



TRAINING INSTITUTE on STRANGULATION PREVENTION

Is a program of Alliance for HOPE International

101 West Broadway, Suite 1770
San Diego California 92101
Toll Free: 888-511-3522
Local: 619-236-9551
Fax: 619-236-0677
www.strangulationtraininginstitute.org

Access Online for Free:

<https://www.civicrosearchinstitute.com/nfjca.html>

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Strangulation and Domestic Violence: The Edge of Homicide

by Gael Strack, J.D. and Casey Gwinn, J.D.

In March 1995, as San Diego's coordinated community response to domestic violence was getting national attention with a 50% drop in domestic violence homicides since 1985, Sgt. Anne O'Dell, the founder of the Police Department's specialized Domestic Violence Unit, called us as the founders of the City Attorney's specialized Child Abuse/Domestic Violence Unit to question whether any of us were treating so called "choking" cases seriously. Her soul searching, and soon ours, came from the first two domestic violence homicides of 1995: two teenagers with small children who lost their lives after a history of domestic violence and reports of being "choked" by their boyfriends. The City Attorney or the District Attorney prosecuted none of the reported cases. And then both Casandra Stewart and Tamara Smith were murdered.

The deaths of Casandra Stewart and Tamara Smith triggered profound changes in San Diego and ultimately around the world, but such profound change started with Gael Strack going into the file room of the San Diego City Attorney's Child Abuse/Domestic Violence Unit and reviewing every case where

See EDGE OF HOMICIDE, page 90

Law Reform Targets the Crime of Strangulation

by Casey Gwinn, J.D., Gael Strack, J.D., and Melissa Mack

"Actually, when I came out of that [strangulation incident], I was more submissive—more terrified that the next time I might not come out—I might not make it. So I think I gave him all my power from there because I could see how easy it was for him to just take my life like he had given it to me."

—Former San Diego Family Justice Center Client (2010)

Survivors of non-fatal strangulation have known for years what prosecutors and civil attorneys are only recently learning: 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. This complex reality creates challenges for prosecutors who have to decide whether to prosecute non-fatal strangulation cases

as attempted murders, serious felony assaults, or misdemeanors.

For many years in California and across the country, prosecutors have failed to treat non-fatal strangulation assaults as serious crimes, due to lack of physical evidence. Today, because of (1) involvement of the medical profession, (2) specialized training for police and prosecutors, and (3) ongoing research, strangulation has become a focus area for policymakers and professionals working to reduce intimate partner violence and sexual assault.

As of May 2014, 37 states and one territory (U.S. Virgin Islands) have passed strangulation laws that provide clear legislative definitions of the violent, life threatening assault now properly referred to as "strangulation."¹ One state, Utah, passed an "Intent of the Legislature" resolution, which made legislative findings to help

See LAW REFORM, next page

About This Issue . . .

We are delighted to present this special issue on Strangulation, a topic of great interest because of the importance of the issue today, particularly in light of the high lethality of these cases, the profound consequences for survivors, and the challenges for law enforcement. We are especially pleased that Gael Strack and Casey Gwinn are Guest Editors. These two former prosecutors are leading national experts on strangulation as well as founders of the Family Justice Center movement.

D. Kelly Weisberg, Editor, *Domestic Violence Report*

ALSO IN THIS ISSUE

Investigation and Prosecution of Strangulation Cases 83
Men Who Strangle Women Also Kill Cops 85
Summary of Recent Strangulation Case Law 86
Why Didn't Someone Tell Me? The Consequences of Strangulation Assaults 87

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