

Foreword

Strangulation is a weapon of power and control that can render victims unconscious in seconds. Intentionally applying pressure to a person's neck impedes both airflow and blood flow to the brain that can result in life threatening injuries that are not visible. Internal injuries to the carotid or vertebral arteries can result in dissection hours, weeks or months after the injury that can cause a disabling or fatal stroke¹. The terror experienced by victims can have a significant psychological impact that reduces their capacity to seek medical treatment or access domestic or sexual violence support services. Many victims of strangulation remain in abusive intimate partner relationships. Multi-disciplinary research conducted by San Diego's Alliance for Hope International² since 1995 has demonstrated that strangulation is a significant precursor to the use of lethal force. In a campaign to reduce domestic and family violence Strangulation Prevention Training is fundamental to stop preventable deaths and improve the safety of victims. Victims of domestic violence include children who witness violence. K8

An understanding of the mechanism of injury; the effect of strangulation on a victim's capacity to form memories; long term health issues; and protocols for medical treatment are critical for domestic violence service providers and survivors. Strangulation is not a culturally specific behaviour. There are recognised risk factors that are universal – pregnancy.

In my work I have the privilege of meeting extraordinary people who are dedicated to improving outcomes for victims, the overwhelmingly majority, of which are women and children. Support services for perpetrators to address high risk behaviour can reduce safety risks for victims and their families by reducing reoffending.

I am proud to be part of the AISP campaign to provide accessible information about non-lethal strangulation that increases understanding of this high risk behaviour and dispels misconceptions that adversely impact the safety of victims. My participation is made possible by the support I receive from my Court which is both acknowledged and appreciated.

Linda Bradford-Morgan

¹ Dr Bill Smock, forensic pathologist Louisville, Top 25 Serious Medical Consequences Resulting from Strangulation and the Lateral Vascular Neck Restraint <https://www.familyjusticecentre.org/wp-content/uploads/2018/01Top-25-Complications-2-19.pdf>

² Strack, G.B. & Gwinn, C. "On the Edge of Homicide: Strangulation as a Prelude 2011 Criminal Justice, vol 26 Number 3 Fall 2011 American Bar Association, accessed 4 July 2019 <http://dhss.alaska.gov/ocs/Documents/childrensjustice/strangulation/1.%20On%20the%20Edge%20of%20Homicide-%20Strangulation%20as%20a%20Prelude-%20Strack%20and%20Gwinn%202011.pdf>

Non-lethal Strangulation legislation in Australian States and Territories

A National Campaign

The 2018 COAG (Council of Australian Governments) Summit on Reducing Violence Against Women and their children³ issued a statement making a bipartisan commitment to declare domestic, family and sexual violence against women a national emergency. The Fourth National Action Plan (an initiative of the Commonwealth, State and Territory governments) set five national priorities as part of a national campaign to reduce violence; improve access to trauma-informed support and services for victims and provide perpetrators with programs to prevent reoffending and promote rehabilitation.

The Australian Law Reform Commission Family Law for the Future: An Inquiry into the Family Law System Review report 135⁴ discusses the Commonwealth Government responsibility for family law and the State and Territory Government jurisdiction for most criminal offences; domestic and family violence and child protection.

The legislative framework for prosecution of non-lethal strangulation is different in each Australian State and Territory. The relevant provisions are set out below.

The Not Now Not Ever Report, and the Royal Commission Report in Victoria following the death of Luke Batty identified the importance of having courts that were cognizant of the power imbalance between victims and perpetrators; and the risk factors that are known precursors of the use of lethal force.

QUEENSLAND

The Not Now Not Ever Task Force report "Delivering fairness and Accountability: An Enhanced law and justice framework for domestic and family violence" by Dame Quentin Bryce recommended the introduction of a specific domestic violence offence of non-lethal strangulation. The Criminal Code was amended by the Criminal Law (Domestic Violence) Amendment Act (Qld) on 5 May 2016 to implement this recommendation. Section 315 of the Code remains an offence.

CRIMINAL CODE 1899 - SECT 315A

Choking, suffocation or strangulation in a domestic setting

315A Choking, suffocation or strangulation in a domestic setting

- (1) A person commits a crime if—
- (a) the person unlawfully chokes, suffocates or strangles another person, without the [other person](#)'s consent; and
 - (b) either—
 - (i) the person is in a domestic relationship with the [other person](#); or

³ www.coag.gov.au/sites/default/files/communique/statement-delegates-coag-summit-reducing-violence-women.pdf

⁴ <https://www.alrc.gov.au/inquiries/family-law-system>

(ii) 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)* .

This offence removed the requirement in section 315 of the Code for the Crown to prove that the act of strangulation was committed with the intent to commit (or facilitate) an indictable offence or to facilitate the flight of an offender.

Disabling in order to commit indictable offence

315 Disabling in order to commit indictable offence

Any person who, by any means calculated to choke, suffocate, or strangle, and with intent to commit or to facilitate the commission of an indictable offence, or to facilitate the flight of an offender after the commission or attempted commission of an indictable offence, renders or attempts to render any person incapable of resistance, is guilty of a crime, and is liable to imprisonment for life.

In a media release on 19 April 2016 the Queensland Government stated:

The Palaszczuk Government has today passed landmark laws to make non-fatal strangulation a separate offence under the Criminal Code, in a further move to strengthen Queensland's response to domestic and family violence. Attorney-General and Minister for Justice Yvette D'Ath said the creation of the new offence of strangulation was a recommendation of the Special Taskforce on Domestic Violence report Not Now, Not Ever: Putting an End to Domestic Violence in Queensland.

"Choking, strangling or suffocating a person is now an offence in its own right with a maximum penalty of seven years jail....Recognising that strangulation is a serious crime in its own right will serve to strengthen our response to this type of violence within the criminal justice system..."

Minister for the Prevention of Domestic and Family Violence Shannon Fentiman said... "We know strangulation is a pivotal moment that reveals an escalation in the seriousness of the violence committed against a person in the context of domestic and family violence...The offence of strangulation is an important part of the package of legislative amendments the government is implementing to tackle domestic violence. These important legislative changes will support the safety and security of victims of domestic and family violence while we embark on a broader education and awareness campaign to drive real change on the terrible burden of domestic violence in our community."

In a literature review by Queensland Health⁵ there is reference to an international consensus that "*non-lethal strangulation in domestic and family violence situations is a serious act of violence, that it can cause serious psychological and physical harm without any obvious signs on the body, that it is an indication of increasing severity of domestic and family violence and that it is a significant risk factor for future homicide*" . It traverses the advocacy and leadership of the Red Rose Foundation in convening training by the international experts from the San Diego Training Institute on Strangulation Prevention (at 2.2). It points to the absence of empirical data about the prevalence of non-lethal strangulation in Australia. Strangulation is a gendered phenomenon. It is an exertion of control that signals that the perpetrator has power over whether the victim lives or dies. Very few perpetrators view themselves as victims of domestic violence who fear for their safety at the hands of their partner.

SOUTH AUSTRALIA

⁵ https://www.health.qld.gov.au/data/assets/pdf_file/0032/689432/lit-review-non-lethal-strangulation-dva-health-response.pdf

On 6 December 2018 South Australia passed the Statutes Amendment (Domestic Violence) Act 2018 to amend the Criminal Law Consolidation Act 1935 to create a specific strangulation offence:

Division 7AA—Choking etc in a domestic setting

20A—Choking, suffocation or strangulation in a domestic setting

(1) A person who is, or has been, in a relationship with another person and chokes, suffocates or strangles that other person, without that other person's consent, is guilty of an offence.

Maximum penalty: Imprisonment for 7 years.

(2) However, conduct that is justified or excused by law cannot amount to an offence against this section.

(3) Two people will be taken to be in a relationship for the purposes of this section if—

(a) they are married to each other; or

(b) they are domestic partners; or

(c) they are in some other form of intimate personal relationship in which their lives are interrelated and the actions of 1 affects the other; or

(d) 1 is the child, stepchild or grandchild, or is under the guardianship, of the other (regardless of age); or

(e) 1 is a child, stepchild or grandchild, or is under the guardianship, of a person who is or was formerly in a relationship with the other under paragraph (a), (b) or (c) (regardless of age); or

(f) 1 is a child and the other is a person who acts in loco parentis in relation to the child; or

(g) 1 is a child who normally or regularly resides or stays with the other; or

(h) they are brothers or sisters or brother and sister; or

(i) they are otherwise related to each other by or through blood, marriage, a domestic partnership or adoption; or

(j) they are related according to Aboriginal or Torres Strait Islander kinship rules or are both members of some other culturally recognised family group; or

(k) 1 is the carer (within the meaning of the Carers Recognition Act 2005) of the other.

(4) If—

(a) a jury is not satisfied beyond reasonable doubt that a charge of an offence against this section has been established; but

(b) the Judge has instructed the jury that it is open to the jury on the evidence to find the defendant guilty of an offence of assault; and

(c) the jury is satisfied beyond reasonable doubt that the offence of assault has been established, the jury may return a verdict that the defendant is not guilty of the offence charged but is guilty of assault.

The Act also amended the Evidence Act 1929 to insert section 13BB which allows the complainant's evidence in proceedings for a domestic violence offence to be admitted in the form of a police officer's recording. Permission of the Court is required for cross-examination and re-examination of the complainant. In a submission to the South Australian Attorney-General by Victim Support Service on 17 August 2018⁶ the prosecution of domestic violence strangulation offences in Queensland is discussed.

NEW SOUTH WALES

In 2014 New South Wales passed the Crimes Amendment (Strangulation) Act 2014 no 23 to insert a strangulation offence under Section 37 of the Crimes Act 1900 which states:

(1) A person is guilty of an offence if the person:

(a) intentionally chokes, suffocates or strangles another person so as to render the other person unconscious, insensible or incapable of resistance, and

(b) is reckless as to rendering the other person unconscious, insensible or incapable of resistance.

Maximum penalty: imprisonment for 10 years.

In 2018 section 37 was amended and introduced a third strangulation offence that does not require a victim to be rendered unconscious or unable to resist. There is no specific reference to domestic violence relationships and it is not an element of the offence (or a circumstance of aggravation that would increase the sentence imposed). In a statement by the Attorney-General Mark Speakman on 4 September 2018 he stated that the new laws were

⁶ <https://www.victimsa.org/-/victim/lib/uploaded/vsspublications/submissions/Submission-AGD-DFVA-SA-17082018-signed.pdf>

introduced to boost the rate of convictions against domestic violence perpetrators as since 2014 over 600 prosecutions resulted in less than half of defendants being convicted.⁷

Choking, suffocation and strangulation

37 CHOKING, SUFFOCATION AND STRANGULATION

(1A) A person is guilty of an offence if the person intentionally chokes, suffocates or strangles another person without the other person's consent.

Maximum penalty: imprisonment for 5 years.

(1) A person is guilty of an offence if the person:

(a) intentionally chokes, suffocates or strangles another person so as to render the other person unconscious, insensible or incapable of resistance, and

(b) is reckless as to rendering the other person unconscious, insensible or incapable of resistance.

Maximum penalty: imprisonment for 10 years.

(2) A person is guilty of an offence if the person:

(a) chokes, suffocates or strangles another person so as to render the other person unconscious, insensible or incapable of resistance, and

(b) does so with the intention of enabling himself or herself to commit, or assisting any other person to commit, another indictable offence.

Maximum penalty: imprisonment for 25 years.

(3) In this section:

"another indictable offence" means an indictable offence other than an offence against this section.

TASMANIA

In a coronial inquiry Tasmania coroner Olivia McTaggart, in her findings on the death of Jodie Eaton who was murdered on 1 February 2014, recommended Tasmania introduce a separate offence of non-fatal strangulation⁸. Dobson pleaded guilty to killing Ms Eaton "by means of an unlawful act which he ought to have known to be likely to cause death" under section 157 (1) (c) of the *Criminal Code* (Tas) 1924.

The Coroner observed at page 6 that Chief Justice Blow sentenced Dobson to life imprisonment with a non-parole period of 14 years and in his comments on passing sentence he...considered Dobson's prior crimes of violence against women and commented that, at the time of murdering Ms Eaton, he was on bail in relation to a charge of an assault against his then girlfriend for...grabbing and squeezing her throat.

At page 7 of her reasons Coroner McTaggart sets out the offender's history of violence and his propensity to strangle intimate partners (including his pregnant girlfriend in 2006). Ms Eaton was not in a domestic relationship with Dobson.

Section 168 of the *Criminal Code Act 1924* (Tas)

⁷ <https://www.smh.com.au/politics/nsw/new-strangulation-offence-to-bolster-nsw-domestic-violence-laws-20180904-p50119.html>

⁸ Record of investigation into death of Jodie Eaton, Magistrates Court of Tasmania, Coronial division 6th August 2019

Commented [MB1]:

Disabling to aid commission of offence or flight of offender:

“Any person who, by any means whatever calculated to choke, suffocate, or strangle, or, by any violent means whatever, renders any person incapable of resistance, with intent thereby to facilitate the commission of an offence, or to facilitate the flight of an offender after the commission or attempted commission of an offence, is guilty of a crime.”

Section 168 does not specify the penalty that applies to the offence of disabling to aid commission of offence or flight of offender. As such, section 389(3) of the Criminal Code Act 1924 (Tas) applies. Section 389 (3) states:

Subject to the provisions of the Sentencing Act 1997 or of any other statute, and except where otherwise expressly provided, the punishment for any crime shall be by imprisonment for 21 years, or by fine, or by both such punishments, and shall be such as the judge of the court of trial shall think fit in the circumstances of each particular case”.

Northern Territory

There are no specific strangulation domestic violence offences at this time.

Section 175 of Schedule 1 of the Criminal Code (NT) provides:

Disabling in order to commit indictable offence:

Any person who, by any means calculated to choke, suffocate or strangle and with intent to commit or to facilitate the commission of an indictable offence, or to facilitate the flight of an offender after the commission or attempted commission of an indictable offence, renders or attempts to render any person incapable of resistance is guilty of an offence and is liable to imprisonment for life.

Victoria

The Victorian government have no specific strangulation offences but, rather, rely on more general criminal law provisions. Victoria did have a choking offence in a repealed section of the *Crimes Act 1958 (Vic)*:

“Whosoever attempts to choke suffocate or strangle any person or by any means calculated to choke suffocate or strangle attempts to render any person insensible unconscious or incapable of resistance, with intent in any such case to enable himself or any other person to commit or with intent in any such case to assist any other person in committing any indictable offence, shall be guilty of felony and shall be liable to imprisonment for a term of not more than fifteen years”.

The previous choking offence was repealed on 24 March 1986 by section 8(2) of the *Crimes (Amendment) Act*.

On 31 July 2018 Her Honour Judge Hinchey, State Coroner, Victoria published her findings into Death with Inquest of Joy Rowley. In her findings at paragraph 63 her Honour states:

“The broader purpose of coronial investigations is to contribute to a reduction in the number of preventable deaths, both through the observations made in the investigation findings and by the making of recommendations by coroners. This is generally referred to as the Court’s “prevention” role”....(at 67) Ms Rowley’s children maintain that at the time of her death their mother was not in a voluntary and consensual relationship with Mulhall ‘...our mum felt threatened, felessured, was in fear for her life, ...Mulhall had attempted to murder her when she requested him to leave in an attempt to end the relationship...she felt trapped and obliged to allow the relationship to occur again in a bid to make it to the court hearing’. (79) Mulhall states that he became enraged and strangled Ms Rowley”.

The report details the education provided to Victoria Police officers to ensure that the criminality of family violence and the risks to safety of victims are understood by police as first responders (118-138)⁹. From paragraphs 155 to 163 Her Honour Judge Hinchey addresses the recommendation by the Acting Police Commissioner to explore introduction of a stand-alone indictable offence and the challenges in proof of injury given the lack of visible injury from strangulation under the current legislation:

“The introduction of a stand alone offence for strangulation, suffocation or choking in Victoria may significantly help to ensure strangulation is treated commensurate with the risk it poses to victims and remove the need to prove particular bodily harm....Further a new offence may build further awareness of the dangers and potential lethality of strangulation among police members, courts and community service practitioners”.

The Victorian Government in July 2019 has committed to introducing a stand-alone strangulation offence.

Western Australia

The Criminal Code Compilation Act 1913 does not include an offence of strangulation. The Criminal Code provisions for assault in Queensland and Western Australia are in identical terms however an assault with a circumstance of aggravation increases the maximum sentence are defined to include :

221. Term used: circumstances of aggravation

(1) In this Part —

circumstances of aggravation means circumstances in which —

(a) the offender is in a family relationship with the victim of the offence; or

(b) a child was present when the offence was committed; or

(c) the conduct of the offender in committing the offence constituted a breach of an order, other than an order under Part 1C, made or registered under the Restraining Orders Act 1997 or to which that Act applies; or

(d) the victim is of or over the age of 60 years.

(2) In this section —

family relationship has the meaning given in the Restraining Orders Act 1997 section 4(1).

[Section 221 inserted: No. 38 of 2004 s. 64; amended: No. 49 of 2016 s. 99.]

222. Term used: assault

A person who strikes, touches, or moves, or otherwise applies force of any kind to the person of another, either directly or indirectly, without his consent, or with his consent if the consent is obtained by fraud, or who by any bodily act or gesture attempts or threatens to apply force of any kind to the person of another without his consent, under such circumstances that the person making the attempt or threat has actually or apparently a present ability to effect his purpose, is said to assault that other person, and the act is called an assault. .’

Section 292. Disabling in order to commit indictable offence etc.

⁹ https://www.coronerscourt.vic.gov.au/sites/default/files/2018-12/joymareerowley_394711.pdf

Any person who, by means of violence of any kind and with intent to commit or to facilitate the commission of an indictable offence, or to facilitate the flight of an offender after the commission or attempted commission of an indictable offence, renders or attempts to render any person incapable of resistance, is guilty of a crime, and is liable to imprisonment for 20 years.

Definition of choke, suffocate or strangle

In *R v Green* (No 3) [2019] ACTSC 96 Loukas-Karlsson J considered the legislative provisions in several States and Territories which create strangulation offences and observed that the legislation did not include a definition of “choke”; “suffocate” or “strangle”.

Her honour held at paragraph 46 of her judgement, that the relevant element with respect to choking, strangulation, and or suffocation was constituted by the stopping of the breath. As a consequence of that ruling her honour, on the facts of the case before directed an acquittal.

In the absence of a statutory definition recourse is available to dictionary definitions. It is evident that the widespread legislative reform to make stand-alone non-lethal strangulation an offence (either a felony or a misdemeanour) in the United States is based upon a cognisance of the issue (and the national training from our partner Institute in San Diego):

“DEFINITIONS: Wikipedia -Strangulation (domestic violence)

Strangulation in the context of domestic violence is a potentially lethal form of assault. Unconsciousness may occur within seconds of strangulation and death within minutes. Strangulation can be difficult to detect and until recently was often not treated as a serious crime. However, in many jurisdictions strangulation is now a specific criminal offense, or an aggravating factor in assault cases.

Differences from choking

Although sometimes the words are used interchangeably, "strangulation" and "choking" are not the same thing. Choking is when air flow is blocked by food or a foreign object in the trachea – something that can be addressed by the Heimlich manoeuvre. **Strangulation, by contrast, is defined by reduced air flow and/or blood flow to or from the brain via the intentional external compression of blood vessels or the airway in the neck.** Notably, however, many victims of strangulation refer to the assault as "choking".

Manual strangulation (i.e., gripping the throat with one's hands) is the most common method of strangulation in intimate partner violence

Epidemiology

A systematic review of 23 articles based on 11 surveys in 9 countries...found that 3.0% to 9.7% of women reported that they had at some time been strangled by an intimate partner.

The most recent national survey in the U.S. that asked about strangulation by an intimate partner asked if a partner had tried to hurt them by choking or suffocating them. A total of 9.7% responded that a partner had done so at some point in their lifetime...

The prevalence of strangulation appears to be decreasing in Canada, the only country with multiple cross-sectional surveys that measure strangulation.

In 2000, a meta-analytic review of gender differences in physical aggression against a heterosexual partner concluded that a **"choke or strangle" is very clearly a male act.**

A series of studies conducted in Canada found the same gender discrepancy.

According to a large U.S. case control study, prior strangulation is a substantial and unique predictor of attempted and completed homicide of women by a male intimate partner. The study showed that the odds of becoming a homicide victim increased 8-fold for women who had been strangled by their partner. Strangulation is so common in battering (50% or more battered women report that they've been strangled) that it doesn't differentiate abuse in which the victim survives or dies.

Experience of strangulation

Strangulation has been likened to drowning and researchers at the University of Pennsylvania have likened non- or near-fatal strangulation to water boarding, which is widely considered a form of torture.

A special issue of the Domestic Violence Report devoted to the crime of strangulation states: "Many domestic violence offenders and rapists do not strangle their partners to kill them; they strangle them to let them know they can kill them—any time they wish. Once victims know this truth, they live under the power and control of their abusers day in and day out."

Outcomes

Strangulation can produce minor injuries, serious bodily injury, and death. Evidence of the assault can be difficult to detect because many victims may not have visible injuries and/or their symptoms may be nonspecific.

Victims may have internal injuries, such as laryngo-tracheal injuries, digestive tract injuries, vascular injuries, neurological system injuries and orthopedic injuries. Clinical symptoms of these internal injuries may include neck and sore-throat pain, voice changes (hoarse or raspy voice or the inability to speak), coughing, swallowing abnormalities, and changes in mental status, consciousness and behavior. Neurological symptoms may include vision changes, dimming, blurring, decrease of peripheral vision and seeing "stars" or "flashing lights." Post-anoxic encephalopathy, psychosis, seizures, amnesia, cerebrovascular accident and progressive dementia may be indicative of neuropsychiatric effects.

Signs of life-threatening or near fatal strangulation may include sight impairment, loss of consciousness, urinary or fecal incontinence and petechiae (pinpoint hemorrhages). Even victims with seemingly minimal injuries and/or symptoms may die hours, days, or weeks later because of progressive, irreversible encephalopathy.

Some visible signs of strangulation a victim should look for are injuries to their face, eyes, ears, nose, mouth, chin, neck, head, scalp, chest and shoulders, including: redness, scratches or abrasions, fingernail impressions in the skin, deep fingernail claw marks, ligature marks ("rope burns"), thumbprint-shaped bruises, blood-red eyes, pinpoint red spots called "petechiae" or blue fingernails.

Laws

For many years across the country, prosecutors have failed to treat non- and near-fatal strangulation assaults as serious crimes, largely due to the lack of physical evidence. Because of involvement of the medical profession, specialized training for police and prosecutors, and ongoing research, strangulation has become a focus of policymakers and professionals working to reduce intimate partner violence and sexual assault.

As of November 2014, 44 U.S. states, the District of Columbia, the federal government and two territories have some form of strangulation or impending breathing statute. Twenty-three states and one territory have enacted legislation making strangulation a felony. In 2013, Congress re-authorized the Violence Against Women Act and added, for the first time, strangulation and suffocation as a specific federal felony.

Improving detection and intervention

Starting in 1995, the work of Gael Strack and Casey Gwinn in San Diego has helped identify and address challenges in detecting, investigating, and prosecuting strangulation and suffocation offenses in intimate partner violence, sexual assault, elder abuse, and child abuse cases. In 2011, Strack and Gwinn created the Training Institute on Strangulation Prevention, the most comprehensive training program in the United States for the documentation, investigation, and prosecution of non and near-fatal strangulation assaults. Published appellate opinions have begun to proliferate across the United States as courts are upholding felony strangulation convictions even with minimal external visible injury to the victims. The importance of multi-disciplinary responses by doctors, nurses, advocates, police officers, and prosecutors has become clear in properly identifying, treating, investigating, and prosecuting strangulation assaults¹⁰.

Conclusion

A review of the legislative provisions that address non-lethal strangulation in Australia demonstrates that there is cause for optimism. The reforms that have been implemented, and that are proposed, are underpinned by an understanding of the insidious nature of this criminal behaviour. Most victims do not seek assistance from police or support services after surviving non-lethal strangulation.¹¹ Most do not seek medical attention which is time critical to prevent death or permanent disability from invisible internal injuries to the structure of the throat, artery dissection, or brain. Each act of strangulation can cause scarring on the brain that is responsible for traumatic brain injuries that affect victim's lives and is only visible at autopsy.

The imperative for an effective response to non-lethal strangulation is clear from the Family, domestic and sexual violence in Australia reports of 2018 and 2019. This report by the Australian Institute of Health and Welfare concluded that young Australians hold attitudes to domestic violence that minimize and facilitate abusive relationships:

*“ Young people are more likely to have attitudes that support violence against women...in 2013 2000 Australians aged 16-24 were compared with 10,000 aged 35-64...nearly half (46%) of young Australians agreed that tracking a partner by electronic means without her consent was acceptable to some degree.”*¹²

The AIHW June 2019 report published addressed person vulnerable to domestic and family violence and sexual assault. Its findings on community attitudes were concerning:

*“Overall, the NCAS found only 4% to 6% of Australians believed violence against women was justified in certain circumstances. Most Australians are aware that domestic violence (96%) and forced sex in a relationship (91%) are criminal offences. Almost all Australians (98%) stated that they would intervene if a known woman was being assaulted (VicHealth 2014). However, more than 1 in 5 (21%) agreed that violence could be excused if the violent person regretted it, or if people got so angry that they lost control (22%). More than 4 in 10 Australians (43%) believed that rape resulted from men not being able to control their need for sex, and nearly 1 in 5 (19%) that a woman was at least partly responsible for being raped if she was drunk and/or affected by drugs at the time (VicHealth 2014).”*¹³

¹⁰ [https://en.wikipedia.org/wiki/Strangulation_\(domestic_violence\)](https://en.wikipedia.org/wiki/Strangulation_(domestic_violence))

¹¹ AIHW report 2019 46% of women and 68% of men experiencing violence from a current partner do not seek support. 82% of women and 97% of men do not contact police at p17

¹² <https://www.aihw.gov.au/getmedia/d1a8d479-a39a-48c1-bbe2-4b27c7a321e0/aihw-fdv-02.pdf.aspx?inline=true>

¹³ <https://www.aihw.gov.au/getmedia/b00372bd-a651-4abf-9f7b-00a85e3de528/aihw-fdv3-FDSV-in-Australia-2019.pdf.aspx?inline=true> p12

Other jurisdictions

The impetus for legislative reform in Canada has also been driven by the media and community groups. Most provinces require proof that the strangulation was committed in furtherance of another indictable offence:

(photo omitted) Former CBC radio host Jian Ghomeshi leaves a Toronto courthouse with his lawyer Marie Henein, right, following day six of his trial on Tuesday, Feb. 9, 2016. (Chris Young / THE CANADIAN PRESS)

It's time to consider a stronger strangulation law: Porter
By Porter Columnist Fri., Feb. 19, 2016

First off, let's stop calling it choking. You choke accidentally on a peanut. When someone grabs you by the throat and forcefully squeezes, you are being strangled.

It's a popular weapon of abusive partners. It's incredibly effective.

In 15 seconds, it can render a woman unconscious. After 30 seconds, she will lose control of her bowels and bladder. Soon after, she'll die.

If she survives the attack, she'll sometimes emerge with a temporary red mark on her neck or tiny red spots around her face and in her eyes. But at least half the time, there will be no obvious signs of how close to death's edge she's been dragged.

Strangulation is an ideal weapon of control. It puts the fear of God into women, so they keep quiet, offer sex, clean the room, cook the meal...

"It's him asserting, 'I have your life in my hands,'" says Vivien Green, co-founder of the survivor's support and advocacy non-profit WomenatthecentrE. "It's planned and purposeful." Her organization interviewed 15 Ontario women who said they had been strangled by their intimate partners. It released the executive summary of its findings in a report called [A Fresh Breath](#) last week.

Most of the women said they had been strangled more than once. Most said they'd been strangled to the point of losing consciousness. All said they feared for their lives. Green and her colleague Nneka MacGregor said they hoped their report would launch a national conversation about strangulation in domestic assaults. Their timing was impeccable.

Former CBC radio host Jian Ghomeshi could not be found guilty of choking actress Lucy DeCoutere.

In Canada, you cannot be charged for straight-up strangling someone. Instead, police can charge you with an array of things: assault, aggravated assault, assault causing bodily harm, sexual assault and in rare cases, attempted murder.

The most common charge, however, is overcoming resistance, which is not only harder to prove, but implies that strangulation in and of itself is not that bad.

As in: The offender had to strangle you because you wouldn't quietly let him rob or rape you.

The women interviewed by Green and MacGregor reported voice changes, neck pain and difficulty breathing and swallowing after their incidents. More than half said they had experienced brain trauma, too, like concussions, headaches, memory loss and vision changes.

That's what happens when someone cuts off oxygen to your brain."