

How Victims of Strangulation Survived: Enhancing the Admissibility of Victim Statements to the Police

When Survivors are Reluctant to Cooperate

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Abstract

Holding perpetrators accountable for family violence is challenged when survivors are reluctant to testify. In light of recent Supreme Court precedents limiting the admissibility of statements to law enforcement in victimless prosecutions, the current study examined 130 cases of non-fatal strangulation (NFS) to determine whether case characteristics and themes across survivors' on-scene statements can help prosecutors combat common legal defenses raised when victims are unavailable for trial. The history of prior violence and how only 6% of perpetrators stopped strangling victims on their own suggests that NFS complaints should be investigated as an attempted homicide until evidence suggests otherwise.

Keywords: Nonfatal strangulation; Domestic Violence; Coercive Control; Forfeiture by Wrongdoing; Confrontation Clause

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Non-fatal strangulation/suffocation (NFS/S) is a serious crime that co-occurs with domestic violence (Glass et al., 2008; Joshi et al., 2012; Messing et al., 2018; Mcquown et al., 2016; Nemeth et al., 2012; Reckdenwald et al., 2019; Strack et al., 2001; Thomas et al., 2014; Wilbur et al., 2001), stalking (Bendlin & Sheridan, 2019; Thomas et al., 2014), and/or sexual assault (Messing et al., 2014). Accounting for nearly 8% of femicides in the United States (Jack et al., 2018), NFS/S is a gendered form of violence perpetrated primarily by men against women (Nemeth et al., 2012; Pritchard et al., 2018; Thomas et al., 2014). National estimates suggest that 1 in 11 women (~11.1 million women) and 0.7% (~814,000 men) men have survived strangulation and/or suffocation by an intimate partner at some point in their life (Breiding et al., 2014). Nearly 38% to 44% of intimate partner violence (IPV) victims have survived NFS/S multiple times (Messing et al., 2018; Wilbur et al., 2001), which is particularly concerning considering even one incident of NFS/S places victims at a seven-fold increase in the odds of being murdered by the same perpetrator (Glass et al., 2008; Spencer & Stith, 2020). Victims who experience multiple NFS/S assaults are at a heightened risk for lethal and near lethal consequences, including traumatic brain injuries, miscarriage, memory and executive functioning issues, and/or homicide (Glass et al., 2008; Messing et al., 2018; Monahan et al., 2019). Unfortunately, perpetrators often elude accountability due this form of violence leaving few visible injuries among terrified survivors who may be hesitant to seek the help of the criminal justice system beyond initial encounters with police (Strack et al., 2001; Messing, 2015).

Emerging evidence suggests that perpetrators use NFS/S as a mechanism of coercive control to instill compliance and dependency over time through a pattern of malevolent conduct (Nemeth et al., 2012; Pritchard et al., 2017; Stansfield & Williams, 2018; Stark, 2007; Thomas et al., 2014; Vella et al., 2013). Much of what is known about survivors' perception of NFS/S,

however, have come from studies using retrospective designs of small samples of women from domestic violence (DV) shelters (Joshi et al., 2012; Thomas et al., 2014; Vella et al., 2017; Wilbur et al., 2001) or jail phone call recordings between suspects and victims (Bonomi et al., 2012; Nemeth et al., 2012). Less is known about how survivors describe their experience to the police within hours of being strangled and/or suffocated by an intimate partner.

This timeframe is important given the considerable evidence outlining abusers' attempts to avoid accountability through minimizing their actions, gaslighting, and influencing victims' decision to not cooperate with the justice system (Bonomi et al., 2012; Sleath & Smith, 2017; Stark, 2007; 2012; Thomas et al., 2014). Thus, analyzing NFS/S survivors' statements to the police following the assault is integral to identifying patterns across perceptions before suspects can contaminate narratives of what happened and influence recantation. Additionally, when victims refuse to testify, statements to the police are considered hearsay and are not admissible in court due to violating defendants' Sixth Amendment right to confront and vet witnesses (U.S. CONST. amend. VI). Yet, if prosecutors can establish that a defendant has purposefully prevented a victim from calling the police and/or testifying against them, they forfeit their right to cross-examination and any and all prior statements become admissible in lieu of the victims' live testimony (*Giles v. California*, 2008; Markman, 2010; Myhill & Hohl, 2019). Also known as the forfeiture by wrongdoing doctrine (FbW), this legal strategy is a viable option to holding dangerous perpetrators accountable (Garvey, 2018). In fact, the Supreme Court has argued that courts can consider the coercive controlling dynamics that are common in DV cases to infer the defendants' intent to prevent victims from legal helpseeking (see *Giles*). Moreover, identifying themes across survivors' on-scene statements provides insight into the types of information potentially at stake for inadmissibility when survivors are unavailable for trial.

The current study contributes to the discussion by examining survivor statements from 130 cases of intimate partner NFS/S that were documented using a unique strangulation supplement completed by the police within hours of the victimization. We examine how survivors described (1) the context in which NFS/S occurred, (2) the intent of the perpetrator; and (3) how victims survived. The findings are framed within the coercive control framework, which views NFS/S as a one of several coercive behaviors in an escalating pattern of conduct perpetrators employ to maintain power, control, and compliance (Stark, 2007; 2012). We argue that if NFS/S were investigated as an ongoing pattern of coercive control versus an isolated incident, first responders could enhance evidence collection techniques that help factfinders better understand suspects' culpability in the victims' "decision" to not cooperate. Moreover, identified themes from the on-scene statements can inform avenues for establishing FbW, as well as countering other defenses that attempt to minimize the seriousness of the assault (e.g., "I just moved her out of the way with my arm") and/or diminish the credibility of the victim (e.g., "she is sexually adventurous/consented to being strangled").

The Dangerousness of Nonfatal Strangulation

The words "strangle" and "choke" are used interchangeably and often incorrectly whereby the former is generally perceived to involve a lethal attack with a ligature (e.g., belt, cord), while the latter involving the use of hands or body parts around the neck of another person (Joshi et al., 2012). Technically, choking is an accidental event that inhibits airflow internally when the trachea (i.e., windpipe) is blocked by a foreign object (Strack & Gwinn, 2011; Strack & Agnew, 2013). Conversely, strangulation occurs *intentionally* (Strack & Agnew, 2013, emphasis added) when external pressure on the neck and/or torso disrupts normal breathing patterns and/or

circulation of blood in and out of the brain (Pritchard et al., 2017).¹ Despite popular misperceptions of strangulation involving a ligature (Strack & McClane, 1999), most perpetrators use their hands and/or their forearm (e.g., choke hold; Mcquown et al., 2016; Pritchard et al., 2018; Strack et al., 2001). Regardless, strangulation is among the most lethal forms of domestic violence where serious injury and/or death can occur within minutes.

What separates NFS/S from other forms of physical violence is the lack of visible injuries and the dangerousness of the delayed consequences from oxygen deprivation (Stapczynski, 2010; Strack et al., 2001). Because the brain needs a constant supply of oxygen to function, the continued obstruction of blood flow to and from the brain can result in a loss of consciousness within 10 to 15 seconds, along with irreparable brain damage and/or death within five minutes (Faugno et al., 2013; Kiani & Simes, 2000). The severity and risk of injury depends on the modality, amount, and duration of pressure applied (Armstrong & Strack, 2016). Even minimal force can cause traumatic brain injuries by weakening or rupture vessels, which heightened survivors' risk of experiencing seizures, strokes, cardiac arrest, petechia, and/or bleeding or swelling in the brain over time (Monahan et al., 2019; Stapczynski, 2010).

Despite these serious physical consequences, NFS/S may not result in visible injuries. In a seminal study of 300 DV complaints involving NFS/S, Strack and colleagues (2001) discovered that 85% of cases did not have either visible external injuries (50%) or they were too minor to photograph (35%). In addition, only 5% of victims corroborated the assault via medical records, and incident reports often contained vague descriptions of the method, signs, and symptoms of strangulation, if at all. When visible injuries are present, they are usually minor in nature and are often overlooked by untrained first responders (Strack et al., 2001; Reckdenwald

¹ Suffocation is also a term associated with the inability to breath and involves restriction or obstruction of the airways at the nose or mouth via foreign objects (e.g., pillow, duct tape) and/or body parts.

et al., 2019). Absent immediate medical attention, internal damage to the neck or brain can take time to mature, with the potential for death to occur within hours to days after first responders clear the scene (Hawley & McClane, 2001; Stapczynski, 2010).

Challenges to Offender Accountability

In the absence of visible injuries, prosecutors rely on survivors' testimony to describe what happened. However, estimates suggest that nearly half of IPV victims refuse to cooperate by recanting allegations, declining to press charges, and/or disengaging from investigators and prosecutors (Messing, 2014; Robinson & Cook, 2006; Sleath & Smith, 2017). While victims often have legitimate reasons for not participating in the justice system (Hare, 2010), dismissing charges due to lack of cooperation from survivors is misguided. The willingness of victims to cooperate in the investigation and prosecution of their abuser is a complex, fluid process that varies with each step in the progression of the case (Dawson & Dinovitzer, 2001). Survivors of NFS/S have described the inability to breathe as painful and terrifying experience (Nemeth et al., 2012; Thomas et al., 2014), which may have influenced their willingness to initially cooperate with first responders following the attack. The willingness to cooperate may subside after victims begin to process what happened. The fear of retaliation coupled with the realities of emotional and financial dependencies begin to weigh heavily on their decision to risk future consequences by participating in the criminal justice process (Hare, 2010), which, in this case, could be death.

Traditionally, when victims have been reluctant or otherwise unavailable to testify (e.g., murdered), prosecutors have relied on admitting into evidence credible, out-of-court hearsay statements to illustrate the reality of what happened, such as victims' statements 911 operators, first responders, and/or in prior judicial proceedings. (see *Ohio v. Roberts*, 1979; Messing, 2015). Beginning in 2004, however, the Supreme Court ruled that out-of-court statements to law

enforcement officials were “testimonial” and therefore inadmissible due to violating defendants’ Sixth Amendment right to confront and vet witnesses unless (1) the victim testifies, (2) the testimony has been previously subjected to cross-examination; or (3) the statements were made to assist law enforcement in the resolution of an ongoing emergency/threat (*Crawford v. Washington*, 2004; *Davis v. California*, 2006; *Giles v. California*, 2008; U.S. CONST. amend. VI). Accordingly, even if statements to the police on-scene and/or during follow-up interviews were admissible under other well-established hearsay exceptions, the Court’s decision rendered them inadmissible unless defendants’ have an opportunity to vet the declarant under oath (see *Davis*; Markman, 2011).

Post *Crawford* and *Davis*, evidence from a study of 123 hearsay statements in 82 DV cases found that nearly half of hearsay statements uttered to the police on scene (44%) and 90% of statements from follow-up interviews were ruled inadmissible when declarants were unavailable to testify (Simon, 2011). Considering that visible injuries and victim cooperation are available in only half of DV/NFS/S complaints (Messing, 2014, Sleath & Smith, 2017; Strack et al., 2001), proving a case beyond a reasonable doubt can be nearly impossible when jurors are presented with only 10% to 56% of credible statements.

The forfeiture by wrongdoing doctrine (FbW) is one exception to the confrontation clause that may help combat case attrition and common legal defenses in NFS/S complaints. The forfeiture exception is based on the idea that those accused of a crime cannot benefit from rendering their accusers unavailable to testify against them (*Reynolds v. U.S.*, 1878). Thus, if prosecutors can prove that the unavailability of the victim is, in part, influenced by the actions of the defendant, the accused forfeits their right to confront the witness and otherwise inadmissible statements become admissible in lieu of live testimony (see *Giles*). Given the dearth of physical

evidence in NFS/S cases, the victim's disclosure of abuse is often the strongest evidence of the perpetrator's crimes. Since the perpetrators' behavior during the course of their relationship and after an arrest often influences victims to recant or refuse to participate in a prosecution (Bonomi et al., 2011), forfeiture by wrongdoing provides a viable way to bring the victim's voice into the courtroom.

Obtaining as much information about power and control dynamics, co-occurring violence, and survivor perceptions of the assault within the initial complaint can be integral to demonstrating FbW in NFS/S cases. For these reasons, first responders and investigators should be trained to identify and articulate coercive controlling behaviors during the initial interaction to ensure suspects can still be held accountable when victims are hesitant/unable to cooperate.

Why Perpetrators Use Strangulation/Suffocation

Existing accounts of the lived experiences of survivors have provided a wealth of baseline insight into the dynamics, motives, and impact of NFS/S on victims' health and autonomy (Joshi et al., 2012; Nemeth et al., 2012; Thomas et al., 2014; Vella et al., 2017; Wilbur et al., 2001), fueling an ongoing debate as to whether NFS/S is more so a malicious tactic used to reinstate power and control over victims versus an unsuccessful murder attempt (Laughon et al., 2009; Thomas et al., 2014). To date, much of the evidence centers on NFS/S as a mechanism of coercive control whereby aggressors instill compliance and dependency over time through a pattern of malicious physical and non-physical conduct (e.g., gaslighting, threats of suicide, humiliation; Nemeth et al., 2012; Pritchard et al., 2017; Stansfield & Williams, 2018; Stark, 2007; Thomas et al., 2014; Vella et al., 2013). While definitions vary, Stark (2012) defined coercive control as "a strategic course of oppressive conduct that is typically characterized by frequent, but low-level physical abuse and sexual coercion in combination with tactics to

intimidate, degrade, isolate, and control victims” (p. 18). Survivors of have described NFS/S as one of the many physical, sexual, and psychologically abusive tactics used in perpetrators’ ongoing campaign of violent and controlling behaviors designed to condition victims into silence, submission, and loyalty (Joshi et al., 2012; Stark, 2007; Thomas et al., 2014; Vella et al., 2017; Wilbur et al., 2001).

Prior research suggests that attacks involving NFS/S tend to occur in later stages of relationships (Wilbur et al., 2001), and often during emotionally charged arguments within the context of drugs and/or alcohol (Reckdenwald et al., 2019). Precipitating arguments may revolve around underlying relationship stressors (e.g., anxiety about infidelity, jealousy, adhering to traditional gender roles), the victims’ desire to end the relationship, and/or failing to comply with perpetrators’ demands (Nemeth et al., 2012; Thomas et al., 2014). When attacks escalate to strangulation, victims describe their primal attempts to survive by fighting back or attempting to reason with the perpetrator (Thomas et al., 2014). While feeling powerless over their ability to live, most victims survived when bystanders intervened or the perpetrator stopped after victims lost consciousness (Thomas et al, 2014). Following the assault, perpetrators campaign for control by engaging in blame shifting and accountability avoidance (Stark, 2007; 2012), often justified by perpetrators as ‘love’ or concern for the victims’ safety, followed by intermittent acts of kindness to manipulate the victim into believing that the perpetrators’ behaviors will change (Bonomi et al., 2012).

This strategic gaslighting was observed in jail phone call recordings between suspects arrested for felony IPV and the women they victimized (Bonomi et al., 2012). Conversations began with perpetrators minimizing the abuse/blaming victims, juxtaposed with attempts to elicit sympathy by describing harsh conditions of the jail and how they were having thoughts of

suicide. Once the manipulation seemed to appeal to victim' vulnerabilities, perpetrators would then reminisce about happier times and making promises for the future. These nostalgic and idealistic discussions were quickly followed with direct requests for victims to recant, complete with detailed instructions and scripts for victims to use to justify the decision. Consequently, recantation was likely to follow conversations between the newly "united couple" about aligning stories to protect the suspect by framing prosecutors and advocates as common enemies (Bonomi et al., 2011, p. 1,058). Overall, survivors viewed NFS/S as a strategy perpetrators used to avoid detection while maintaining or regaining control over victims both during and *beyond* the assault (Thomas et al., 2013; Vella et al., 2013, emphasis added).

Conversely, however, survivors have also described experiences where the perpetrators' intent to kill was could not be ruled out as a motive. Survivors have reported experiencing death threats before, during, and after NFS/S (Strack et al., 2001; Thomas et al., 2014; Wilbur et al., 2001), with evidence suggesting that threats to kill during an initial arrest for DV produces a two-fold increase in future arrests for NFS/S (Stansfield & Williams, 2018). Additionally, 70% to 94% of NFS/S survivors believed they were going to die while being strangled (Wilbur et al., 2001; Thomas et al., 2014), with most surviving due to circumstances outside their control (e.g., bystanders; Thomas et al, 2014). The totality of the circumstances suggests that, at least in some cases of NFS/S, the intent to kill is the ultimate form coercive control. The extent to which prosecutors charge cases of NFS/S as attempted murder, however, remains unknown.

Considering that abusers attempt to redefine the victims' narrative of events as early as the first phone call from jail (Bonomi et al., 2012), examining on-scene statements of NFS/S survivors could identify patterns in authentic perceptions that reveal the true intent of perpetrators' use of this deadly force.

Current Study

Interviews and focus groups of survivors of NFS/S have provided valuable baseline insight into the underlying dynamics and intent of perpetrators' use of NFS/S (Joshi et al., 2012; Nemeth et al., 2012; Thomas et al., 2014; Vella et al., 2017; Wilbur et al., 2001), mostly using small samples of women from DV shelters who were asked to reflect on their experiences (Thomas et al., 2014). What is less clear is how survivors described their assault to the police within hours of being attacked. Due to issues with corroborating injuries and legal barriers to the admissibility of using victims' statements to the police in lieu of their live testimony (Markman, 2011), there exists a need to examine on-scene statements to not only determine what types of information are at stake of inadmissibility, but also how victims describe what happened before suspects can contaminate narratives and influence recantation. To address these gaps, the current study examines NFS/S survivors' responses to standardized questions asked by first responders regarding the context in which strangulation/suffocation occurred, perceptions of the suspect's intent, and how victims survived.

Methodology

Data for the current study include a subsample of cases from a larger evaluation of NFS/S complaints indicted by grand juries in Travis County, Texas between 2010 and 2015 (*see* author[s] omitted for blind review). In 2009, Texas upgraded their family violence statute to recognize strangulation and/or suffocation as a 3rd degree felony for first time offenders and a 2nd degree felony for those with a prior family violence conviction (Texas Penal Code [TCP] §22.01). Under the new law, NFS/S occurs when a suspect “commits an offense by intentionally, knowingly, or recklessly impeding the normal breathing or circulation of the blood of the person by applying pressure to the person’s throat or neck or by blocking the person’s nose or mouth”

(TCP §22.01(a)(1)(b)(2)). The enhancement made Texas an ideal setting to examine NFS/S complaints for a number of reasons. First, the enhancement symbolizes the seriousness of the offense by rendering NFS/S as a felony instead of a Class A misdemeanor, and articulates aggravated penalties for repeat offenders (Gwinn, 2013). Second, when viewed through the lens of coercive control, suspects may employ NFS/S as a punishment for noncompliance more so than a deliberate intent to kill and/or cause injuries (Thomas et al., 2014). Thus, the inclusion of the “reckless” mental state in the statute alleviates the State’s burden of having to prove defendants’ specific intent to cause bodily injury (Gwinn, 2013). Nevertheless, legislation alone does little to guide first responders in properly identifying and corroborating evidence of NFS/S on scene (Laughon et al, 2009).

Understanding the challenges of prosecuting NFS/S cases, the Travis County District Attorney’s Office (TCDAO) crafted a supplemental strangulation form to assist officers in obtaining details about the injuries, signs, and symptoms of NFS/S prosecutors need to (1) convince fact finders of how defendants disrupted the normal breathing patterns and/or blood circulation; and (2) combat common defense strategies that attempt to minimize the seriousness of the assault. The Supplement includes specific questions regarding the physical details of the strangulation (including a checklist of signs and symptoms and diagrams), prior incidents, and victim interpretation of the incident. The current study focuses on the latter.

From 2010-2013, prosecutors from the TCDAO cross-trained with the Austin Police Department (APD), resulting in APD mandating the completion of the Supplement any time officers encountered allegations of NFS/S (Jankowski, 2018).² In the Fall of 2015, the authors were invited by the TCDAO to conduct an outcome evaluation of NFS/S cases before and after

² The strangulation supplement can be found here: <https://www.safvic.org/wp-content/uploads/2017/05/Strangulation-Supplement-Example.pdf>

the adoption of the Supplement. We requested a sample of 300 cases (150 pre-/150 post-Supplement), which was drawn systematically from a sampling frame of all NFS/S family violence complaints from January 2010 through December 2015. Each case in the sampling frame was (1) indicted by a grand jury; (2) had formal charges filed; and (3) disposed at the time of data collection to ensure there were no pending cases ($N = 2,303$).³ According to the TCDAO, a sampling interval of seven was determined by dividing the total population of cases by the desired sample size. After sorting the sampling frame chronologically from January 2010 through December 2015, TCDAO staff selected every seventh case until a sample of 300 was met. Due to time and logistical constraints, the authors were only able to code 254 out of the 300 cases.

Data for the current study. The current study focused on a subset of cases involving intimate partner NFS/S that were documented using the Supplement ($n = 130$). We provide estimates of coercive controlling behaviors reported to police on the AVS, as well as open-ended responses to questions from the Supplement, including “What led to the strangulation?” “What did [the] suspect say during the strangulation/suffocation (s/s)?” “What did [the] victim think would happen during the s/s?” and “What made the offender stop [strangling the victim]?” All statements were articulated by officers during interviews with survivors at the scene.

Incident, victim, and defendant characteristics can be found in Table 1, which were coded from both forms as well as incident narratives, medical records, and reports from APD and/or TCADO officials (e.g., victim/witness coordinators). Overall, the majority of cases involved male defendants/female victims (97%) in their early thirties ($M_{\text{victim}} = 34.1$, $SD = 10.2$; $M_{\text{defendant}} =$

³The sample size was based on an a priori power analysis to garner sufficient power for quantitative analysis in separate projects.

33.3, SD =11.1), who were largely Hispanic (33.1%) or interracial (30.0%). Nearly all defendants were current intimate partners (89.2%) who were cohabitating with the victim at the time of the assault (62.8%), with 1 in 5 having child(ren) in common (20.8%).

**** Insert Table 1 about here ****

Coercive control. Several items on the AVS and Supplement were examined to help provide context to victims' perception of control in NFS/S cases, including estimates related to a history of violence, threats, jealousy, and prior convictions for family violence (Stark, 2012). Collectively, over three quarters of defendants had injured victims prior to the current incident (77.5%), with 85% of survivors stating that they were strangled/suffocated previously by the same perpetrator an average of five times ($M = 5.1$, $SD = 9.2$; Median = 2). Even more concerning was over half of survivors reported experiencing prior threats to kill (52.4%), with 46% believing the defendant might actually kill them. Additionally, most survivors described the defendant's constant jealousy 82.7% and control of their daily activities (65%). Moreover, 37% of defendants had a prior conviction for family violence.

Incident characteristics. Manual strangulation was the predominant method employed (93.8%), with few defendants using suffocation (2.3%) or postural/positional asphyxiation (0.8%). No defendants in the current sample strangled victims with a ligature and only one case involved strangulation during sexual intercourse (0.8%). Case files revealed that nearly 40% of survivors were strangled multiple times during the same incident, which resulted in 36% feeling the urge/lost control of their bodily functions and 16% losing consciousness – all of which evidences the disruption of blood circulation due to prolonged pressure on the neck (Stapczynski, 2010).

Disposition. Almost all defendants were initially indicted for felony versus misdemeanor strangulation (95.4% v. 4.6%, respectively). Only 1 in 5 indictments were subsequently dismissed (23.1%), which was largely due to the 29% of survivors who recanted and/or filed an affidavit of nonprosecution. Among the 77% of indictments to secure a conviction, most were for felony strangulation (69%), while 1 in 3 defendants plead down to another misdemeanor family violence charge (29%).

Qualitative Analysis

Incident reports suggested that all survivor statements were captured within 2.5 days of experiencing NFS/S, with most supplements completed, on average, within three hours of the assault ($M = 3.0$, $SD = 7.2$; Median = 1 hour). Analysis of the open-ended items took place in a multistage process involving three independent coders (Berg & Lune, 2012; Singleton & Straits, 2017). First, coders independently reviewed responses to identify common themes for each question. After collaborating and finalizing a list of themes for each question, coders then independently conducted a response-by-response analysis, placing each item into a specific theme. Responses could be coded into multiple themes only if distinct ideas were present. Individual words or fragments could not be classified into multiple themes. For example, a response reading “offender stated he wanted to kill the victim and he knew she had been cheating on him” could fit into two themes, one referencing death and the other referencing infidelity. Finally, a group discussion took place to review responses for each question.

Unfortunately, there is not a uniform method for determining interrater reliability when using more than two coders and when multiple themes may be present for responses. For the purposes of this project, interrater agreement was calculated by determining level of agreement after the second round of individual coding, with the following options: (1) full agreement, all

three coders chose the same theme or set of themes; (2) partial agreement, the coders all agreed on one theme, but disagreed on a second theme or if one was present; (3) two/three agreement, two of the three coders were in complete agreement; (4) disagreement, each coder had a different theme(s) selected for the response (Brady, Fansher, & Zedaker, 2019; Fansher, Zedaker, & Brady, 2019). Full agreement occurred for 71.45% of responses and complete disagreement was present in 3.94% of responses, prior to group coding. Cases where there was disagreement between codes were deliberated collectively until all agreed how the statement should be coded.

Results

What led to the strangulation?

Analyses unveiled six themes, which can be seen in Table 2, along with definitions and frequencies for all four qualitative questions. As a reminder, frequencies indicate how many times a theme appeared, and responses can be coded into multiple themes. There are six specific themes for this item, including jealousy/infidelity, defendant triggered, relationship ending, and substance-facilitated, as well as the two more broad themes of general argument and miscellaneous.

**** Insert Table 2 about here ****

The offender feeling jealous or suspecting infidelity on the part of the victim was present in approximately one-third of responses ($n = 35, 29.4\%$). While there were instances where the victim accused the offender of infidelity, these cases were rare and are included in other categories, depending on the circumstances. Jealousy and infidelity could occasionally be substantiated in some cases, such as victims admitting to engaging in sexual activities with someone other than the suspect. More commonly, there were only suspicions of infidelity, especially when the victim was seen texting or talking to another man. However, interaction with

a member of the opposite sex was not required to garner suspicion from the offender, as in this response:

“Argument because it was v[ictim]'s birthday so went shopping and d[efendant] got upset and thought she was out cheating on him.”

Offenders in this sample were easily angered by victims. This theme includes instances where the victim engaged in some activity, however minor, that resulted in the offender engaging in strangulation. Small triggers were a common theme with varying situations ($n = 23$, 19.3%), including situations in which the victim confronted their partner about infidelity or were simply asserting themselves, as in this scenario:

“O[ffender] threatened v[ictim] to get in the car and got mad she didn't want to go to the store with him.”

Other catalysts involved victims making small mistakes in the eyes of the offender, such as buying the wrong brand of cigarettes, interacting when it was not convenient for the offender, or, it seems, just being around the offender. These situations can be seen in the following responses, respectively:

“V[ictim] wanted a BLT and d[efendant] got upset and called her a ‘self-righteous bitch’ and attacked her”

“She [the victim] was moving around in the bed and he [the offender] wanted to keep sleeping.”

A similar number of responses noted strangulation because of the victim trying to leave the relationship completely or the relationship having ended already ($n = 23$, 19.3%). In some cases, the victim suspected the offender of infidelity and decided to end the relationship, but in the majority of responses in this category, it was unclear what made the victim decide to leave the relationship. There were also cases where the victim had already left, and the offender tracked down the victim to try and get her back, as seen in this example:

“Victim fled from abusive husband. Husband found her at Motel 6, apologized and then blitz attacked her while she was in the shower.”

Surprisingly less common, were responses that alluded to substance-facilitated strangulations ($n = 17$, 14.3%), where the offender and/or the victim were intoxicated or under the influence of drugs and did not include those responses where it was not clear if this was the case. It is possible that substances were present in more situations than noted here, but that the report did not specifically note this as a reason for the strangulation. An example of clear substance-facilitated strangulation can be seen in this response,

“V was trying to leave because D was drunk and he got angry and would not let her leave.”

Commonly, strangulation was the result of a general argument ($n = 34$, 28.6%), a broad category used to catch all non-specific disagreements that did not fit into another, more specific theme. Money and finances were common in this category, but this also included arguably minor issues such as taking the children swimming, when to get on the bus, and the volume of the television. Lastly, the miscellaneous category was used conservatively and when responses were those in which the victim noted that the strangulation was unprovoked or “random” or where the context was not clear enough to determine a more specific theme ($n = 8$, 6.7%). In example, “He [the offender] asked me to go get movies, when I [the victim] returned he flipped out.” It was unclear in this scenario if the strangulation occurred because the victim picked movies the offender was unhappy with, he suspected her of being out with someone else, he had been drinking, or something unrelated happened while the victim was gone. It was the duty of the coders to not add context or speculate on responses such as these.

What did offender say during strangulation?

While this item had the least amount of responses ($N = 75$), it is telling of what an offender thinks during strangulation and how they viewed the victim. Themes for this item

included blaming the victim for their own strangulation, jealousy/infidelity, degradation, and threatening the victim with further violence. Degradation was the most common reaction of an offender in the current study ($n = 27, 36.0\%$). This mainly encompassed calling the victim degrading names, such as a “bitch,” “slut,” “whore,” and/or racial slurs but also included the offender laughing or making mocking noises during the strangulation.

****Insert Table 3 about here****

Threats of additional violence towards the victim or the offender themselves were also regularly used during strangulation ($n = 19, 25.3\%$). This could be threatening with death or just additional physical violence. Actual threats to kill occurred in 1 out of 5 cases (23%). The following examples illustrate this theme:

“I’ll kill you! I’ll kill myself! I’ll kill us all!”

“Bitch, I’ll kill you. You don’t think I’ll kill you? Bitch, I’m gonna put your ass to sleep, bitch.”

Despite the high prevalence of jealousy/infidelity and seeming victim-blaming in the previous question, offenders directly addressed these issues less during the actual strangulation ($n = 9, 12.0\%$ and $n = 6, 8.0\%$, respectively). Victim-blaming involved any response in which the offender either explicitly or implicitly stated that the victim was at fault for the strangulation. In example, some form of, “Why did you make me to do this to you?” appeared multiple times. Jealousy and infidelity-based comments ranged from what appeared to be general suspicions to specific accusations, with one offender even taking credit for the infidelity,

“You cheated on me, you slut. I paid a guy to sleep with you.”

Due to the variety and lack of context in responses for this category, miscellaneous categorizations are higher than in the previous question ($n = 7, 9.3\%$). Miscellaneous responses included those where the offender seemed to threaten the victim to stay in the relationship

(“You’re not going to leave me”) or suggesting the victim leave (“You should go back to Houston”), among others. Unsurprisingly, there were cases where victims could not remember what the offender said during the assault ($n = 10$, 13.3%). It is interesting to note that for these cases, victims reported feeling fearful being on the brink of losing consciousness, which could have impacted memory retention due to the lack of oxygen to the brain (Monahan et al., 2019).

What did the victim think would happen?

To explore the potential psychological trauma of being strangled, victims were asked what they thought would happen during the assault. Nearly half of victims thought they were going to die ($n = 49$, 44.1%). This included explicitly stating they feared death, that they feared “for my life,” or that they were going to suffocate or asphyxiate. Other victims reported thinking “this is it, I’m gone” and fears about not seeing their children or grandchildren ever again.

Insert Table 4 about here

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Victims also feared going unconscious ($n = 19$, 17.1%) or experiencing further injury at the hands of the offender ($n = 12$, 10.8%), as seen in the following responses:

“[Victim] thought he [the offender] was going to ‘put her to sleep’ as he has before when he previously strangled her”

“She thought if she didn’t get away then he would beat her.”

Victims expressed fear for themselves, but also others ($n = 8$, 7.2%). These varied, but over half of these responses mentioned children in some way,

“She thought she was going to die, but she heard her child crying which made her fight” [This response was recorded in the theme of death and miscellaneous]

“I needed to survive and be strong to protect my daughter and not panic.”

Other victims specifically noted that the offender was not trying to kill them, such as this victim, “[Victim] knew he would not kill her but thought he would strangle her more,” with some

victims reporting that they knew the offender would let them go eventually ($n = 5$, 4.5%). While the latter responses were less common, it suggests a group of victims who may not fully understand the danger of an offender who engages in this behavior.

Finally, there were victims who were unsure of what was going on during the strangulation ($n = 6$, 5.4%), mainly due to being in fear and/or pain. The remainder of responses fell into a miscellaneous category ($n = 4$, 3.6%). Other miscellaneous responses seemed to support the offender, such as a victim reporting that the offender “would feel better getting out aggression.” Overall, this question provides evidence of the extreme fear that NFS/S can cause for a victim.

What made the offender stop?

Finally, we explore what made the offender disengage in the strangulation assault, with codes revealing how third parties intervened or the victim managed to get away or made the offender stop. Victim self defense was the most common theme for this item ($n = 28$, 23.0%), including biting, scratching, kicking, punching, and kneeing. Specific responses noted cutting the offender with a box cutter, striking the offender with a hairspray container, and a victim who “grabbed and squeezed d[efendant]’s genitals.” In general, it appeared that these victims fought in whatever way they thought would work to get loose from their offender or make him stop. Victim injuries, including breathing difficulties, losing consciousness, or bleeding, were also a reason that victims suspected that the offender stopped the strangulation ($n = 8$; 6.6%).

****Insert Table Saw about here****

Bystander intervention (either active or accidental) was the second most common theme ($n = 47$, 30.32%). Active bystanders pulled the offender off the victim or began loudly protesting and screaming for the offender to back away from the victim. Accidental bystanders simply

showed up at the right time, and either caught the offender off guard so the victim could get away or prompted the offender to stop his behavior to keep the behavior private. Unfortunately, we cannot make individual offender assumptions from the data. Bystanders in the sample reports took the form of roommates, family members, friends, children, apartment managers, police, and even “unknown civilians.”

Verbal protests were less common ($n = 15$, 12.3%). Victims had two distinct forms of verbal protests in these cases. The first was to scream, yell, and cry, trying to demand the offender to let them go. The second, and less typical, was for victims to try and reason with the offender or appeal to their emotional side, such as this victim: “V[ictim] saying she was sorry and she loved him.”

Miscellaneous responses included those that did not fit into the previous categories ($n = 14$, 11.5%), while 15.6% of cases noted the victim was unsure of what made the offender stop ($n = 19$). Victims also reported giving up on trying to get away or agreeing to talk to the offender. Other responses noted offenders being scared of getting caught, the victim appearing to defend the offender (“He [the offender] just lost control”) or something unintended resulting from the strangulation, such as this case:

*“The d[efendant] slammed the v[ictim] against the wall while she was holding a baby.
[Offender] stopped when baby’s head hit the wall.”*

Discussion

Despite legislative reforms to improve system responses to DV (Buzawa et al., 2017; Laughon et al., 2009; Pritchard et al., 2017), accountability for NFS/S is often challenged due to limited visible injuries and victims who are reluctant to participate in the justice system (Strack et al, 2001). Because NFS/S is often preceded by a history of violent and controlling behaviors (Messing et al., 2018; Nemeth et al., 2012; Thomas et al., 2014; Wilbur et al., 2001),

investigators and prosecutors face an uphill battle with survivors who have been conditioned to understand the consequences of non-compliance. Emerging evidence supporting NFS/S as a mechanism of coercive control, however, has the potential to aid prosecutors in holding perpetrators accountable when survivors are reluctant to testify. Due to recent legal precedent limiting the admissibility of out-of-court statements (Markman, 2011), the current study examined survivors' on-scene statements to the police to identify perceptual consistencies that could be used to combat legal defenses in NFS/S cases. The findings suggest that if properly investigated, the evidence prosecutors need to establish FbW is ample in NFS/S cases. We identified several findings underscoring the need for investigators and prosecutors to view NFS/S as an escalating *pattern* of co-occurring abuse versus an isolated incident involving a non-injurious assault.

First, what makes NFS/S complaints unique is not necessarily the context in which the violence occurred as much as the reactionary rage driving perpetrators' perceived entitlement for compliance. Consistent with previous interviews of NFS/S survivors (Nemeth et al., 2012; Thomas et al., 2014), perpetrators escalated to NFS/S, typically under the influence of drugs and/or alcohol, and/or during arguments rooted in acute and ongoing relationship insecurities including infidelity, jealousy, and separation. Moreover, using NFS/S to silence victims into compliance is a textbook example of coercive control (Stark, 2007; Thomas et al., 2014).

The context of the violence does, however, help eliminate defenses attempting to minimize the seriousness of NFS/S, including portraying victims as sexually adventurous and consenting to strangulation. Indeed, less than 1% of complaints mention the assault occurring during sex. Other defenses arguing that the injuries were self-inflicted or accidental can be refuted by the 37% of defendants with previous convictions for family violence, the 44% of

survivors who thought they were going to die, and the overwhelming number of survivors reporting previous strangulations (85%) and/or prior injuries by the defendant (78%). Additionally, 40% of survivors described being strangled multiple times during the same incident. All of which demonstrates defendants' relentless attempts to subjugate, control, and in some cases, kill.

Second, patterns across survivor statements suggest that all strangulation/"choking" complaints should be investigated as an attempted homicide until the evidence suggests otherwise. Prosecutors have traditionally avoided pursuing NFS/S cases as attempted homicide due to the difficult burden of establishing a clear intent to kill (Laughon et al., 2009). Albeit logical, courts have ruled that just because the commission of a homicide was unsuccessful does not amount to an attempt (see *People v. Stites*, 75 Cal. 570, 575). Indeed, prosecutors have to prove that the defendant had the specific intent to kill the victim and would have successfully caused their death had the assault not been interrupted by circumstances independent of their own will (*People v. Miller*, 1935). Acknowledging that statutes for attempted homicide and homicide vary state-to-state, prosecutors should explore charges for attempted homicide when evidence of a risk of death is sufficient (Turkel, 2007). Since NFS/S is a lethal risk factor for homicide (Glass et al., 2008; Spencer & Stith, 2020), case law articulates how applying external pressure to the neck until victims' consciousness fades establishes the necessary element of the defendant's reckless disregard for the risk of death (see *People v. Miller*, 2002).

Findings from the current study provide additional support for NFS/S as an intent to kill that, in most cases, was thwarted by circumstances independent of the defendant's own will. Consistent with the extant scholarship (Nemeth et al., 2012; Stansfield & Williams, 2018; Thomas et al., 2014), the findings collectively demonstrate how defendants (1) used S/S during

arguments to reestablish control over the victim's noncompliance; (2) uttered death threats both before and during the attack; (3) convinced nearly half of victims to believe they were going to die while being strangled; and (4) rarely stopped assaulting victims on their own free will. In the current study, only seven survivors (5.7%) described their survival as a personal decision of the suspect, with most attacks ending as the result of survivors fighting back (23%), bystanders intervening (22.1%), and/or verbal protests to stop (12.3%). While there is also evidence of NFS/S as a mechanism of coercive control, the risk of morbidity and mortality underscores the need to first investigate NFS/S complaints involving intimate partners as homicides waiting to happen. Despite the totality of the circumstances revealing an unsuccessful intent to kill, 0% of cases in the current study were prosecuted as, nor secured a conviction for, attempted murder.

Finally, our findings corroborate twenty years of research evidencing how NFS/S cases are ripe for establishing FbW *if* complaints are viewed by decision-makers as escalating patterns of coercive control. This process begins during the initial response when first responders' employ the strangulation supplement in addition to validated risk assessments that articulate coercive control (e.g., limiting access to finances, isolation from friends/family, fear; see Myhill & Hohl, 2019). To prove FbW, prosecutors need to establish by a preponderance of the evidence that the victim is unavailable as a result of the defendant's wrongdoing, which was motivated, in part, to prevent them from testifying (Garvey, 2018; Markman, 2010). Unavailability can be established in a number of ways, but typically requires a show of proof that the victim refuses to testify or cannot be located, despite diligent efforts by the State to do so (see *Giles*; Garvey, 2018). To demonstrate requisite motives for wrongdoing, NFS/S should first be viewed as an escalation in coercive control that accompanies a host of co-occurring strategies (e.g., stalking, sexual assault, child maltreatment) to dissuade survivors from seeking outside help. When

viewed through the context of help seeking, emotionally manipulating survivors to recant, which has been observed via jail phone call recordings (Bonomi et al., 2012), but also through former and subsequent violations of civil/criminal protection orders (Garvey, 2018), evidences consciousness of guilt and demonstrates the defendant's attempt to avoid accountability.

Further, evidence of the defendant's intent to prevent victims from cooperating can be established through blatant illegal behaviors, such as threats and violence. Prosecutors could also use evidence of the abusers' control via the victims' history of dropped prosecution orders, failures to appear in previous hearings, involving third parties to influence victims, changes in their willingness to testify, and/or documented statements of fear of the perpetrator. To prevent the defendant's attempt to control the narrative (Bonomi et al., 2012; Thomas et al., 2014), prosecutors should encourage judges to issue criminal no contact orders after defendants are arrested. Thus, any subsequent violations of the court order can be used to evidence perpetrators' attempts to manipulate survivors' decision to cooperate with the justice system. Additionally, allocating resources for mandated follow-up investigations for all NFS/S complaints is a worthwhile investment to obtain the information prosecutors need to establish FbW in cases where victims are either murdered and/or rendered unavailable to testify. Even if survivors are willing to testify, prosecutors may want to start a FbW file as a contingency plan and document relevant evidence as the case progresses.

The above contributions are not without limitations and findings should be interpreted with caution for the following reasons. The first consideration is the limited generalizability of the findings due to the cross-sectional nature the sample. Because this is the first study to examine NFS/S complaints documented with a supplemental strangulation form, this study is exploratory and replication is needed before policy changes can be justified as 'evidence-based'.

Moreover, these findings may not be representative of all NFS/S assaults, especially those that did not come to the attention of the justice system. To better understand victim decision-making processes, future studies would benefit from mixed-methodological studies comparing survivors who did and did not involve the justice system. The second limitation relates to the inability to verify the accuracy of the information articulated in casefiles. As much as the research team attempted to triangulate information from various sources listed in the case file (e.g., police reports, medical records), we were unable to confirm whether the information represented the actual experiences of survivors and defendants. Additionally, NFS/S has been associated with traumatic brain injuries (Monahan et al., 2019), which could impact survivors' memory of events during reporting. Finally, cases in the current sample were selected by the district attorney's office, which limited our ability to verify the validity of the systematic sampling. Future studies would benefit from examining case attrition in NFS/S complaints using a longitudinal design with control sites comprised of agencies who have not received training on strangulation and/or use the Supplement.

Conclusion

Current approaches to DV prosecution are long overdue for a paradigm shift where 'lack of victim cooperation' is used to justify case attrition. To enhance evidence collection strategies that can articulate perpetrators' influence on victim-decision making, prosecutors would benefit from cross-training with multidisciplinary teams that include members from law enforcement and medical communities (Pritchard et al., 2018; Reckdenwald et al., 2019). The limited visible injuries in NFS/S cases can influence both survivors and first responder's minimization of a crime that foreshadows a seven-fold increase in a homicide waiting to happen (Glass et al., 2008; Spencer & Stith, 2020). Given the nature of the data, it is impossible to know the true intentions

of these defendants. While the findings support NFS/S as a mechanism of coercive control, we cannot rule out an intent to kill as survivor statements unveiled a dire need to investigate NFS/S as attempted homicide until the evidence suggests otherwise. Reframing NFS/S as an escalating attempt to prevent victims from helpseeking can shift how first responders investigate complaints, from the quality of questions asked to accomplishing goals of corroborating evidence from the initial interaction that can be used to establish FbW. First responders should receive training on identifying coercive controlling behaviors that demonstrates suspects ongoing wrongdoing - either before, during, or after the arrest - that inhibits victims' ability to seek help, including the aid of the police and/or judicial process. Moreover, accountability for dangerous perpetrators is possible when victims' voices are protected and validated.

References

- Bendlin, M. & Sheridan, L. (2019). Nonfatal strangulation in sample of domestically violent stalkers. *Criminal Justice and Behavior*, 1-14. DOI: 10.1177/0093854819843973.
- Berg, B. L., & Lune, H. (2012). *Qualitative research methods for the social sciences* (8th ed.). New York: Pearson.
- Bonomi, A. E., Gangamma, R., Locke, C. R., Katafiasz, H., & Martin, D. (2011). "Meet me at the hill where we used to park": Interpersonal processes associated with victim recantation. *Social Science & Medicine*, 73(7), 1054-1061.
- Brady, P.Q., Fansher, A., & Zedaker, S. (2019). Are parents at a higher risk for secondary traumatic stress? How interviewing child victims impacts relationships with forensic interviewer's friends and family. *Child Abuse & Neglect*, 88, 275-287.
- Breiding, M. J. (2014). Prevalence and characteristics of sexual violence, stalking, and intimate partner violence victimization—National Intimate Partner and Sexual Violence Survey, United States, 2011. *Morbidity and Mortality Weekly Report. Surveillance Summaries* (Washington, DC: 2002), 63(8), 1.
- Cavanagh, K., Dobash, R. E., Dobash, R. P., & Lewis, R. (2001). 'Remedial work': Men's strategic responses to their violence against intimate female partners. *Sociology*, 35(3), 695-714.

- Dawson, M., & Dinovitzer, R. (2001). Victim cooperation and the prosecution of domestic violence in a specialized court. *Justice Quarterly*, 18(3), 593-622.
- Fansher, A., Zedaker, S. B., & Brady, P. Q. (2019). Burnout among forensic interviewers, how they cope, and what agencies can do to help. *Child Maltreatment*, 25(1), 117-128.
- Faugno, D., Waszak, D., Strack, G. B., Brooks, M. A., & Gwinn, C. G. (2013). Strangulation forensic examination: best practice for health care providers. *Advanced Emergency Nursing Journal*, 35(4), 314-327.
- Garvey, T. M. (2018). *Legal Jiu-Jitsu for prosecutors in intimate partner violence cases: Forfeiture by wrongdoing*. Strategies - The prosecutors' newsletter on violence against women. Issue #17.
- Glass, N., Laughon, K., Campbell, J., Wolf Chair, A. D., Block, C. R., Hanson, G., . . . Taliaferro, E. (2008). Non-fatal strangulation is an important risk factor for homicide of women. *Journal of Emergency Medicine*, 35(3), 329-335.
- Gwinn, C. (2013). Strangulation and the law. In *Intimate partner violence strangulation manual: The investigation and prosecution of strangulation cases*. A publication by the Training Institute on Strangulation Prevention and the California District Attorneys Association, (pp. 5-19).
- Hare, S.C. (2010). Intimate partner violence: Victims' opinions about going to trial. *Journal of Family Violence*, 25, 765-776.
- Joshi, M., Thomas, K.A., & Sorenson, S.B. (2012). "I didn't know I could turn colors": Health problems and health care experience of women strangled by an intimate partner. *Social Work in Health Care*, 51(9), 798-814.
- Kiani, S. H., & Simes, D. C. (2000). Delayed bilateral internal carotid artery thrombosis following accidental strangulation. *British Journal of Anesthesia*, 84(4), 521-524.
- Laughon, K., Glass, N., & Worrell, C. (2009). Review and analysis of laws related to strangulation in 50 states. *Evaluation Review*, 33, 358-369.
- Markman, I. (2010). The admission of hearsay testimony under the Doctrine of Forfeiture-by-Wrongdoing in domestic violence cases: Advice for prosecutors and courts. *American University Criminal Law Brief*, 6(2), 9-19.
- Mcquown, C., Frey, J., Steer, S., Fletcher, G. E., Kinkopf, B., Fakler, M., & Prulhiere, V. (2016). Prevalence of strangulation in survivors of sexual assault and domestic violence. *The American Journal of Emergency Medicine*, 34(7), 1281-1285.
- Messing, J.T. (2014). Evidence-based prosecution of intimate partner violence in the Post-Crawford era: A single-city study of the factors leading to prosecution. *Crime & Delinquency*, 60(2), 238-260.

- Messing, J.T., Patch, M., Sullivan Wilson, J., Kelen, G.D., & Campbell, J. (2018). Differentiating among attempted, completed, and multiple nonfatal strangulation in women experiencing intimate partner violence. *Women's Health Issues, 28*(1), 104-111.
- Monahan, K., Purushotham, A., & Biegon, A. (2019). Neurological implications of nonfatal strangulation and intimate partner violence. *Future Neurology, 14*(3).
- Myhill, A., & Hohl, K. (2019). The “golden thread”: Coercive control and risk assessment for domestic violence. *Journal of Interpersonal Violence, 34*(21-22), 4477-4497.
- Nemeth, J. M., Bonomi, A. E., Lee, M. A., & Ludwin, J. M. (2012). Sexual infidelity as trigger for intimate partner violence. *Journal of Women's Health, 21*(9), 942-949.
- Pritchard, A. J., Reckdenwald, A., & Nordham, C. (2017). Nonfatal strangulation as part of domestic violence: A review of research. *Trauma, Violence, & Abuse, 18*(4), 407-424.
- Pritchard, A.J., Reckdenwald, A., Nordham, C., & Holton, J. (2018). Improving identification of strangulation injuries from domestic violence: Pilot data from a researcher-practitioner collaboration. *Feminist Criminology, 13*(2), 160-181.
- Reckdenwald, A., Fernandez, K., & Mandes, C.L. (2019). Improving law enforcement's response to non-fatal strangulation. *Policing: An International Journal*. DOI: 10.1108/PIJPSM-12-2018-0186.
- Reckdenwald, A., King, D.J., & Pritchard, A. (2020). Prosecutorial response to nonfatal strangulation in domestic violence cases. *Violence and Victims, 35*(2), 160-175.
- Robinson, A., & Cook, D. (2007). Understanding victim retraction in cases of domestic violence: Specialist courts, government policy, and victim-centered justice. *Contemporary Justice Review, 9*(2), 189-213.
- Simon, E. (2010). Confrontation and domestic violence post-Davis: Is there and should there be a doctrinal exception. *Mich. J. Gender & L., 17*, 175.
- Singleton, R. A., & Straits, B. C. (2017). *Approaches to Social Research* (6th ed.). New York: Oxford University Press.
- Sleath, E. & Smith, L.L. (2017). Understanding the factors that predict victim retraction in police reported allegations of intimate partner violence. *Psychology of violence, 7*(1), 140.
- Spencer, C. M., & Stith, S. M. (2020). Risk factors for male perpetration and female victimization of intimate partner homicide: A meta-analysis. *Trauma, Violence, & Abuse, 21*(3), 527-540.

- Stansfield, R., & Williams, K. R. (2018). Coercive control between intimate partners: An application to nonfatal strangulation. *Journal of Interpersonal Violence*, 1-20.
- Stapczynski, J. (2010). Strangulation injuries. *Emergency Medicine Reports*, 31(17), 193-202.
- Stark, E. (2007). *Coercive control: How men entrap women in personal life*. New York: Oxford University Press.
- Stark, E. (2012). Looking beyond domestic violence: Policing coercive control. *Journal of Police Crisis Negotiations*, 12(2), 199-217.
- Stark, E. (2013). The Dangers of Dangerousness Assessment. *Family & Intimate Partner Violence Quarterly*, 6(2), 13-22.
- Strack, G. B., & Agnew, M. (2013). Investigation of strangulation cases. In *Intimate partner violence strangulation manual: The investigation and prosecution of strangulation cases*. A publication by the Training Institute on Strangulation Prevention and the California District Attorneys Association, (pp. 21 – 38).
- Strack, G. B., & Gwinn, C. (2011). On the edge of homicide: Strangulation as a prelude. *Criminal Justice*, 26, 32.
- Strack, G. B., & McClane, G. (1999). *How to improve your investigation and prosecution of strangulation cases*. National Coalition Against Domestic Violence.
- Strack, G., McClane, G., & Hawley, D. (2001). A review of 300 attempted strangulation cases—part I: Criminal legal issues. *Journal of Emergency Medicine*, 21, 303-309.
- Thomas, K. A., Joshi, M., & Sorenson, S. B. (2014). “Do you know what it feels like to drown?”: Strangulation as coercive control in intimate relationships. *Psychology of Women Quarterly*, 1-14.
- Turkel, A. (2007). Understanding, investigating and prosecuting strangulation cases. *Prosecutor, Journal of the National District Attorneys Association*, 41(6), 20-24.
- Vella, S. A., Miller, M. M., Lambert, J. E., & Morgan, M. L. (2017). “I felt close to death”: A phenomenological study of female strangulation survivors of intimate terrorism. *Journal of Feminist Family Therapy*, 29(4), 171-188.
- Wilbur, L., Higley, M., Hatfield, J., Surprenant, Z., Taliaferro, E., Smith, Jr., D. J., & Paolo, A. (2001). Survey results of women who have been strangled while in an abusive relationship. *The Journal of Emergency Medicine*, 21(3), 297-302.

Table 1. Descriptives (N = 130)

	<i>N</i>	% (<i>n</i>)	<i>M</i>	<i>SD</i>	Range
Defendant/Victim Characteristics					
Sex dyads	133		–	–	1-3
Male defendant/female victim		97.0% (129)	–	–	–
Male defendant/male victim		2.3% (3)	–	–	–
Female defendant/female victim		0.8 (1)			
Race/Ethnicity	133	–	–	–	1-4
Hispanic defendant/Hispanic victim		32.3% (43)	–	–	–
Couple is interracial		29.3% (39)	–	–	–
Black defendant/Black victim		24.8% (33)	–	–	–
Non-Hispanic White defendant/White victim		13.5% (18)	–	–	–
Victim age (continuous)	133	–	34.2	10.3	18-65
Defendant age (continuous)	133	–	33.3	11.4	18-64
Defendant current intimate partner (0 = former)	130	89.2% (116)	–	–	0-1
Characteristics of Coercive Control					
Defendant previously strangled victim (0 = no)	130	84.6% (110)	–	–	0-1
Number of previous strangulations (continuous)	39	<i>Median</i> = 2.0	5.1	9.2	1-50
Defendant constantly jealous of victim (0 = no)	127	82.7% (105)	–	–	0-1
Defendant previously injured victim (0 = no)	129	77.5% (100)	–	–	0-1
Defendant controls daily activities (0 = no)	127	64.6% (82)	–	–	0-1
Prior threats to kill (0 = no)	126	52.4% (66)	–	–	0-1
Victim believes defendant might kill them (0 = no)	125	45.6% (57)	–	–	0-1
Defendant has family violence conviction (0 = no)	115	36.5% (42)	–	–	0-1
Incident Characteristics					
Hours between assault & statements to police	87	<i>Median</i> = 1.0	3.0	7.2	0-60
Method	129		–	–	1-5
Manual strangulation		93.8% (121)	–	–	–
Multiple methods		3.1% (4)	–	–	–
Suffocation		2.3% (3)	–	–	–
Positional		0.8% (1)	–	–	–
Ligature		0.0% (0)	–	–	–
Multiple strangulations in same incident (0 = no)	107	39.3% (42)	–	–	0-1
Strangulation occurred during sex (0 = no)	130	0.8% (1)	–	–	0-1
Victim lost consciousness (0 = no/not sure)	126	15.9% (20)	–	–	0-1
Victim felt urge/lost control of bodily functions	109	35.8% (39)	–	–	–
Victim recanted/refused to cooperate (0 = no)	127	29.1% (37)	–	–	0-1
Any visible injuries (0 = no)	94	48.9% (46)	–	–	0-1
Indictment charges	130				0-1
Misdemeanor strangulation		4.6% (6)	–	–	–
Felony strangulation		95.4% (124)	–	–	–
Case disposition	130				0-1
Charges dismissed		23.1% (30)	–	–	–
Convicted		76.9% (100)	–	–	–
...of felony strangulation		69.0% (69)	–	–	–
...of lower/other felony		2.0% (2)	–	–	–

...after felony pled down to misdemeanor 29.0% (29) – –

Note. Percentages and frequencies represent information in the ‘1’ or ‘yes’ category.

Table 2. Definitions and Themes for the Question: “What led to the assault?” (N = 119)

Theme	Definition	% (n)
Jealously/Infidelity	Defendant suspected victim being unfaithful, regardless of whether suspicions were accurate.	29.4% (35)
General argument	A disagreement occurred between the victim and offender that does not fall into one of the other themes.	28.6% (34)
Defendant triggered	Defendant was upset about the victims’ actions, statements, and/or noncompliance. This does not include actions that could fall into one of the other themes.	19.3% (23)
Relationship ending	The victim had threatened to leave, was attempting to leave, or had already separated from the defendant.	19.3% (23)
Substance-facilitated	The victim, defendant, or both were under the influence of drugs or alcohol at the time of the incident.	14.3% (17)
Miscellaneous	This includes all other responses, along with unprovoked attacks or those in which the victim was unsure why the incident took place.	6.7% (8)

Table 3. Themes for “What did offender say during the strangulation?” (N = 75)

Theme	Definition	% (n)
Degradation	Defendant called the victim derogatory names and/or made mocking sounds/comments toward the victim.	36.0% (27)
Threats of violence	Defendant stated they were going to kill the victim and/or threatened them or others with additional violence. This includes the defendant threatening suicide or self-harm.	25.3% (19)
	<i>Defendant specifically threatened to kill victim</i>	23% ^a (17)
	<i>Defendant specifically threatened harm</i>	(2)
Victim did not remember/Nothing	The report specifically notes that the victim did not remember, or the defendant is explicitly noted as saying nothing.	13.3% (10)
Jealously/Infidelity	The defendant made comments about the victim allegedly cheating or being too close with other males.	12.0% (9)
Miscellaneous	For comments that do not fit into the above categories.	9.3% (7)
Victim blaming	The defendant blamed the victim for the attack based on something the victim did or said leading up to the incident.	8.0% (6)
Related to separating	The defendant made comments such as “you’re not going to leave me” and/or demanding victim to leave	8.0% (6)

^aIndicates overall percentage of subtheme out of 75 cases

Table 4. Themes for the Question: “What Did Victim Think Would Happen [During Strangulation]?” (N = 111)

Theme	Definition	% (n)
Death	Victim explicitly noted fears of dying. This also includes causes of death, such as suffocation.	44.1% (49)
Unconsciousness	Victim reported fears of "passing out," "blacking out," or losing consciousness.	17.1% (19)
Victim did not know	Victim didn't know what was going to happen or was confused by the event.	13.5% (15)
Further injury	Victim thought they would be injured in a way not caused by the strangling	10.8% (12)
Terrified/scared	Victim stated they were scared/terrified of what would happen	7.2% (8)
Concerned for others	Victim stated that they were concerned for the safety of others and/or what was going to happen to them	5.4% (6)
Too overwhelmed to process	Victim stated that they were too confused/distraught/in pain to think about what was going to happen	5.4% (6)
Victim knew defendant would stop	Victim felt that defendant would stop strangling her eventually. No fears of death, passing out, or further injury reported	4.5% (5)
Miscellaneous	For comments that do not fit into the above categories.	3.6% (4)

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Table 5. Definitions and Themes for the Question: “What Made Offender Stop [the strangulation]?” (N = 122)

Theme	Definition	% (n)
Victim physically fought back	Victim physically fought the defendant and/or freed herself from his grasp.	23.0% (28)
	<i>Statement specifically indicates victim used force against defendant</i>	14.8% ^a (18)
	<i>Statement specifically indicates victim able to get away/free themselves</i>	(10)
Bystander Intervened	A third party intervened and stopped the defendant	22.1% (27)
	Bystander was: <i>Stranger/witness/not-identified</i>	(9)
	<i>Child(ren)</i>	(7)
	<i>Family member</i>	(5)
	<i>Roommate</i>	(2)
	<i>Police</i>	(1)
	<i>Friend</i>	(1)
<i>Neighbor</i>	(1)	
	<i>New partner of victim/defendant</i>	(1)
Victim not sure	Victim indicated that they were not sure what made the offender stop	15.6% (19)
Victim verbally protested	Victim screamed, yelled, or protested for the defendant to stop.	12.3% (15)

Miscellaneous	For all responses that don't fit into an above theme, including the defendant stopped without any noted reason.	11.5% (14)
Victim was injured	Victim became seriously injured, approached unconsciousness, or became unconscious.	6.6% (8)
Personal decision	Victim stated that the defendant stopped on their own	5.7% (7)
Defendant got what he wanted	Defendant stopped once they were able to get what they wanted (e.g., the victim agreeing to talk to them, a cellphone, money, sex).	3.3% (4)

^a Indicates overall percentage of subtheme out of 122 cases

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