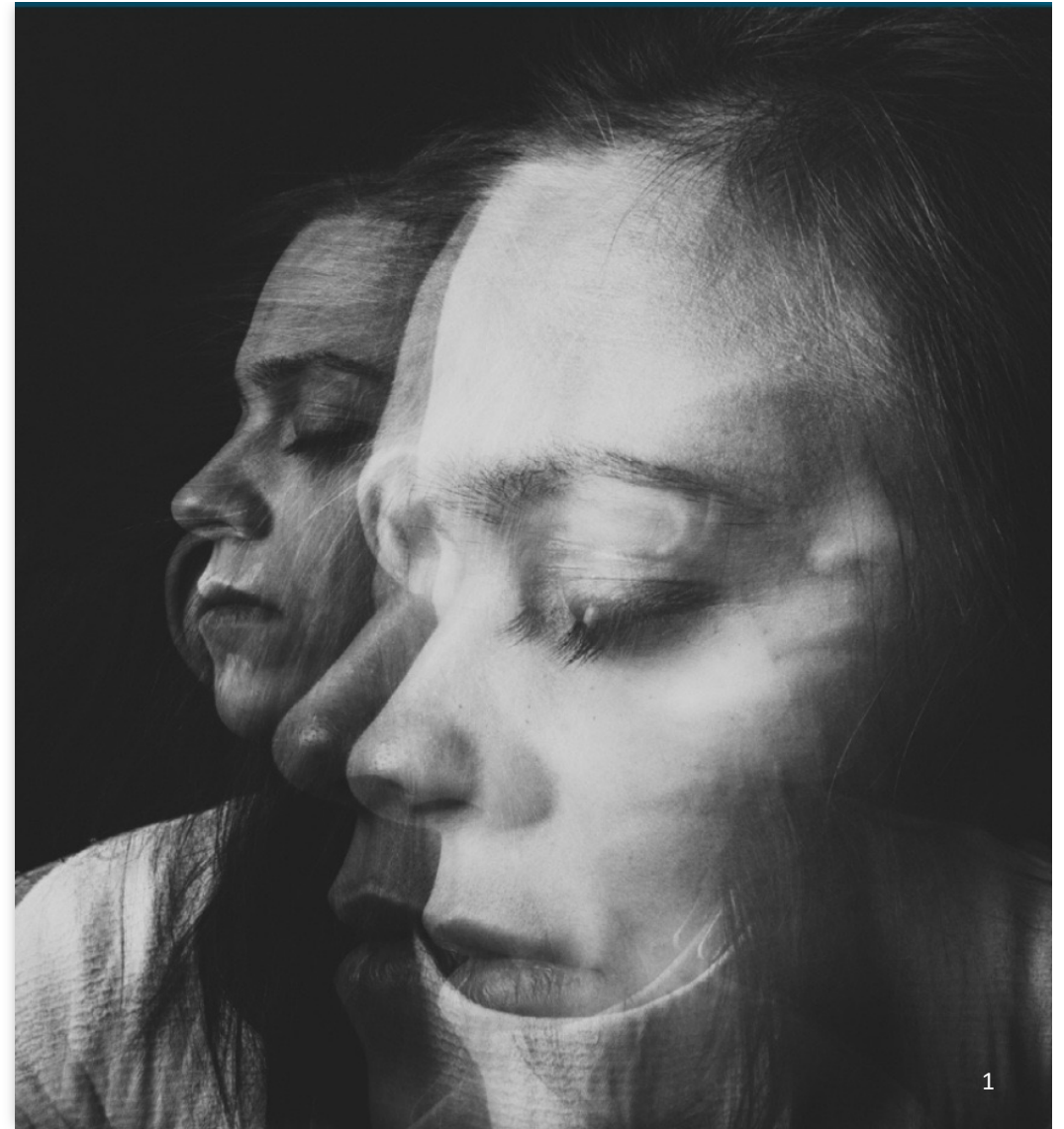
# Family Violence, Sex, Strangulation and Consent

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Australian Research Council DP200101020


<https://law.unimelb.edu.au/research-programs/non-fatal-strangulation-offence>

**Part 1: Domestic violence and the use of non-fatal strangulation in association with sexual abuse.**



Glass et al (2008) Non-fatal Strangulation is an important risk factor for homicide of women.  
*Journal of Emergency Medicine 35(3) 329-335.*







## STRANGULATION


### IN INTIMATE PARTNER VIOLENCE


FACT SHEET

**STRANGULATION:** the obstruction of blood vessels and/or airflow in the neck resulting in asphyxia.


 **1 in 4** women will experience intimate partner violence (IPV) in their lifetime.<sup>1</sup>

Of women at high risk, up to...  **68%** will experience near-fatal strangulation by their partner.<sup>2</sup>


 **Loss of consciousness can occur within 5 - 10 seconds. Death within minutes.<sup>2</sup>**




**97%**  
are strangled manually (with hands).<sup>3</sup>



**38%**  
report losing consciousness.<sup>4</sup>




**35%**  
are strangled along with sexual assault/abuse. **9%** are also pregnant.<sup>4</sup>




**70%**  
of strangled women believed they were going to die.<sup>6</sup>

And odds for homicide increase **750%** for victims who have been previously strangled, compared to victims who have never been strangled.<sup>7</sup>

**HOWEVER...**  
Oftentimes, even in fatal cases, there are **NO EXTERNAL SIGNS** of injury.<sup>3</sup>



**50%**  
Only half of victims have visible injuries



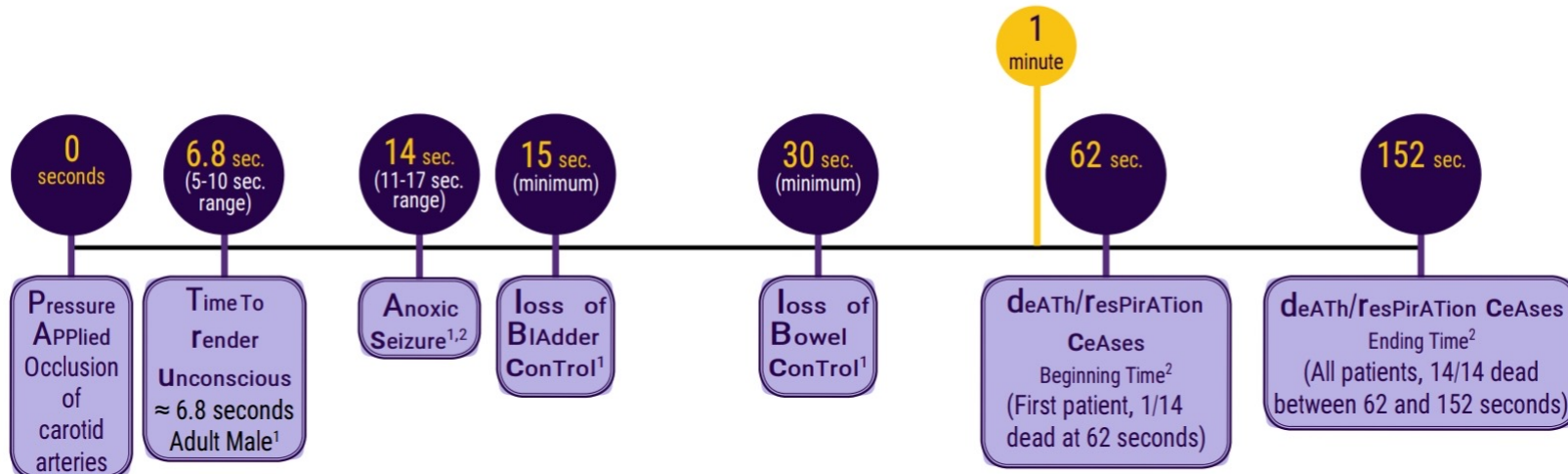
**15%**  
Of these, only 15% could be photographed



# PHYSIOLOGICAL CONSEQUENCES OF STRANGULATION

## Occlusion of Arterial Blood Flow: Seconds to Minutes Timeline

Created by: Ruth Carter; Bill Smock, MD; Gael Strack, JD; Yesenia Aceves, BA; Marisol Martinez, MA; and Ashley Peck



### References and Resources

<sup>1</sup> Acute Arrest of Cerebral Circulation in Man, Lieutenant Ralph Rossen (MC), U.S.N.R.; Herman Kabat, M.D., PH.D. Bethesda, MD. and John P. Anderson Red Wing, Minn.; Archives of Neurology and Psychiatry, 1944, Volume 50, #5.

<sup>2</sup> Anny Sauvagneau, MD, MSc; Romano LaHarpe, MD; David King, MD; Graeme Dowling, MD; Sam Andrews, MD; Sean Kelly, MD; Corinne Ambrosi, MD; Jean-Pierre Guay, PhD; and Vernon J. Geberth, MS; MPS for the Working Group on Human Asphyxia, Forensic Med Pathol 2011;32: 104 – 107

# Non-Fatal Strangulation (315A QCC)

- **CRIMINAL CODE 1899 - SECT 315A**
- **Choking, suffocation or strangulation in a domestic setting**
- **315A Choking, suffocation or strangulation in a domestic setting**
  - A person commits a crime if—
  - the person unlawfully chokes, suffocates or strangles another person, without the other person’s consent; and
  - either—
  - the person is in a domestic relationship with the other person; or
  - the choking, suffocation or strangulation is associated domestic violence under the *Domestic and Family Violence Protection Act 2012* .
  - *Penalty*—Maximum penalty—7 years imprisonment.
- (2) An assault is not an element of an offence against *subsection (1)* .



# Problem of consent in strangulation

- Must be without consent
- Must be within an intimate/ couple relationship / associated DV
- Assault is not an element of strangulation
- No consideration of the meaning of consent in the provision (see eg: *R v Brown* [2020] QCA 159 (7 August 2020); *R v LAU* [2022] QCA 37)
- Options
  - a) Common law - in the context where no injury usually possible to consent but where injury public policy considerations
  - b) Sexual offences law – proof of consent / disprove reasonable belief



# Our focus group study

# Strangulation during sex is normalised.

## **Through mainstream media:**

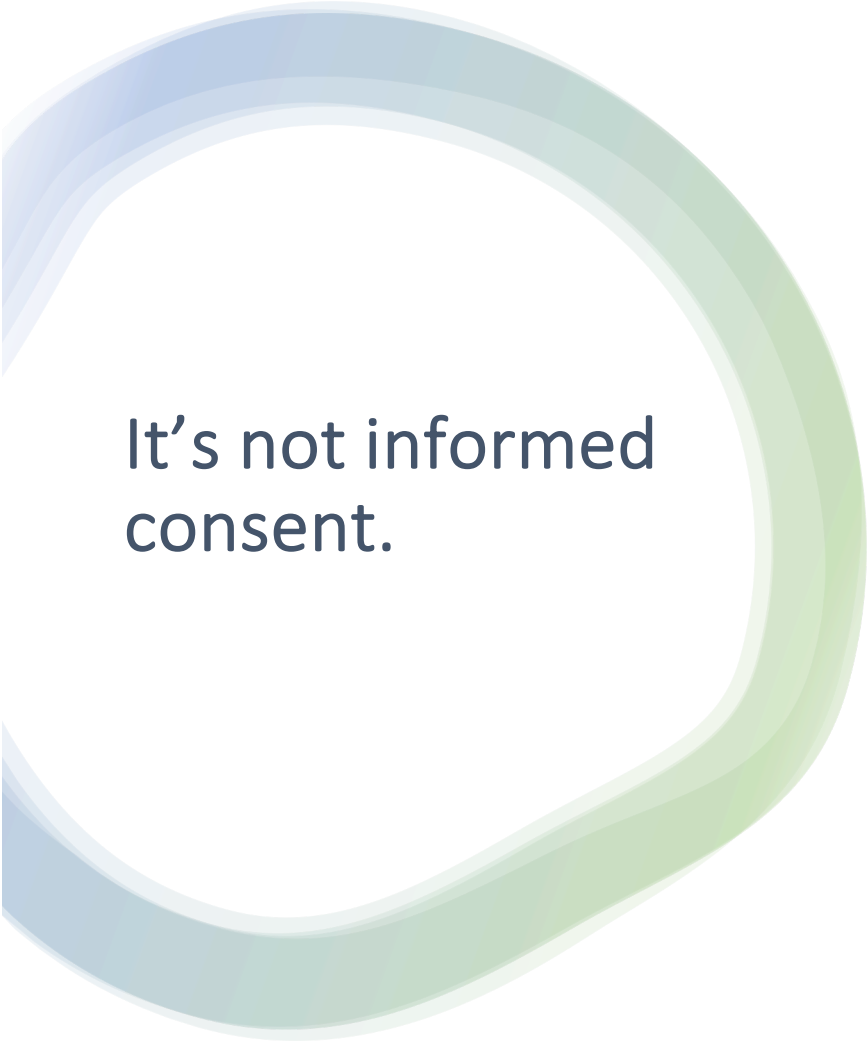
'tells you how to choke safely during sex.'

## **Through pornography:**

'young women are watching porn too and it's being normalised'.

## **Through information provided by an abusive partner:**

'... she said to me that he knew the way... She said, he knew exactly where to press, and he knew that if he pressed on the front of my neck ... She explained that if he did it the way he did it, he told her that she would get a high from it, and that it would heighten the experience that she was feeling. That's how he said it to her....'



**It's not informed consent.**

**Don't understand the risks:**

'... And when we talked to them about it more and explained the risks, they were not aware of those risks. So, it's not informed consent, if you're going to look at consent.'

Understanding based on inaccurate information:

'And at least the women that I've talked to, they've based their decisions on information that actually wasn't accurate for them...'


**Underpinned by coercion:**

'The other thing that I, about consent, is that the first instance was non-consensual but then they have almost to the point of being coerced into thinking that it's okay...'

**Can you consent to something so dangerous?**

'It just seems to me that how can you consent to potential death in terms of the actions that you're consenting to. I understand it in terms of a sexual practice that some people might choose to engage in, but there's a lot of misinformation about that.'





## We're working in environments of coercive control

'we're working in environments of coercive control. So, often, even the concept of consent isn't something that is part of these women's lives.'

'Obviously, she didn't consent, but she couldn't stop him from doing it... But she didn't have any choice. He was much bigger than her. She didn't want it [to] happen...'

### **Strangulation during sex is different to strangulation not in sex:**

'I have absolutely sat with clients, perpetrators, who are telling me they are not physically abusive. They're not violent. When we talk about sexual behaviour, we talk about what's going on. They're disclosing hair-pulling. They're disclosing strangulation, that's consensual. ... it's being put into this consensual context because within an abusive relationship, it's being normalised.'



Requirement for  
non-consent opens  
up a loophole.

'I think that consent opens up a loophole as well legally, because it's... I guess the prosecutor then has to make an argument that she hasn't consented. And you find perpetrators are very good at manipulating as well.'

'All he has to turn around and say is... she wanted it. How are you going to disprove that someone consented or not?'

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Clear need for better information about the risks and dangers of strangulation during sex.

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Clarification on law on consent – either legislatively or via case law (should consent be available?)

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More research - how common is this issue in relationships that are not identified as domestically violent in Australia?

# Conclusions

"Domestic violence, sex, strangulation and the 'blurry' question of consent." forthcoming *Journal of Criminal Law*.



Part 2:  
Understanding  
strangulation  
during sex in  
Australia

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# **Why Some People Are Turned on by Choking During Sex—and How to Do It Safely, According to Experts**

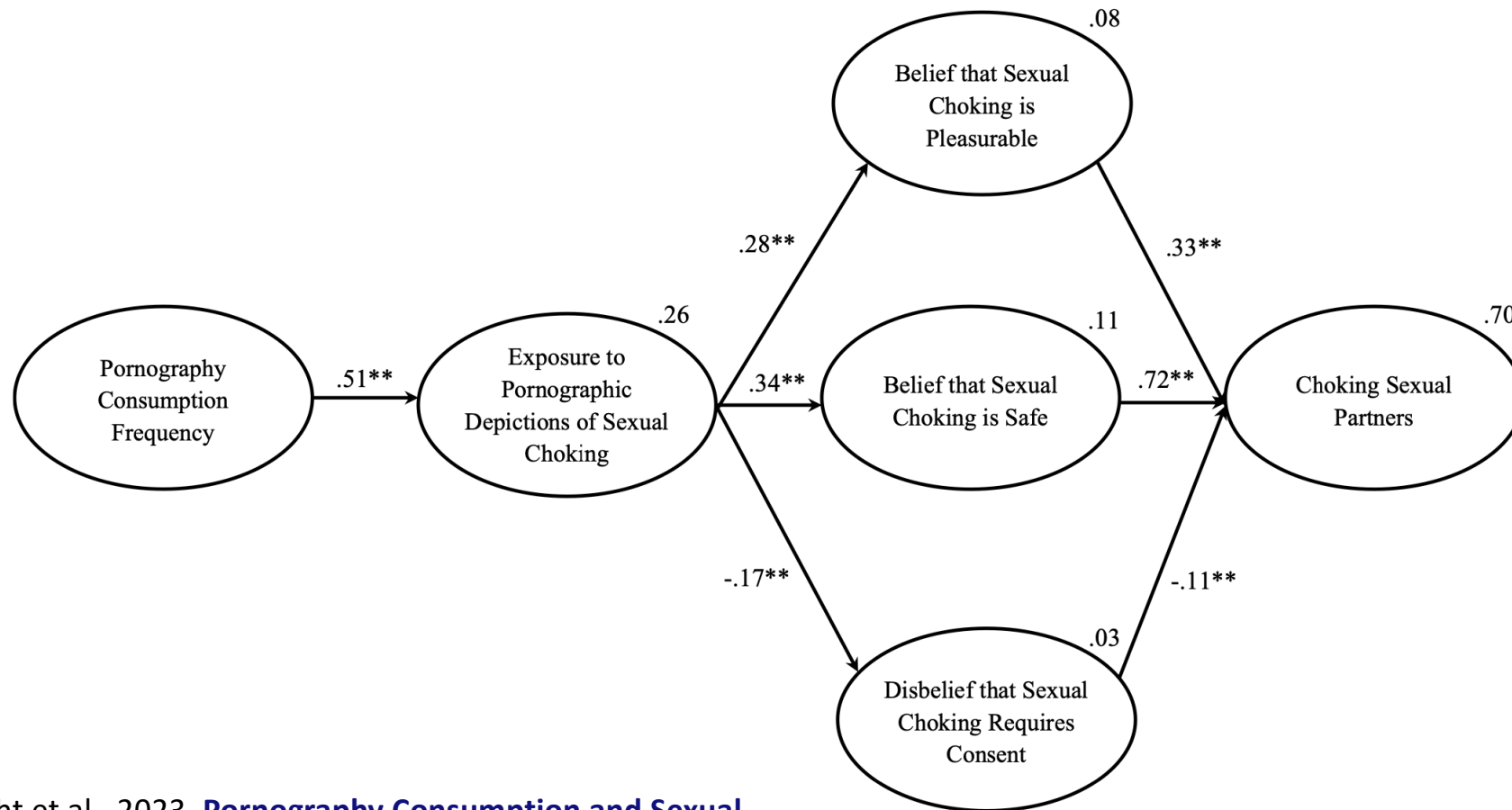
**Let our experts teach you the proper technique.**






## Young people, sex and strangulation

- US estimates: Hebernich et al., 2021.
  - 26.5% of women, 6.6% of men, and 22.3% of transgender and gender non-binary participants reported having been choked during their most recent sexual event.
  - 5.7% of women, 24.8% of men, and 25.9% of transgender and non-binary participants reported that they choked their partner at their most recent event.



Wright et al., 2023. **Pornography Consumption and Sexual Choking: An Evaluation of Theoretical Mechanisms**



These sexual practices are among a trend toward the normalisation of violence in sex that is increasing among young people; and is associated with blurred understanding of its danger and how consent is negotiated.



The background features a gradient from blue on the left to green on the right. Overlaid on this are several overlapping, semi-transparent circles in various shades of blue and green, creating a layered, organic effect.

What's happening in  
Australia?

# Participants

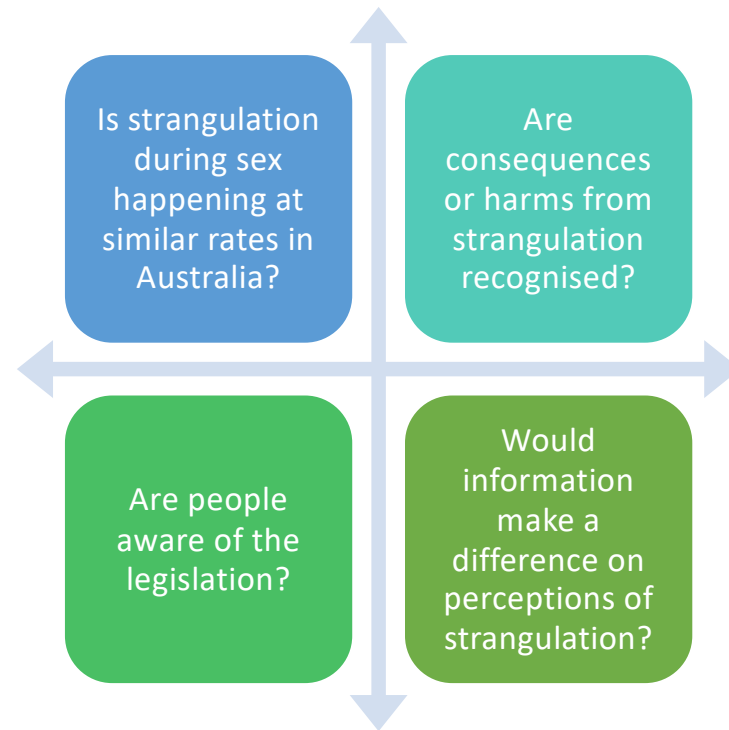
## **Study 1: Preliminary**


- 168 Undergraduate students from the University of Queensland
- Average age 21
- 64% women, 33% men, 3.6% non-binary, trans or unspecified
- 71% heterosexual, 19.3% bisexual
- 74% reported their last sexual encounter was a man/woman pairing
- 96% reported living in Queensland

## **Study 2: National prevalence**

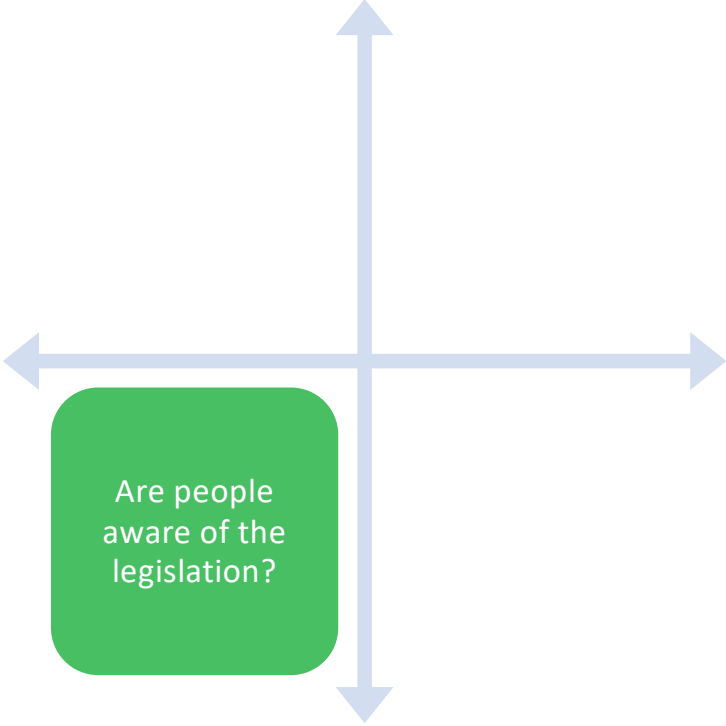
- 4,702 18-35 year olds from across Australia
- Average age 27.3 years
- 47% men, 49% women, 3.8% trans and gender diverse participants
- 82% straight, 4.2% gay or lesbian, 9.7% bisexual
- 81% reported their last sexual encounter was a man/woman pairing
- Participants were nationally distributed

# Research Questions Study 1






# Research Questions



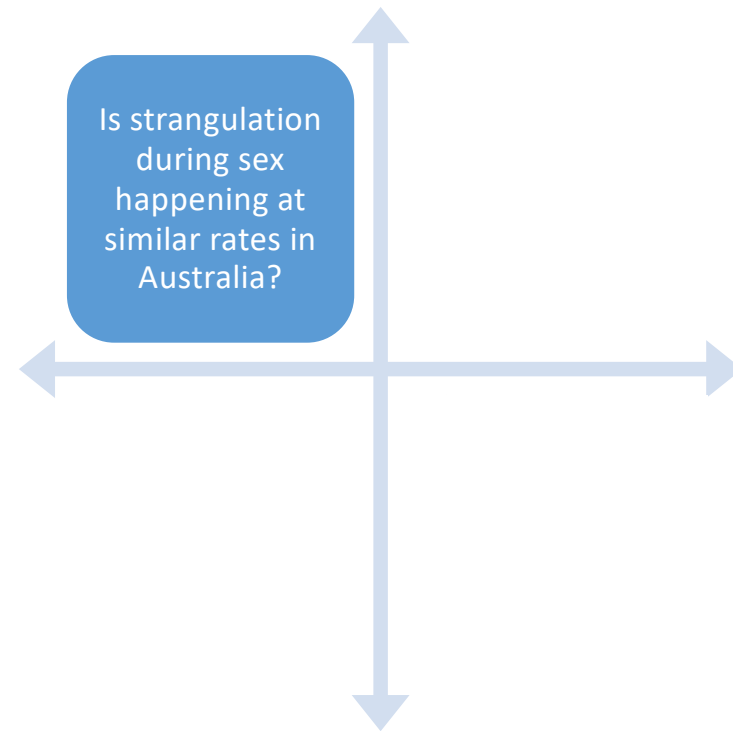
Are people  
aware of the  
legislation?




# Criminalisation

- 83% did not know if there was an offence for strangulation
  - Non-consensual strangulation was largely supported as being a crime
  - Women were more likely to support criminalisation of strangulation even when consensual
- 


# Research Questions





Is strangulation  
during sex  
happening across  
this sample?

- 56% reported ever having being strangled during sex
  - No differences between men and women
- 51% reported ever strangling someone during sex
  - Men more likely than women
- 18% reported being strangled the last time they had sex
  - Women more likely than men
- 13% reported strangling someone the last time they had sex
  - Men more likely than women

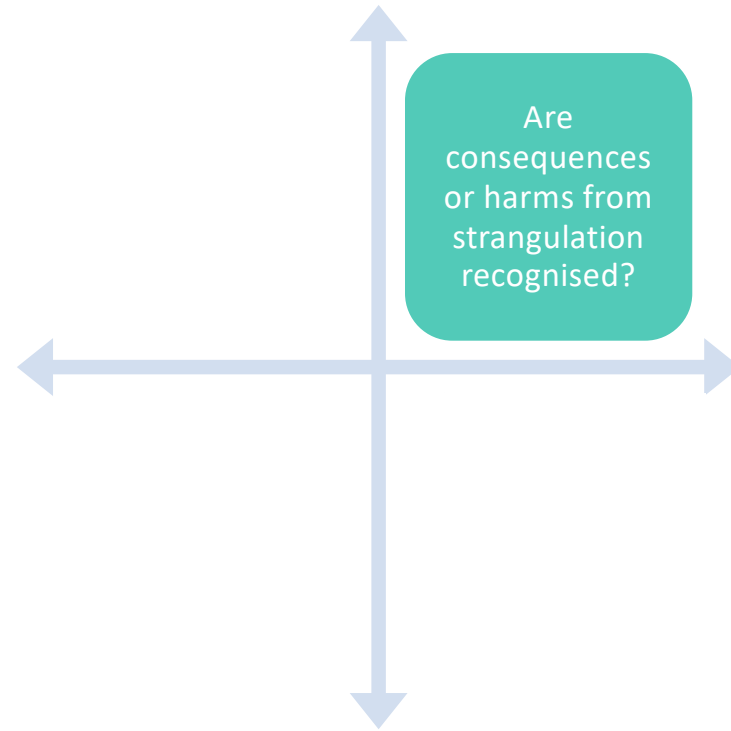


Is strangulation  
during sex  
happening across  
this sample?

- Women reported they were more frequently strangled during sex than men
- Men reported strangling sexual partners more frequently than women

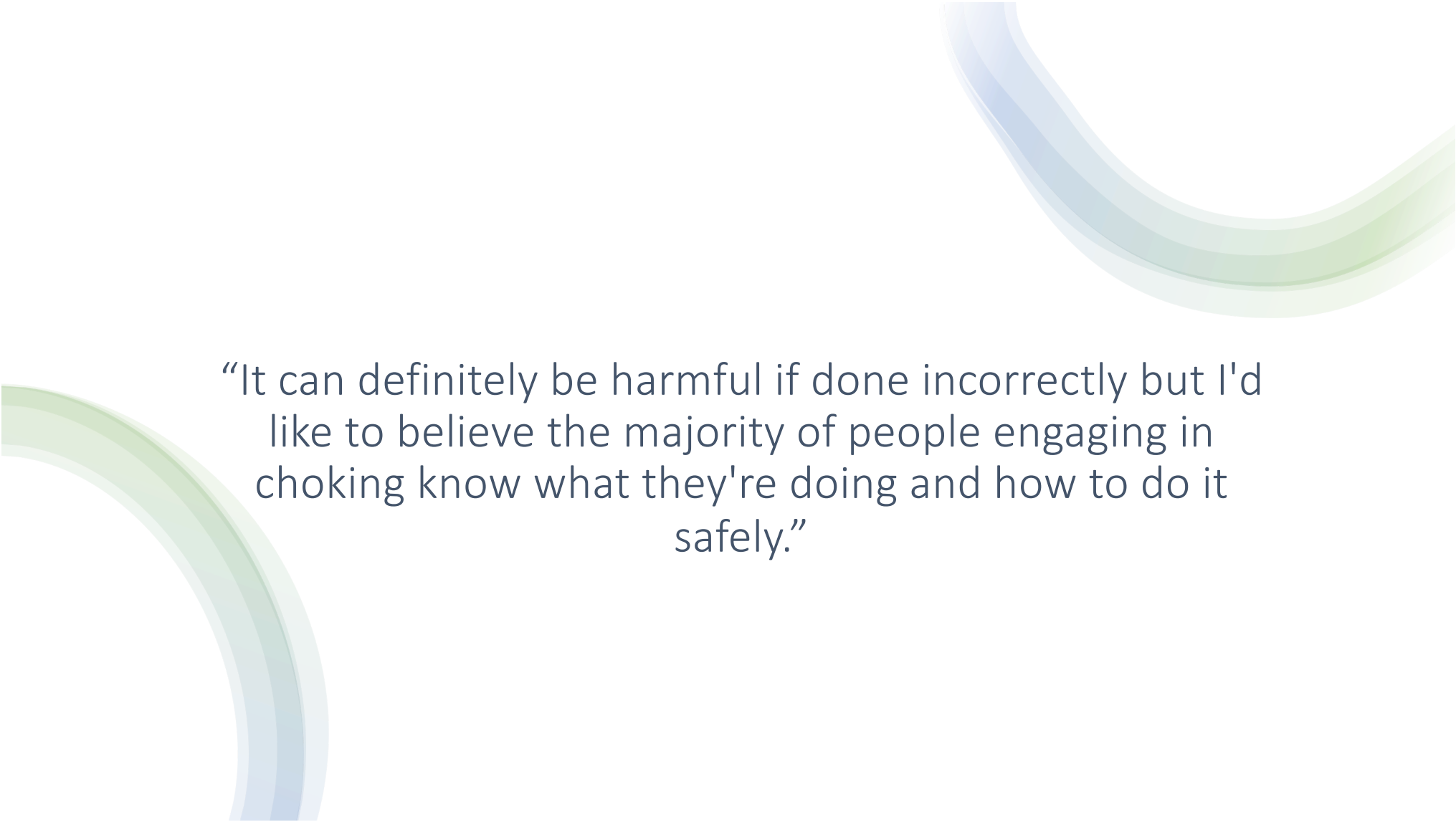


# Research Questions



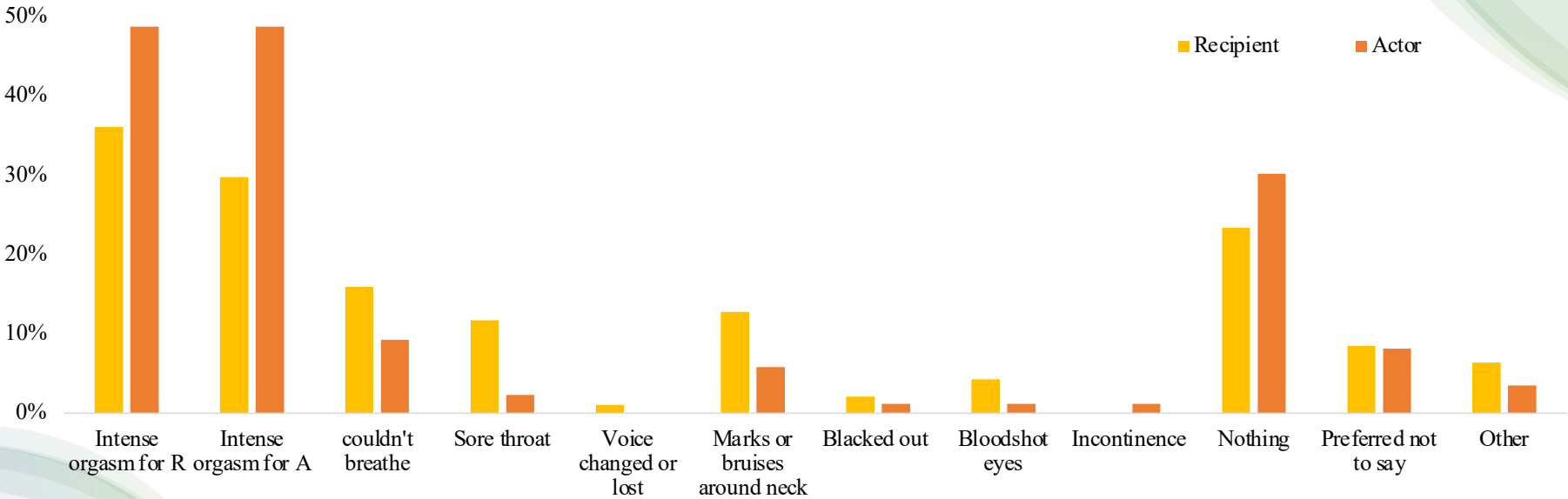
## Knowledge of the harms

	N	M(SD) or %yes	Men	Women	p
<b>Harm</b>					
Do you think it is harmful	168	2.46 (0.75)	2.15 (.71)	2.63 (.073)	<b>&lt;.001</b>
Do you think it can be safe	168	3.19 (0.89)	3.35 (0.75)	2.09 (0.93)	.083
Would you know what injuries/signs to look for	168	2.70 (0.85)	2.78 (0.83)	2.65 (0.87)	.371
Would you be concerned if you lost consciousness?	168	2.66 (1.03)	2.38 (0.99)	2.78 (1.04)	<b>.022</b>
Would you seek out medical help if you lost consciousness?	168	2.72 (0.94)	2.69 (0.89)	2.79 (0.96)	.237

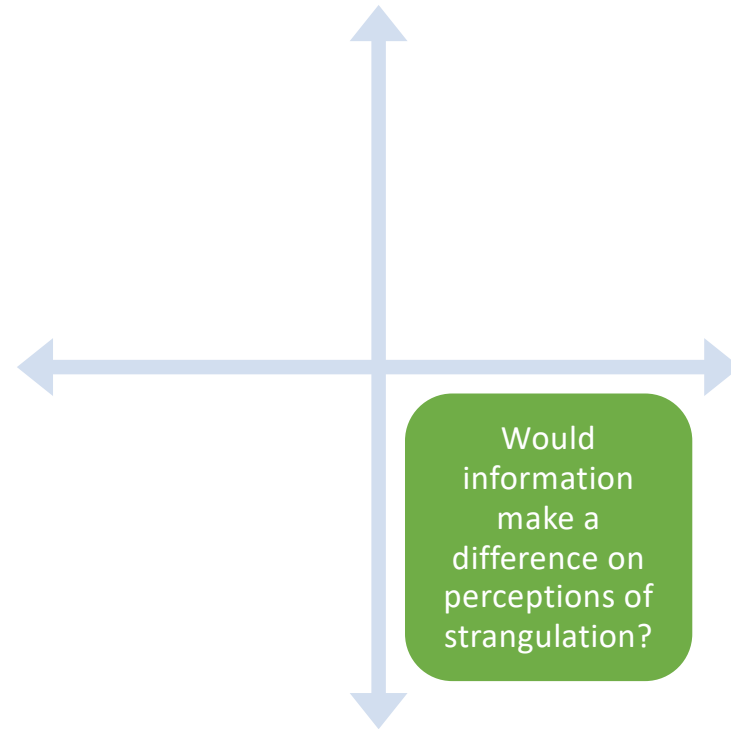


“It can definitely be harmful if done incorrectly but I'd like to believe the majority of people engaging in choking know what they're doing and how to do it safely.”

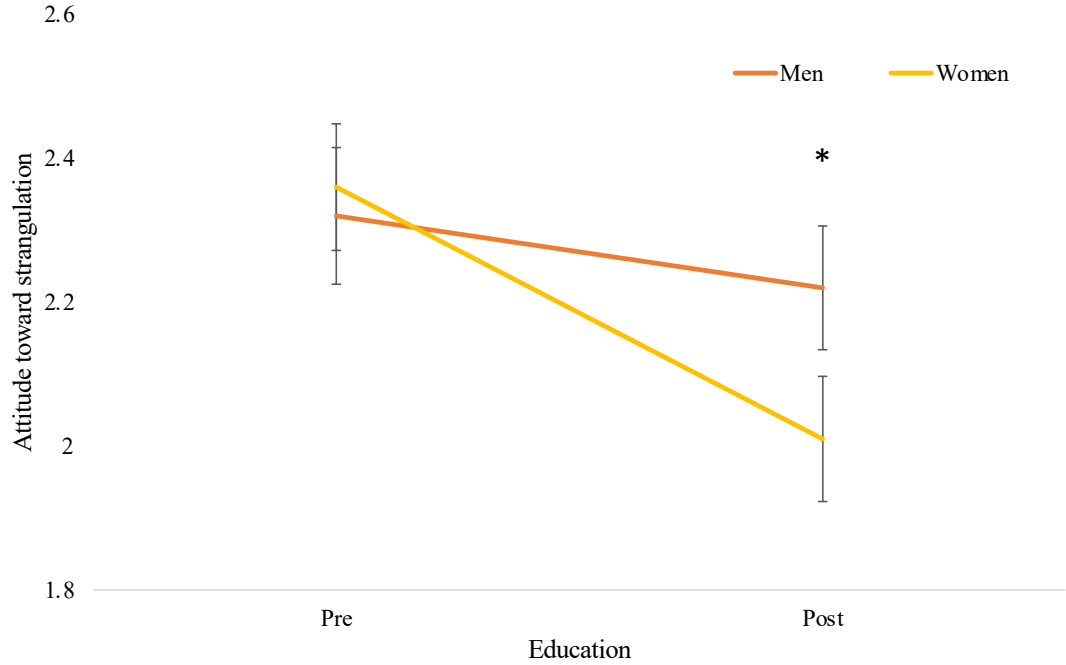
# Consequences experienced or perceived



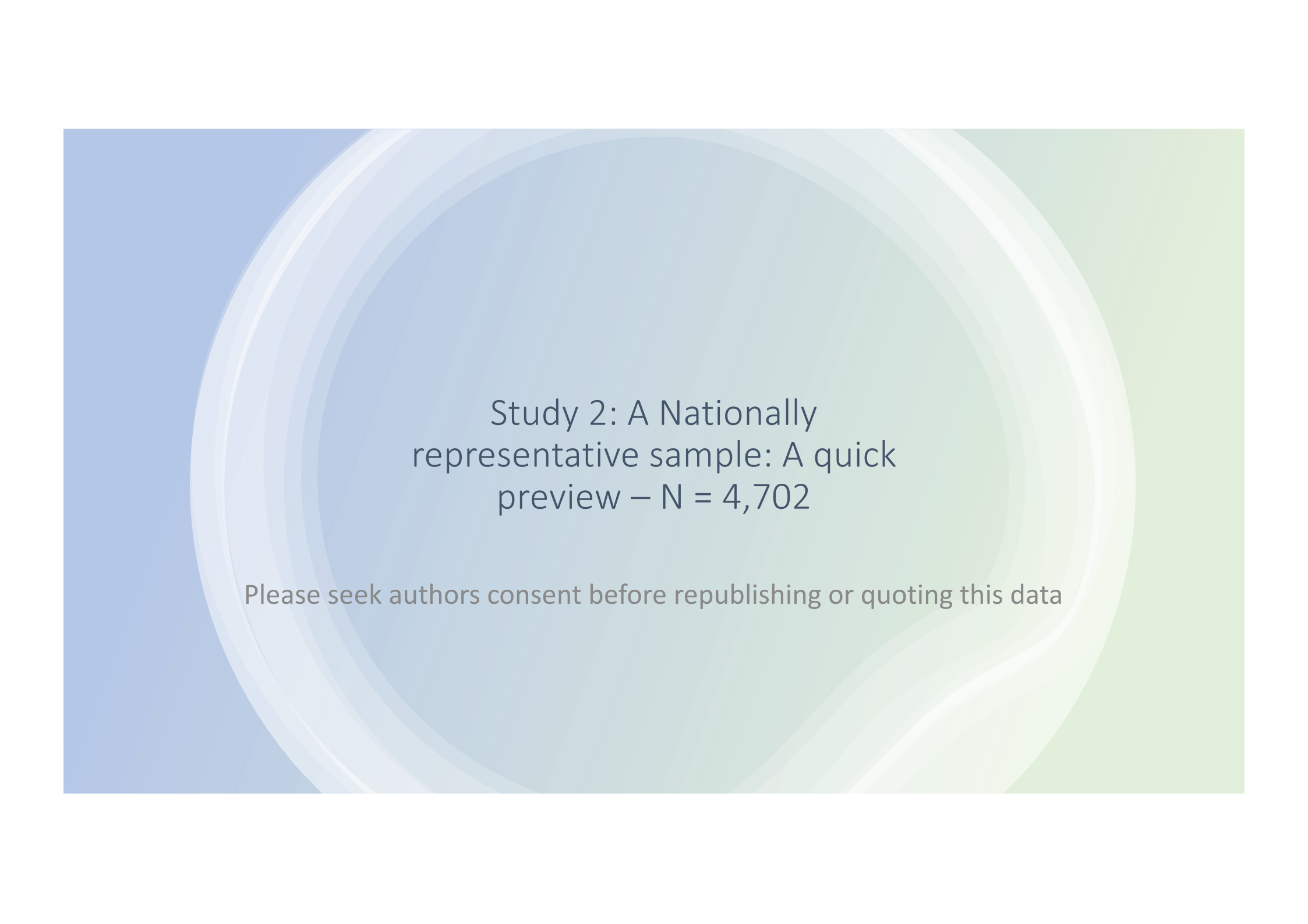
# Research Questions



# What attitudes do people hold?



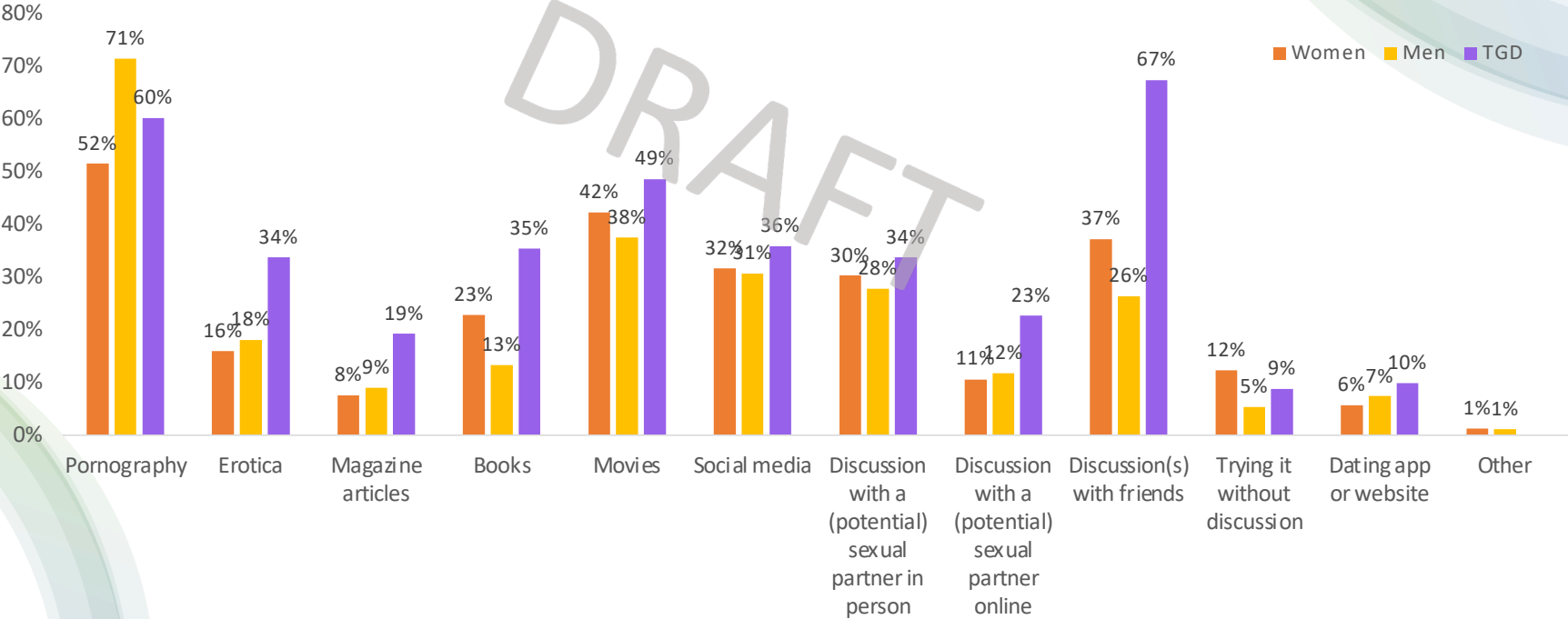
$F(1, 157) = 10.38, p = .002, \eta_p^2 = .06$



Study 2: A Nationally  
representative sample: A quick  
preview – N = 4,702

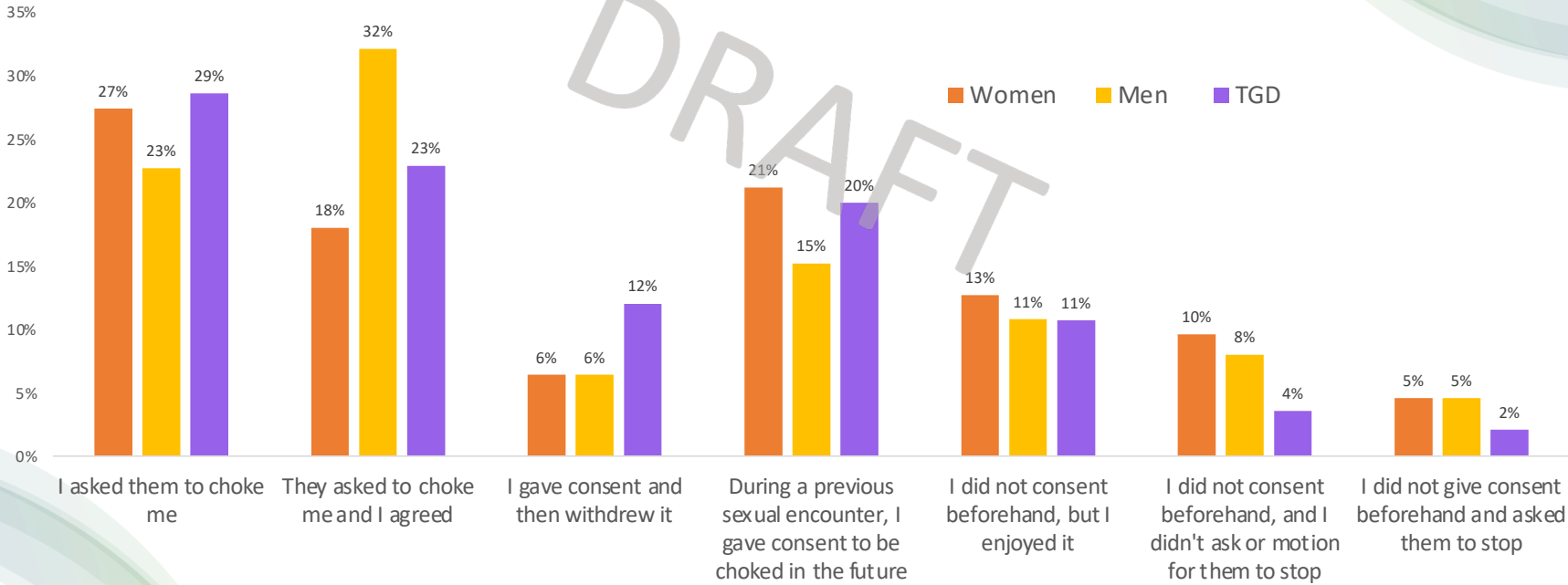
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# Where do people learn about sexual strangulation?

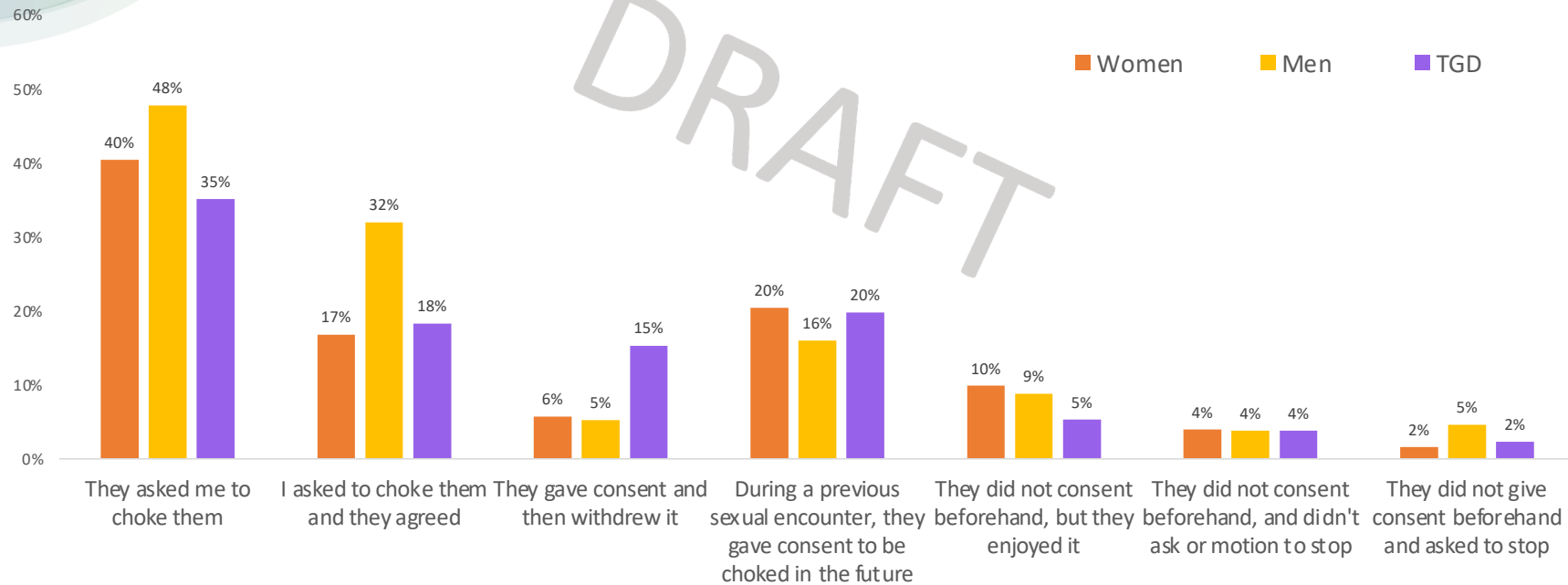




# When you were last choked, how did you consent?



# When you last choked someone, how did they consent?





## Conclusions

Strangulation as part of sex is now mainstream.

It is perceived positively with people underestimating its danger and often lacking clear consent to strangle.

Education strategies around harms and consent are likely key to shifting attitudes and behaviour.

Study 1: "Strangulation During Sex Among Undergraduate Students in Australia: Toward Understanding Participation, Harms, and Education" –*Sexuality Research and Social Policy*; doi:10.1007/s13178-024-00941-4

Thankyou



Information and publications