

Bill as Introduced

HB 1634-FN - AS INTRODUCED

2010 SESSION

10-2056
04/10

HOUSE BILL **1634-FN**

AN ACT relative to assault by strangulation.

SPONSORS: Rep. Shurtleff, Merr 10; Rep. Bettencourt, Rock 4; Rep. Rodd, Merr 5; Rep. Groen,
Straf 1

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill adds strangulation to the second degree assault statute.

Explanation: Matter added to current law appears in **bold italics**.
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Ten

AN ACT relative to assault by strangulation.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Second Degree Assault. Amend RSA 631:2 to read as follows:

2 631:2 Second Degree Assault.

3 I. A person is guilty of a class B felony if he *or she*:

4 (a) Knowingly or recklessly causes serious bodily injury to another; or

5 (b) Recklessly causes bodily injury to another by means of a deadly weapon, except that
6 if the deadly weapon is a firearm, he *or she* shall be sentenced in accordance with RSA 651:2, II-g; or

7 (c) Recklessly causes bodily injury to another under circumstances manifesting extreme
8 indifference to the value of human life; or

9 (d) Purposely or knowingly causes bodily injury to a child under 13 years of age; or

10 (e) Recklessly or negligently causes injury to another resulting in miscarriage or
11 stillbirth[-]; *or*

12 (f) *Purposely or knowingly engages in the strangulation of another.*

13 II. In this section:

14 (a) "Miscarriage" means the interruption of the normal development of the fetus other
15 than by a live birth and not an induced abortion, resulting in the complete expulsion or extraction of
16 a fetus; and

17 (b) "Stillbirth" means the death of a fetus prior to complete expulsion or extraction and
18 not an induced abortion.

19 (c) "*Strangulation*" means the application of pressure to another person's
20 throat or neck, or the blocking of the person's nose or mouth, that causes the person to
21 experience impeded breathing or blood circulation or a change in voice.

22 2 Effective Date. This act shall take effect January 1, 2011.

LBAO
10-2056
12/16/09

HB 1634-FN - FISCAL NOTE

AN ACT relative to assault by strangulation.

FISCAL IMPACT:

The Judicial Branch, Judicial Council, Department of Corrections, and New Hampshire Association of Counties state this bill may increase state and county expenditures by an indeterminable amount in FY 2011 and each year thereafter. This bill will have no fiscal impact on local expenditures or state, county, and local revenue.

METHODOLOGY:

The Judicial Branch states this bill would amend RSA 631:2 to make purposely or knowingly engaging in strangulation of another a second degree assault punishable as a class B felony. Currently such crime would be simple assaults and punishable as misdemeanors. The Branch is unable to estimate how many new charges will be brought pursuant to the proposed legislation. In FY 2010 and beyond, the Branch states the cost to process an average class A misdemeanor charge in district court is \$51.14, the cost to process a class B misdemeanor charge is \$36.89, and the cost to process a felony assault charge (a complex felony) in the superior court is \$661.17. These figures do not consider any salary increases or decreases that may occur, or the cost of any appeals that may be taken following trial in any potential criminal cases. The Branch states the fiscal impact would be the difference in cost between a felony assault charge and a misdemeanor. The exact fiscal impact cannot be determined at this time.

The Judicial Council states this bill may result in an indeterminable increase in state general fund expenditures. The Council states if an individual is found to be indigent, the flat fee of \$756.25 per felony level offense is charged by a public defender or contract attorney. If an assigned counsel attorney is used the fee is \$60 per hour with a cap of \$4,100 for a felony level offense. The Council also states additional costs could be incurred if an appeal is filed. The public defender, contract attorney and assigned counsel rates for Supreme Court appeals is \$2,000 per case, with many assigned counsel attorneys seeking permission to exceed the fee cap. Requests to exceed the fee cap are seldom granted. Finally, expenditures would increase if services other than counsel are requested and approved by the court during the defense of a case or during an appeal. The exact fiscal impact cannot be determined at this time.

LBAO
10-2056
12/16/09

The Department of Corrections states crime and arrest data is not available in sufficient detail to predict the number of individuals who would likely be subject to this legislation. However, the average annual cost of incarcerating an individual in the general prison population for FY 2009 was \$33,110. The cost to supervise an offender by the Department's Division of Field Services for FY 2009 was \$744.

The New Hampshire Association of Counties states to the extent an individual is convicted, and sentenced to incarceration, the counties may have increased expenditures. The Association is unable to determine the number of individuals who might be detained or incarcerated as a result of this bill. The average cost to incarcerate an individual in a county facility is \$35,342 a year.

The Department of Justice states any fiscal impact could be absorbed within their existing budget.

CHAPTER 8
HB 1634-FN - FINAL VERSION

14Apr2010... 1301eba

2010 SESSION

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HOUSE BILL ***1634-FN***

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STATE OF NEW HAMPSHIRE

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15 than by a live birth and not an induced abortion, resulting in the complete expulsion or extraction of
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20 *throat or neck, or the blocking of the person's nose or mouth, that causes the person to*
21 *experience impeded breathing or blood circulation or a change in voice.*

22 8:2 Effective Date. This act shall take effect January 1, 2011.

23

24 Approved: May 4, 2010

25 Effective Date: January 1, 2011

Committee Minutes

**SENATE CALENDAR NOTICE
JUDICIARY**

- ✓ Senator Deborah Reynolds Chairman
- ✓ Senator Bette Lasky V Chairman
- ✓ Senator Matthew Houde
- ✓ Senator Sheila Roberge
- ✓ Senator Robert Letourneau

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/> Bill Status	
<input type="checkbox"/> Docket	
<input type="checkbox"/> Calendar	
Proof: <input type="checkbox"/> Calendar	<input type="checkbox"/> Bill Status

Date: March 19, 2010

HEARINGS

Tuesday

3/30/2010

JUDICIARY

SH 103

2:00 PM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

- | | | |
|--------------------|--------------|---|
| 2:00 PM | HB1472-FN-L | relative to testimony by video teleconference. |
| 2:15 PM | HB1634-FN | relative to assault by strangulation. |
| 2:30 PM | HB425-FN-A-L | (New Title) relative to remedies under the right-to-know law. |
| 2:45 PM | HB1508-FN | (New Title) relative to communications between offenders convicted of certain sexual assaults and the victims of the crime. |
| 3:00 PM | HB1515-FN | relative to the crime of official oppression. |

Sponsors:

HB1472-FN-L

Rep. Karen Umberger

Rep. Jordan Ulery

HB1634-FN

Rep. Stephen Shurtleff

Rep. David Bettencourt

Rep. Beth Rodd

Rep. Warren Groen

HB425-FN-A-L

Rep. James Garrity

Rep. Kimberley Casey

Rep. Jessie Osborne

Rep. Rick Watrous

HB1508-FN

Rep. Robert Cushing

Rep. Shannon Chandley

Rep. Suzanne Harvey

Rep. Linda Foster

HB1515-FN

Rep. Daniel Itse

Rep. Dudley Dumaine

Rep. Paul Ingbretson

Rep. Linda Foster

Judiciary Committee

Hearing Report

TO: Members of the Senate

FROM: Susan Duncan, *Senior Legislative Aide*

RE: Hearing report on **HB 1634-FN** – *AN ACT relative to assault by strangulation.*

HEARING DATE: March 30, 2010

MEMBERS OF THE COMMITTEE PRESENT: Senators Reynolds, Lasky, Roberge, Letourneau and Houde

MEMBERS OF THE COMMITTEE ABSENT: No one

Sponsor(s): Representative Shurtleff with Representatives Bettencourt, Rodd and Groen

What the bill does: This bill adds strangulation to the second degree assault statute.

Who supports the bill: Representative Shurtleff; Attorney General Michael Delaney; Amanda Grady, NHCADSV; Detective Bob Frechette; Dr. Scott Hampton of Ending the Violence of Dover; Attorney Lara Saffo, Grafton County Attorney's Office; Elizabeth Sargent, NH Chiefs of Police; Rep. Robert Cushing; Jill Rockey, NH Troopers Assoc., Senator DeVries; Annie Dawling; Paula Kelley Wall, Dave Dubois, NHACOP; Claire Ebel, NHCLU; Michael Racette; Norman A. Paris; Brenda LaFratte; S. Fournier; Gene Lyford; Jennifer Huoard; Ruth Thompson; Enyssa Dion; Maurice Belanger; Elizabeth McCartney; Stephanie Corbeil; Katie Schelzel; Charles Gleason; Leslie Sudak; Meg Kennedy Dugan; Dennis Whitney; Kelly Bailey; Michael Cantin; Matthew Cantin; Robert Corbeil; Debra Corbeil; Jennifer Ramsey; Christine Cantin; Scott Gove; Timothy Keeler; Cheryl Remillard; Doreen Remillard; Rebecca Murphy; Paul Corbeil; Rita Huard; Betty Corbeil; Monica Boisuat; Meghan Sherwin; Clark Cantin; Susan J. Paris; Kathleen Sanborn; Jessica Adams; John Curtis; Jamie Paris; James Murphy; Mike Brisson; Terri Nolan; Sheri Davis; Fred Davis; Priscilla Provencher *(Some of the spellings may not be correct as many of the handwritten names were difficult to read.)*

Who opposes the bill: No one

Summary of testimony received:

- **Representative Shurtleff** introduced the legislation and explained that strangulation cases have often been handled as misdemeanors. The legislation was filed in order to strengthen the penalties (to a felony). He said that numerous groups are in support of the bill.
- **Amanda Grady** testified in support of making strangulation a felony-level offense. She said that strangulation has recently been identified as one of the most lethal forms of domestic violence and explained that historically, it was not prosecuted as a serious offense because the victims would minimize the level of violence they had experienced while police and medical personnel failed to recognize its harm. A pattern has been observed by which abusers, as they escalate in violence, has shown the occurrence of strangulation to be a strong indicator of an overall potentially deadly pattern of violence in an intimate relationship.
- Estimates show that a majority (between 67% and 80%) of intimate partner homicides involved physical abuse of the female by the male before the murder occurred.
- Between 1990 and 2008, 95 victims in New Hampshire were murdered by their intimate partners. This means that for all of New Hampshire during these 18 years, 26% of all homicides that occurred here were committed by an intimate partner.
- Because strangulation can leave no visible injury or cause bruising until days after the incident, abusers too often are charged with misdemeanors.
- Ms. Grady testified that HB 1634 will give law enforcement better guidance to adequately handle the severity and danger of strangulation for victims and will provide a powerful tool for intervening in domestic violence, and hopefully keeping it from escalating.
- **Detective Frechette** testified in support as a full-time detective with the Rochester Police Department and part-time paramedic. He has had extensive specialty training on the topic of strangulation. He said that he has responded to and investigated many cases involving non-fatal strangulation where there were no external signs of trauma. Because the injuries typically are internal, prosecution is very difficult. He spoke of the experiences of victims who had been strangled as feeling "fuzzy" or "dizzy," caused by a restriction of blood flow to the brain resulting in a death of brain cells resulting in permanent damage. It was his opinion that not holding people accountable for strangulations enables them to continue violent behavior, whereas prosecution provides an opportunity to hopefully hold offenders accountable.
- **Dr. Scott Hampton** testified in support. He said that for the past 20 years he has worked with perpetrators of domestic and sexual violence. He shared with Committee members some of the

comments that abusers have made to him during therapy – comments which demonstrate the horrendous intent and devastating impact of strangulation in interpersonal relationship. He divided the comments into three categories related to intent and impact:

1. Intimidation and control;
 2. Silencing the victim as a way of avoiding detection;
 3. Punishment and retribution, sometimes with lethal consequences.
- He testified that along with rape and pet abuse, strangulation is one of the strongest indicators of killing.
 - **Grafton County Attorney Lara Saffo** testified in support as someone who has tried to prosecute these cases. She explained that current law is inadequate and they end up searching for means to charge the perpetrator that they hope will be successful. She spoke about one case where the defendant served time and explained that the victim did have bruising in that incident – but that she recalled just trying to be able to breathe. She ended up losing in a jury trial (either 11 to 1 or 10 to 2) because of the “extreme indifference to the value of human life” where she had to charge the case.
 - In response to a question from Senator Letourneau, Attorney Saffo responded that charging these crimes would be like any others – are there witnesses, did the victim’s voice change as a result of the strangulation; what did the victim say? She said that like other cases, it would be dependent upon good police work.
 - Senator Houde, in reading the legislation proposing to make it second degree, asked why not first degree. Attorney Saffo responded that she would be perfectly happy with first degree.
 - **John and Claire Cantin** appeared in support of the legislation on behalf of their daughter, Melissa Cantin Charbonneau, who was murdered on October 22, 2009. Mr. Cantin testified that two days before his daughter was fatally shot by their son-in-law, he had strangled her. He said that she had been the victim of domestic violence for the last four years of her life – and that the day she was killed, she had gotten a restraining order. The day it was served on her husband, the police had not confiscated his hunting rifle. His son-in-law shot their daughter in front of him – and then turned the rifle on him, shooting him at point blank range. The son-in-law later killed himself. He told the Committee members that “we lost a man who needed to be helped.” He spoke of his daughter – a nurse and mother. He said that our current laws are inadequate and do not provide a safety net in order to stop this. He said that if strangulation were a class B felony, they could have put him in jail. There they could have possibly observed that he was on crystal meth, cocaine and steroids and gotten the help that he desperately needed. He said that this tragic ending to her life

should not go unnoticed. He asked for better protection for all victims and that this legislation is a good beginning.

- **Dave Dubois**, President of the NH Association of Chiefs of Police, testified in support of the legislation. He explained that this is very important and something that their organization strongly endorses and supports.

Fiscal Impact: See fiscal note.

Action: Senator Lasky moved "Ought to Pass." The motion was seconded by Senator Letourneau. The Committee voted 5 to 0 in support. Senator Reynolds will report the bill out of Committee.

sfd

[file: HB 1634-FN]

Date: March 31, 2010

Date: March 30, 2010
Time: 2:30 p.m.
Room: State House Room 103

JRB

The Senate Committee on Judiciary held a hearing on the following:

HB 1634-FN relative to assault by strangulation.

Members of Committee present: Senator Reynolds
 Senator Lasky
 Senator Houde
 Senator Roberge
 Senator Letourneau

The Chair, Senator Deborah R. Reynolds, opened the hearing on HB 1634-FN.

Senator Deborah R. Reynolds, D. 2: Before I start the hearing, I just want to note that this is a bill that is very important to a lot of citizens and we want to have a dignified and good hearing. I do want to note that we do have three bills after this and we want to honor everybody who is here to testify, but we do have some time constraints. So, I would ask people who are here, we do have sign-up sheets. If you have heard someone articulate and express an opinion about the bill that you agree with, that you consider not necessarily submitting oral testimony and give us written testimony, which we are happy to take. So, having said that, I would like to call the prime sponsor, Representative Shurtleff. Welcome, Representative.

Representative Shurtleff: Thank you, Madam Chair and members of the Committee. For the record, my name is Steve Shurtleff and I represent Merrimack District 10, which is Concord Wards 1, 2 and 3. I'm here this afternoon to introduce to you Senate HB 1634. Madam Chair, I will say the words that are most appreciated by any Chair, and that is I will be brief.

Strangulation cases are often handled as misdemeanor offenses. Therefore, current law fails to recognize the seriousness of this act and the dangers associated with it. HB 1634 will strengthen penalties against strangulation by specifically making it a felony level offense.

LHB

This bill is endorsed by the New Hampshire Chiefs of Police, New Hampshire Troopers Association, New Hampshire Insurance Association, Strafford County Domestic Violence Project and the New Hampshire Coalition Against Domestic and Sexual Violence. Madam Chair, to that list, I would also add the House Criminal Justice and Public Safety Committee, who voted 18-0 to recommend this bill ought to pass.

Madam Chair, I am going to end my testimony there because there are people behind me who can speak far more eloquently to the merits of this bill than I can. I would be glad to take any questions.

Senator Deborah R. Reynolds, D. 2: Thank you very much, Representative. Any questions of Representative Shurtleff? Seeing none, thank you for bringing the bill.

Representative Shurtleff: Thank you, Madam Chair. Thank you, Committee members.

Senator Deborah R. Reynolds, D. 2: I just want to note to members of the public, typically what we do in the Senate and the House is, if there are House members who are signed in or Senators signed in in support or opposition to the bill, we usually ask them, defer to them. I do note that there are a number of House Reps who are signed in in support of the bill, including Senator Betsi DeVries, Representative Robert Cushing and others. So, are there any other members of the General Court who intended to testify regarding the bill? Seeing none, what I would like to do is, first call Amanda Grady on behalf of the New Hampshire Coalition Against Domestic and Sexual Violence.

Amanda Grady: Good afternoon, Madam Chair and members of the Committee. For the record, my name is Amanda Grady and I am here today representing the New Hampshire Coalition Against Domestic and Sexual Violence and our fourteen member programs that provide services to victims of domestic violence, sexual assault and stalking and the Coalition supports HB 1634.

In the interest of time, I will be very brief in my remarks and will submit formal written testimony for your review.

HB 1634 will designate the crime of strangulation as a felony level offense. Those that work in the field of criminal justice will confirm that abusers use strangulation as one of the many tactics to silence, coerce, control and sometimes kill their victims. Strangulation has only recently been identified as one of the most lethal forms of domestic violence. As awareness of

RMB

strangulation has grown, we have observed a pattern in which strangulation is used by abusers as they escalate violence. Strangulation, when detected, is a strong indicator of a potentially deadly pattern of violence in an intimate relationship.

Recognizing the seriousness of strangulation, this bill is a top of the list priority for the Coalition, as well as a number of other agencies and surviving family members who you will hear from today.

At the present time, many prosecutors are charging the act of strangulation as a misdemeanor level offense because the felony level assault statute requires a finding of serious bodily injury. You will hear from a county attorney and a law enforcement official today who had the difficulty of charging this potential lethal offense under our current statutes.

Over twenty states have formally designated the crime as a felony level offense. We hope that this Committee will consider doing the same for the State of New Hampshire.

Currently, it is difficult to track incidents of strangulation, but a review of New Hampshire homicides can provide at least a small snapshot of its prevalence and the lethality that domestic violence victims face.

The New Hampshire Domestic Violence Fatality Review Committee of 2009 report found that, out of 370 homicides in the state from 1990 to 2008, ninety-five victims were murdered by their intimate partner. That means that 26% of all homicides in New Hampshire were committed by an intimate partner.

Strangulation is one of the top risk factors for domestic violence homicide and accounts for 18% of all intimate partner deaths and 10% of all violent deaths in the United States.

HB 1634 will give law enforcement better guidance to adequately handle the severity and danger of strangulation for victims. By explicitly spelling out the crime of strangulation as a felony, this bill will be a powerful tool for intervening in domestic violence and keeping it from intensifying.

For these reasons, we respectfully ask the Committee support HB 1634 and vote ought to pass.

In addition to copies of my testimony, I will also be submitting a victim impact statement and a letter of support written by Kelly Bailey and two survivors of domestic violence who were subject to strangulation who are both

here today, as well as written testimony by Meghan Sherwin, the daughter of deceased Arlene Lopata-Houle who was murdered last year in Manchester as a result of the act of strangulation. Meghan is also in the audience today.

Attachment #1 – Amanda Grady’s prepared testimony, together with attachments.

Attachment #2 – prepared testimony from Meghan Sherwin.

Senator Deborah R. Reynolds, D. 2: Thank you very much, Amanda Grady. Are there any questions? Seeing none, thank you very much for your testimony. The next person I have who is signed in and wishes to speak is Detective Bob Frechette.

Bob Frechette: Thank you, Madam Chair, members of the Committee. My name is Bob Frechette. I’m here to speak in favor of HB 1634. I live in Strafford and I am a detective with the City of Rochester. I have been with the Rochester Police Department for about nine years now. I also work part time as a paramedic with Frisbie Memorial Hospital. I have been working in emergency medicine for over twenty years. My specialty at the Police Department is crimes of domestic violence and I have received very extensive specialty training by national experts in the area of strangulation.

In my law enforcement experience, I have responded to cases, investigative cases involving non-fatal strangulation. Oftentimes we don’t see any external signs of trauma. Dr. Dean Hawley, who is a forensic pathologist in Indianapolis, wrote in an article in the *Journal of Emergency Medicine* that even in fatal strangulation cases, there is oftentimes no external signs of trauma. That trauma is actually occurring internally and is evidenced in autopsy. No external signs of trauma makes prosecuting at the felony level very difficult.

In my medical experience, I have also treated patients who report having been strangled by a partner or someone else. They report feeling dizzy, fuzzy, lightheaded. An innocuous statement, but when you realize what is going on internally, that feeling is caused by the anoxic brain cell death. Brain cells die, they don’t regenerate. That can result in mental status changes. Dr. George McClane reports in his article in the *Journal of Emergency Medicine* that those mental status changes can be long-term and even permanent.

The current wording of our statute and the lack of visible injury oftentimes make us recognize as only a misdemeanor. Because it is charged as a felony, a lot of times the prosecutors drop it down to the misdemeanor level because the statute doesn’t accurately address the crime of strangulation. Many

2/13

other states have passed laws similar to HB 1634 and they have actually seen increased awareness of the potential lethality of this crime; they have seen increased victim safety, as well as offender accountability, which is really the key here. If we can hold defenders accountable for this crime, we can limit the impact and limit the amount of times that we see this.

Strangulation is clearly a life-threatening event that should be treated as such by our statutes. When a person is strangled, there is often no external signs of injury, but make no mistake, those injuries are present and internal. We must send a clear message that strangulation will not be tolerated in the State of New Hampshire. I urge you to vote in favor of HB 1634.

Thank you for your time. I will answer any questions.

Please see Attachment #3 - Detective Robert Frechette's prepared testimony.

Senator Deborah R. Reynolds, D. 2: Thank you very much, Detective. Any questions? Seeing none, thank you very much for coming today.

Detective Frechette: Thank you.

Senator Deborah R. Reynolds, D. 2: The next person who is signed in in support of the bill and wishes to speak is Dr. Scott Hampton of Ending the Violence in Dover, New Hampshire.

Dr. Scott Hampton: Thank you, Chairman Reynolds and Committee members. My name is Scott Hampton and I am the Executive Director of an organization called Ending the Violence out in Dover, New Hampshire where I work with perpetrators of domestic and sexual violence. I have been working with them for about twenty years and probably worked with about 5,000 people.

Perhaps the unique piece of my testimony today is I want you to hear what some of the offenders who have strangled their victims have said because you are going to hear a lot about the impact on victims, a lot about consequences. If you really understand the agenda of the perpetrator, I think we are going to see why legislation such as 1634 is absolutely essential.

I am going to start with... I want you to imagine something. This is the most recent quotation I've gotten. I used to work in the jails and I had a chance to ask them about what they are thinking as they do this. Here's what one man told me.

LMB

I had my partner down on the bed with my hands around her throat. I wasn't squeezing very hard. Then I lowered by voice and said in a very slow and calm way, I said, "Okay, now that I've got your attention, there are a few things we need to go over. First, you're not going to make any loud noises are you?" And he squeezed ever so lightly to send her a message. She didn't say anything; she just looked at him in fear. "Next, you are not going to resist me are you?" Silence. "Good." Finally and the most importantly, "You're not going to tell anyone about this are you? Okay. Let's get started." He proceeded to rape her and she never told anyone.

The people I have interviewed about this, there are twenty-three people in our program and in the jail programs who have told me that they strangled their victims. One of them was charged and prosecuted and convicted under a strangulation charge. A lot of other domestic violence charges, some of them are drug charges, some totally unrelated to it. Only one of them was prosecuted on this and I think, in large part, because there really aren't any teeth under the law right now.

I'm going to give you written testimony. I am just going to highlight a few of the statements they made in three different categories. What they have told me is really three purposes, three parts of their agenda. The first part is intimidation and control; the second part is silencing the victim as a way of avoiding detection; and the third part is punishment and retribution. I will give you those examples.

No better way to get her full attention, especially when she realizes I could end her life in a snap, literally.

Once I put my hands around my girlfriend's throat, I remember become God. I literally had her life in my hands. Now, that's addictive.

I will give you one more from that category. I would never really hurt her, but I want her to know that I could.

In the silencing of the victim as a way of avoiding detection, one said.

We call it the squeeze play. In baseball, it's how you avoid getting tagged out. With your wife, it is how you avoid getting hooked up by the cops.

It is the fastest way to re-establish control over your woman and if you're caught, you just tell them that she's into rough sex. It's not like there is a law against it.

That's the importance of this law.

JHB

One more from that category. It's the fastest way I know how to shut down hours of bitching. I mean immediately!

Then, punishment and retribution, sometimes with lethal consequences.

If it's legal to put a choke collar on your dog, you should be able to do this to your b word. You don't use it unless she misbehaves. A great teaching tool.

One and done. I said, what do you mean? One big squeeze and she's through. And, finally, he said, do you know how easy it is to kill someone that way?

It is no wonder, when we consider these admissions that, along with rape and pet abuse, strangulation is one of the three strongest indicators that a potential lethal attack is coming relatively soon, something you will notice in the fatality review committee.

So, I think HB 1634, by raising the level of seriousness with which we all view this crime, I think we are going to save a lot of lives, a lot of pain and a lot of suffering. So, I respectfully request that you support HB1634 and I would be glad to answer any questions.

Please see Attachment #4 - prepared testimony from Dr. Scott Hamilton.

Senator Deborah R. Reynolds, D. 2: Thank you very much, Dr. Hampton. Any questions? Seeing none, thank you very much for your testimony.

The next person signed in in support of the bill is Grafton County Attorney Lara Saffo. Welcome Attorney Saffo.

Lara Saffo, Grafton County Attorney: For the record, my name is Lara Saffo and I am the current Grafton County Attorney and I thank you for hearing this today. I'm here as a prosecutor. I certainly reiterate everything you have already heard, but I will defer to victims to tell you even more, because it is true, they are the ones who pay and their surviving family members.

From a prosecutor's standpoint, I find the current law inadequate and I have. Certainly, everybody has referred to a misdemeanor case, but you have to remember misdemeanors are either bodily injury or unprivileged physical contact. We can't prove this bodily injury after strangulation has occurred. It is when we know evidence of it on the outside of the throat; it is all internal. We are left charging unprivileged physical contact and nothing

JRB

could be more inadequate than referring to strangulation as unprivileged physical contact and simple assault. It is so much more than that. When you look at our felony level statute as it currently exists, and you either have to show serious bodily injury, which often we cannot show in these cases. The only other option which I have used is recklessly causing bodily injury to another under circumstances manifesting extreme indifference to the value of human life. That's kind of twisted statute to put this under.

The bottom line is we need to be clear to society, to defendants, to victims and everybody else that strangulation is inappropriate, that you cannot obstruct somebody's breathing, you cannot grab their throat and the only way to do that at this point in time is to amend our statute to be consistent with other states working on this issue.

I can tell you I have one case where a particular defendant has served time for assaulting his wife, got out of jail, assaulted her again and this time got put in jail for a year, got out again. Another misdemeanor, these are always misdemeanors. Then three days later, got out again and was back in the family home and assaulted her, which included his hands around her throat. No physical evidence of bodily injury around her throat, but certainly physical evidence of other parts of the body that she couldn't even tell how those happened because she was concentrating on trying to breathe. So, she had bruising on other parts of her body, but what she was trying to do was breathe and that's what she could remember was trying to breathe. That assault was interrupted by her children coming downstairs.

We charged it as extreme indifference. It went to a jury and the jury found him guilty of all the misdemeanor simple assaults. I believe it was 11-1, it might have been 10-2. Extreme indifference to the value of human life as they struggled about exactly what that meant and did it apply since there was no bruising on the outside of her throat. That jury shouldn't have struggled with that, including the jurors who hung, who said I can't find him guilty of this. We should have made it a little easier for them by saying it is against our laws to do that.

I, too, will happily entertain your questions, but I do actually want to defer to victims and their families.

Senator Deborah R. Reynolds, D. 2: Thank you very much for your testimony. Senator Letourneau?

Senator Robert J. Letourneau, D. 19: Just a couple of questions.

Attorney Saffo: Sure.

LMB

Senator Robert J. Letourneau, D. 19: I'm certainly in support of this. I am listening to your testimony. You're going to be one of the folks that will be prosecuting these crimes?

Attorney Saffo: Absolutely.

Senator Robert J. Letourneau, D. 19: What is the evidence that you will have to be able to move this forward?

Attorney Saffo: It varies case to case and that's why an important component of what we continue to do in New Hampshire is train our law enforcement in this area. It would be like many cases that we have, including crimes against children when we don't have physical evidence. That's not an uncommon phenomenon. But, what you do do is look at things like did their voice change? What did their voice sound like beforehand and what did their voice sound like afterwards? Were there children that observed the defendant near the victim? What did the defendant say? What did the victim say? It would be like any other crime that you have to prove without physical evidence on an actual injury.

But, it would have to entail good police work. Unfortunately, it would entail our victims having to testify if we don't reach a plea agreement. The jury would analyze the victim's credibility as they do in many, many cases. In the area that I prosecute, we regularly have cases where there is no physical evidence and it comes down to credibility. But, in this particular area, we can also see what happened in some of our emergency rooms. We can ask was there petite showing in their eyes? Do they have trouble breathing? Did their voice change? We look for evidence like that as well.

Senator Deborah R. Reynolds, D. 2: Follow up?

Senator Robert J. Letourneau, D. 19: What is the level of the... Is it beyond reasonable doubt or at lower level?

Attorney Saffo: Everything is beyond reasonable doubt in the criminal arena.

Senator Robert J. Letourneau, D. 19: Thank you.

Senator Deborah R. Reynolds, D. 2: Senator Houde?

Senator Matthew Houde, D. 5: Thank you, Madam Chair. Thank you for taking the question. You had a proposed amendment of second degree assault?



Attorney Saffo: Yes. What we're looking at is amending the second degree assault statute to say purposely and willingly engages in strangulation of another and then finally strangulation.

Senator Matthew Houde, D. 5: Why not make it first degree?

Attorney Saffo: I have no problem saying first degree. I'm more than happy to have stronger legislation like this. I think this proposal goes under second degree assault because it is a new statute and it is trying to get us out of the misdemeanor where we have been. But, I'm always in favor of stronger legislation.

Senator Deborah R. Reynolds, D. 2: Any further questions? Seeing none, thank you very much for your testimony.

Attorney Saffo: Thank you.

Senator Deborah R. Reynolds, D. 2: And, the next people I have signed in in support, wishing to speak are John and Claire Cantin. If you want to come forward together, by all means, we will be honored to take your testimony.

John Cantin: Good afternoon, Chairman Reynolds and members of the Judiciary Senate Committee. For the record, my name is John Cantin and I'm here today to speak in support of HB 1634.

I am the father of the deceased Melissa Cantin Charbonneau and here by my side is Claire, her mother. Melissa died on 22 October 2009 at 2:00 p.m. from a gunshot wound. Two days before this, Melissa was assaulted by her husband. During this assault, he threw Melissa around the bedroom and then down a flight of stairs. He then dragged her into the living room and proceeded to strangle her. Fortunately, Missy's stepdaughter was there and able to get her husband's attention, which caused him to stop strangling Melissa. After he left the house, Melissa said that she didn't think she was going to make it, that she was losing consciousness. She also told me that she has never been so scared in her whole life.

Melissa's husband was arrested that evening, but because he was only charged with a misdemeanor, he was out for a mere \$30 bail. Even with all the evidence of this vicious assault and an eye witness, her husband was out on the streets a short time later after his arrest.

Melissa had been a victim of domestic and sexual violence for at least the last four years. The day of her strangulation, she stood up to him and said no.

RMB

She got a restraining order the next day. The police department and YWCA took photos of her bruises for the record. And, after seeing those bruises myself, it is hard to believe that that abuser was back on the streets so quickly after what he had done.

Later that evening, the restraining order was served on Melissa's husband, which stated that he was to be out of the house for the next few days while Melissa collected a few things. Even though authorities were informed, he had a hunting rifle and no weapon was ever collected.

The next day, while Melissa and I entered the house to get her things, her husband used that rifle to kill my daughter and shoot me at point blank range while I tried to protect her and get her out of the house. I saw my daughter shot and killed before my very eyes by a person who was bailed out for \$30 just a couple days ago.

I felt she was gone on the first shot and I heard her husband run down the stairs and disappear into the next room. I ran into that room after him. He pointed the rifle at me and I tried to move it away from my face. Her husband would not let the rifle go and put it to his throat. I went back to Melissa and bent over to drag her out of the house and to seek help. As I did, her husband shot me at point blank range in the back.

The sound, the kick and the burning in my back sent me right out the front door. I felt like I had no use of my arms to pull Melissa out, so I ran for my life trying to warn people at the school down the street where our grandson attended. We later found out that her husband took his own life.

During the shooting, I felt pretty hopeless and knew I was not going to make it. However, for some reason, I am here telling you my story today, but my daughter is not.

The damage this tragic event has caused goes on beyond words I can say here today. Their seven-year-old son lost both his parents that day. The community has lost an incredible woman and dedicated nurse from Bedford Hills. Additionally, we lost a man who needed to be helped because even though he did this, he suffered from anxiety and was self-medicating. In my eyes, he suffered from mental illness and saw no way out of this. He clearly had his own demons.

If strangulation was a felony during this situation, I believe this shooting should never have had to happen. What happened to Melissa and me is because the laws are inadequate and failed to protect us. There was no safety net to stop this. Even if the rifle was collected, there are other

RMB

weapons he had. A Class B felony would have provided this protection. Melissa's husband would have been in jail longer, getting him off the streets and providing a cool down period. During that period, they would have found that he was on crystal meth, cocaine, steroids and a prescription drug for depression.

Melissa made the ultimate sacrifice by saying no more abuse to her husband and that was a lethal decision. This tragic ending to her life must not go unnoticed. Current laws do not physically protect the victim. Retraining orders are not effective if the perpetrator disregards the law. How often do we read in the papers and find the victim was murdered but there was a restraining order in effect.

Victims need better protection and I believe changing strangulation to a felony will help. HB 1634 is a good beginning to protect individuals like our daughter. I urge you to consider passing it to help better protect victims. I am certain that this could have prevented the tragic event that took Melissa from us.

Thank you. Any questions?

Please see Attachment #5 - prepared testimony from John Cantin.

Senator Deborah R. Reynolds, D. 2: Thank you very, very much. We share your sorrow over this awful incident. Any questions? Thank you very much.

Mr. Cantin: You're welcome.

Senator Deborah R. Reynolds, D. 2: We have a number of people who have signed in in support of the bill, but do not wish to speak and I am just going to read those. Elizabeth Sargent on behalf of the New Hampshire Association of Chiefs of Police; Representative Robert Cushing; Jill Rockey, New Hampshire Troopers Association; Annie Dowling; Paula Kelley Wall. And, the next person I have signed in who wishes to speak in support of the bill is Dave Dubois on behalf of the New Hampshire Association of Chiefs of Police.

Dave Dubois: I will be quick. Thank you for taking the time. The New Hampshire Chiefs, I represent them. I am the current President. The reasons they sent me here as the President is because this bill is very important to us as an association. We pay attention to things that affect New Hampshire's quality of life and the detection and prevention of crime. We think that this is something that we strongly endorse and support.

Thank you.

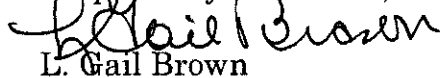
Senator Deborah R. Reynolds, D. 2: Thank you very much. Any questions? Thank you. Thank you for your testimony. Just reading through the list, there is no one who has signed in in opposition to the bill. Additional parties in support of the bill, but do not wish to speak Claire Ebel on behalf of the New Hampshire Civil Liberties Union; Michael Racette (**please see Attachment #6**). If I am not pronouncing your name correctly, I apologize. Norman Paris; Brenda LaFratte; Mr. or Ms. Fournier; Elene Roberts; Jennifer Huard; Ruth Thompson; Neysa Dion; Maurice Belanger; it looks like Joann Johnson on behalf of the Carroll County Starting Point; Robert Corbiel; Debra Corbeil; Jennifer Ramsey (**please see Attachment #7**); Christine Cantin; Scott Gore; Timothy Keeler; Cheryl Remillard; Doreen Remillard; Elizabeth McCartney; Stephen Corbiel (**please see Attachment #8**); Katie Schelzel; looks like Chris Gleason; Leslie Sudak (**please see Attachment #9**); Meg Kennedy Dugan; Dennis Whitney; Kelly Bailey (**please see Attachment #10**); Michael Cantin; Matthew Cantin. It looks as though there might be one final person who wishes to speak. John Coontz? I can't really pronounce your name. I apologize. I will just read through the list of people who signed in in support of the bill.

Rebecca Murphy (**please see Attachment #11**); Paul Corbeil; Rita Huard; Betty Corbeil; Melissa Boisvert; Meghan Gowan; Susan Paris; Jessica Adams. Again, is it John Coontz? We also have James Murphy; Mike Brisson; Terri Nolan; Sheri Davis; and Priscilla Provencher. Those are all the people that have signed in. If you are here to speak in support of the bill and I have not read your name, would you please just identify yourself and approach.

Is there anybody else here who had intended to speak in support of 1634 and would like to speak? Seeing none, I am going to close the hearing on HB 1634.

Hearing concluded at 2:55 p.m.

Respectfully submitted,



L. Gail Brown

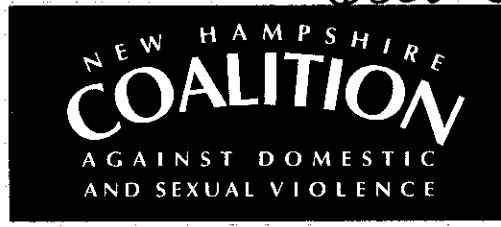
Senate Secretarial Supervisor

7/29/10

11 Attachments

Attachment #1

P.O. Box 353
Concord, NH 03302-0353
Phone: (603)-224-8893
fax: (603)-228-6096
www.nhcadsv.org
www.reachoutnh.com



Statewide Toll Free Hotlines
Domestic Violence:
1-866-644-3574
Sexual Assault:
1-800-277-5570

HB 1634, Relative to assault by strangulation.

March 30, 2010

Dear Chairwoman Reynolds and Honorable members of the Senate Judiciary Committee,

MEMBERS:

RESPONSE to Sexual & Domestic Violence
Berlin
Colebrook
Lancaster

Turning Points Network
Claremont
Newport

Rape and Domestic Violence Crisis Center
Concord

Starting Point
Conway
Ossipee

Sexual Harassment and Rape Prevention Program (SHARPP)
University of New Hampshire
Durham

Monadnock Center for Violence Prevention
Keene
Jaffrey
Peterborough

New Beginnings:
Laconia

WISE
Lebanon

The Support Center at Burch House
Littleton

YWCA Crisis Service
Manchester
Derry

Bridges: Domestic & Sexual Violence Support
Nashua
Milford

Voices Against Violence
Plymouth

A Safe Place
Portsmouth
Rochester
Salem

Sexual Assault Support Services
Portsmouth
Rochester

I am writing in reference to **HB 1634**, an act relative to assault by strangulation. The New Hampshire Coalition Against Domestic and Sexual Violence (NHCADSV) and its 14 member programs **SUPPORT** HB 1634. Abusers use strangulation as one of the many tactics to silence, coerce, control, and sometimes kill their victims. Recognizing the seriousness of strangulation, this bill is one of NHCADSV's top legislative priorities for 2010.

NHCADSV is a statewide network of 14 independent crisis centers across the state. Our mission is to provide services to victims of domestic and sexual violence and stalking, and to be a voice for victims before the NH Legislature. No organization is more committed to holding offenders of domestic and sexual violence accountable for their actions.

Strangulation has only recently been identified as one of the most lethal forms of domestic violence. Historically, strangulation has been rarely prosecuted as a serious offense because victims minimize the level of violence they experience, and police or medical personnel fail to recognize its harm. As awareness of strangulation has grown, we have observed a pattern in which strangulation is used by abusers as they escalate violence. In other words, strangulation, when detected, is a strong indicator of an overall and potentially deadly pattern of violence in an intimate relationship.

Risk of Homicide

It is estimated that the majority (67% - 80%) of intimate partner homicides involve physical abuse of the female by the male before the murder.¹ Therefore, one of the major ways to decrease intimate

¹ Greenfield LA, Rand MR, Craven D, et al. *Violence by Intimates. Analysis of Data on Crimes by Current or Former Spouses, Boyfriends, and Girlfriends*. Washington, DC: US Dept of Justice; 1998.

Mercy JA, Saltzman LE. Fatal violence among spouses in the United States: 1976-85. *Am J Public Health*. 1989;79:595-599.

Langford L, Isaac NE, Kabat S. Homicides related to intimate partner violence in Massachusetts. *Homicide Stud*. 1998;2:353-377

Campbell JC "If I can't have you, no one can: Power and Control in Homicide of Female Partners. In: Radford J, Lissell DEH, eds. *Femicide: The Politics of Woman Killing*. New York, NY: Twayne; 1992:99-113.

McFarlane J, Campbell JC, Wilt S, Sachs C, Ulrich Y, Xu X. Stalking and intimate partner femicide. *Homicide Stud*. 1999;3:310-316

partner homicide is to identify and intervene with battered women at risk.¹

The former Chief of Police of Henniker NH, Timothy Russell, is currently leading a statewide effort to train law enforcement officers, other first responders and professionals to identify high risk domestic violence victims. The Lethality Assessment Program (LAP) trains first responders on an 11 question lethality screening tool, designed to identify victims who are in danger of being killed.

Question #5: Has he/she ever tried to choke* you?

The act of strangulation is so severe that it is considered a significant risk factor for domestic violence victims and associated with an increased risk of later lethal violence by a partner or ex-partner.

Intimate Partner Homicides in NH

It's currently difficult to track incidents of strangulation, but a review of homicides can provide at least a small snapshot of its prevalence and the lethality domestic violence victims face. The NH Domestic Violence Fatality Review Committee reviews domestic violence-related homicides in the state and releases a report as needed. The 2009 report found that out of the 370 homicides in the state from 1990 to 2008, 95 victims were murdered by their intimate partners.²

That means, in those 18 years, 26% of all homicides in New Hampshire were committed by an intimate partner

In 2004, Sandra Royce (52) of Manchester, NH was strangled to death by her boyfriend in the gravel pits behind his home. She left behind two sons.

In 2005, Kimberly Ernest (21) of Epping, NH died after being beaten and strangled by her ex-boyfriend in 1991 and was left in a vegetative state. Fifteen years later, in November 2005, Kimberly died as a result of the injuries caused by the attack.

In 2005, Jennifer Huard (26) and her brother **Jeremy "Jay" Huard (29)** were shot and killed by Jennifer's ex-boyfriend. Jennifer had lived on and off with her boyfriend for the past year and had recently left, after he tried to strangle her.

In 2009, Arlene Lopata-Houle (50) of Manchester, NH was strangled to death by her on and off boyfriend and was found dead in his apartment.

¹ Campbell, Jacquelyn C. 2003. "Risk Factors for Femicide in Abusive Relationships: Results From a Multisite Case Control Study." *American Public Journal of Public Health* 93(7):1089-1097.

* *It's important to note that victims of domestic violence often identify with the word 'choke,' rather than strangle.*

² The State of New Hampshire: Governor's Commission on Domestic and Sexual Violence. Domestic Violence Fatality Review Committee, 7th Annual Report (May 2009).

In 2009, Melissa "Missy" Charbonneau (29) was found dead outside her Manchester apartment. She was shot by her estranged husband, Jonathan Charbonneau, who then shot her father before killing himself. Jonathan had been arrested earlier that week for allegedly strangling and throwing Missy down a flight of stairs.

Strangulation is one of the top risk factors for domestic violence homicide and accounts for 18% of all intimate partner deaths and 10% of all violent deaths in the United States.³

Strangulation and its Harmful Effects

Local programs that run domestic violence help lines, operate support groups, and provide shelter to victims in crisis increasingly tell us that strangulation is a serious problem—not just because of its consistent use by abusers but also because current law does not adequately address this crime.

Particularly because strangulation can leave no visible injury or cause bruising only days after it occurs, abusers too often are charged with misdemeanors for this potentially lethal act. Abusers deliberately use strangulation precisely because they know it may not cause visible external bruising. They can terrorize their victims, yet those victims will go about their daily life without friends, family, or the general public observing any physical signs of the abuse. If abusers think they can get away with violence without punishment, they will. That's the nature of domestic violence. It's calculated, and it's about maintaining power over victims' lives.

HB 1634 will give law enforcement better guidance to adequately handle the severity and danger of strangulation for victims. By explicitly spelling out the crime of strangulation as a felony, the bill will be a powerful tool for intervening in domestic violence and keeping it from intensifying.

We respectfully ask for the Committee's support of HB 1634 and vote OTP.

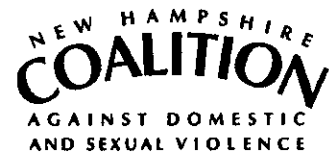
Sincerely,

Amanda Grady
Public Policy Director
NHCADSV

³ Wilbur, L., Hugley, M., Harfield, J., Suprenant, Z., Taliaferro, E., Smith, J., & Paolo, A., (2001). *Survey results of women who have been strangled while in an abusive relationship*. *Journal of Emergency medicine*, 21(3), 297-302.

HB 1634

Relative to Assault by Strangulation



WHAT IS STRANGULATION?

“Strangulation” means the application of pressure to another person’s throat or neck, or the blocking of the person’s nose or mouth that causes the person to experience impeded breathing or blood circulation or a change in voice. Once blood flow is cut off, a victim will be unconscious in 10 seconds, and 50 seconds beyond that brain death becomes a near certainty.

- Non-lethal strangulation of intimate partners has substantial direct health effects and is associated with an increased risk of later lethal violence by a partner or ex-intimate partner but can be difficult to prosecute under felony assault statutes.
- Strangulation is one of the top risk factors for domestic violence homicide and accounts for 18% of all intimate partner deaths and 10% of all violent deaths in the United States.ⁱ
- Despite this highly dangerous behavior, NH’s criminal statutes fail to properly recognize the long term and fatal implications associated with strangulation, and limit penalties for strangulation to misdemeanors in most cases.
- Strangling attacks are both dangerous, and more common than most people think.ⁱⁱ As a result, several states in the U.S. have modified their laws to more adequately address the dangerous crime of strangulation.

“Once...I put my hands around my girlfriend’s throat. I remember becoming God. I literally had her life in my own hands. Now, that’s addictive!”

A New Hampshire participant in the Ending the Violence program; Dover, NH

“When someone puts their hands around your neck and squeezes, it changes how you feel about everything, everywhere. It turns people from average people into hostages. It’s a statement that he can end your life any time he wants to.”

A North Carolina advocate who shares her story on how she survived strangulation assaults by a former abuser.

WHY DOES NH NEED A SEPARATE CRIME OF STRANGULATION?

- **HB 1634** will strengthen penalties against the act of strangulation and enable prosecutors to treat instances of this act with the severity they deserve. It will hold assailants accountable, and it could potentially save lives.
- **HB 1634** properly recognizes strangulation as a life-threatening assault and warning sign of potential homicide and may spark training and awareness statewide for criminal justice and medical professionals.

ⁱ Wilbur, L., Hugley, M., Harfield, J., Surprenant, Z., Taliaferro, E., Smith, J., & Paolo, A., (2001). *Survey results of women who have been strangled while in an abusive relationship*. Journal of Emergency medicine, 21(3), 297-302.

ⁱⁱ The Chicago Women’s Health Risk Study, Risk of Serious Injury or Death in Intimate Violence: A Collaborative Research Project, New Report, Revised June 2, 2000

INTIMATE PARTNER HOMICIDES IN NH

Out of the 370 homicides in the state from 1990 to 2008, 95 victims were murdered by their intimate partners.ⁱⁱⁱ This means that 26% of all homicides in New Hampshire were committed by an intimate partner



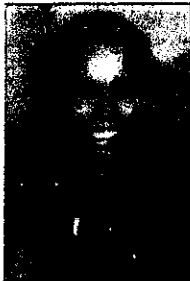
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In 2005, Jennifer Huard (26) and her brother Jeremy "Jay" Huard (29) were shot and killed by Jennifer's ex-boyfriend. Jennifer had lived on and off with Kirkman for the past year and had recently left, after he tried to strangle her.



In 2009, Arlene Lopata-Houle (50) of Manchester, NH was strangled to death by her on and off boyfriend and was found dead in his apartment.



In 2009, Melissa "Missy" Charbonneau (29) was found dead outside her Manchester apartment. She was shot by her estranged husband, Jonathan Charbonneau, who then shot her father before killing himself. Jonathan had been arrested earlier that week for allegedly strangling and throwing Missy down a flight of stairs.

NH Union Leader, November 5, 2009

Strangulation: The deadliest of red flags

By KATHRYN MARCHOCKI
New Hampshire Union Leader

MANCHESTER — Two days before Jonathan C. Charbonneau Sr. shot and killed his wife, Melissa, he pushed her into a bedroom wall and threw her down the stairs.

He also strangled her.

That act alone — cutting off someone's breathing — is such an up-close-and-personal form of violence it is considered a top indicator that an abuser likely will kill.

"It is such a dangerous

act. People don't realize how lethal the act of strangulation is," said Amanda K. Grady, director of public policy for the New Hampshire Coalition Against Domestic and Sexual Violence.

So lethal, she said, that the coalition will propose a bill in the 2010 legislative session that would make strangulation a felony-level offense. While the proposed bill's language would apply to all strangulations, most occur within the context of domestic violence, Grady said.

"We are constantly trying to find ways to make the statutes more effective for victims to keep people free from violence," she said.

"Strangulation is just one of those absolute red flags," Grady added.

Two others are animal abuse and sexual violence that occurs within the context of domestic violence, she said.

"They are the biggest risk factors that we know of in terms of leading up to potential lethal events," she explained.

The proposed strangulation bill is the result of two years of study and consultation with the coalition's partners, including victims and law enforcement, she said.

The president of the New Hampshire Association of Chiefs of Police said his agency supports making strangulation a felony.

"The whole issue of strangulation and attacks to that area of a person are missed in domestic violence cases very often," president David Dubois said.

ⁱⁱⁱ The State of New Hampshire: Governor's Commission on Domestic and Sexual Violence. Domestic Violence Fatality Review Committee, 7th Annual Report (May 2009).

WATCH



Bringing a public eye to justice

THE IMPACT OF MINNESOTA'S FELONY STRANGULATION LAW

Author:

Heather Wolfgram, MSW LGSW
WATCH Court Monitoring Coordinator

January 2007

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Special thanks to A. Maurice Solarin, for his assistance in data collection and to all the individuals who responded to the survey or participated in interviews.

"Strangulation is often one of the last abusive acts committed by a violent domestic partner before murder."

2004 Report, Hennepin County Domestic Fatality Review Team

Introduction

In 1999 WATCH played a key role in the initiation of the Hennepin County Fatality Review Team, a collaboration of private, public and non-profit organizations operating in Hennepin County. This group's first report highlighted the lethality of domestic strangulation in Minnesota. In response, the Minnesota Coalition for Battered Women (MCBW) with the assistance of WATCH and its member programs, pushed for the creation of a specific felony statute for domestic strangulation during the 2005 legislative session. With the passage of this law, Minnesota became one of six states (including North Carolina, Missouri, Oklahoma, Nebraska and Idaho) that have felony strangulation laws.¹

Statute 609.2247 went into effect in August 2005. Prior to the law's passage, most domestic strangulation cases were charged as misdemeanors even though strangulation is one of the most dangerous forms of domestic violence and, according to the Hennepin County Fatality Review and other experts,² is frequently a precursor to domestic homicide.

The new law, which applies to strangulation perpetrated by a family or household member, defines strangulation as "intentionally impeding the normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of a family or household member."³ If convicted, the defendant may be sentenced to imprisonment for up to three years or to payment of a fine of up to \$5,000, or both. According to Minnesota's sentencing guidelines, an individual with no criminal history would have his sentence stayed. A stayed sentence means that the defendant is sentenced to serve time but the execution of that sentence is put on hold and the defendant is placed on probation for the period of the stay (two to five years). If the defendant violates his probation during that period, his probation may be revoked and he could serve all or a portion of the time to which he was originally sentenced.

¹ Tessier, Marie, "Respondents Learn to Spot Signs of Strangulation," Women's eNews, December 19, 2005.

² Strack, Gael B., McClane, George E., and Hawley, Dean (2001). A review of 300 attempted strangulation cases Part 1: Criminal Legal Issues. Violence Recognition, Management, and Prevention. 21 (3) pg. 303-309.

³ The statute defines "family or household member" as a spouse or former spouse; parents and children; persons related by blood; persons who are presently residing together or who have resided together in the past; persons who have a child in common regardless of whether they have been married or have lived together at any time; a man and a woman if the woman is pregnant and the man is alleged to be the father, regardless of whether or not they have been married or lived together at any time; and persons involved in a significant romantic or sexual relationship.

Project Design

To better understand the successes and challenges faced in Hennepin County and other Minnesota jurisdictions, WATCH reviewed the first six months of the law's implementation to assess its impact, particularly on victim safety and offender accountability.

WATCH:

- collected statewide charging statistics from the State Court Administrator's Office from August 2005 to August 31, 2006.
- reviewed 59 Hennepin County cases with felony domestic strangulation charges occurring between August 1, 2005 to January 31, 2006 (the first six months of the law's implementation).
- reviewed 17 Hennepin County misdemeanor cases where defendants placed their hands around the victims' necks.⁴
- distributed a survey to the Minnesota Coalition for Battered Women's member programs, eliciting responses from 16 domestic violence service providers serving primarily 15 counties and the Leech Lake Reservation.⁵
- interviewed 18 Hennepin County criminal justice system personnel including victim advocates, law enforcement officers, judges, city attorneys, county attorneys, and probation officers.⁶ Interviewees were referred to WATCH by department or agency supervisors as personnel with knowledge and experience with the law.

Part I: Impact of Minnesota's Felony Domestic Strangulation Legislation

The Hennepin County criminal justice system personnel and domestic violence service providers WATCH contacted for this study saw the impact of the domestic strangulation law as positive and multifold. First, it has increased awareness of the potential lethality of domestic strangulation. Second, it has enhanced victim safety and offender accountability. As one judge said, *"This law is doing what we hoped it would do: it is drawing attention to the potential lethality of this crime. More resources are being devoted to this type of case. We have also increased the consequences, and in some ways educated the public on domestic violence."* While recognizing the positive impact of this legislation, some interviewees pointed out that much work remains to be done, observing that Hennepin County is not using the law "to its fullest potential," which may also be true of other counties.

⁴ The study period for the misdemeanor cases is longer (seven months) in order to have a larger number of cases to examine.

⁵ A copy of the survey is located in Appendix 1

⁶ Interview questions are listed in Appendix 2. The Public Defender's Office declined to participate in interviews.

Increased Awareness

Ten of the 18 interviewees in Hennepin County discussed an increase in their awareness of strangulation's potential lethality in the wake of the legislation. A judge stated, *"There is an acknowledgement that one person could kill another. People generally don't think of domestic violence as something that can result in death. This legislation calls attention to how seriously one can hurt another."* A county attorney said, *"Misdemeanor charges do not sufficiently address the seriousness of the crime."* A law enforcement officer echoed with, *"When someone rises to the level of strangulation, a big part of me thinks it should be an attempted murder. I look at every domestic as the next possible homicide."*

Many interviewees pointed to the link between increased awareness and victim safety. Almost everyone interviewed had read the latest studies on the topic and described how, armed with this knowledge, they have changed how they handle these cases. The legislation has spurred numerous trainings and motivated individuals in the system to educate themselves and their colleagues about domestic strangulation and victim safety. A WATCH monitor overheard a defense attorney say that she found it "very ironic" that since the strangulation legislation passed, almost all domestics are now being charged as felonies. The prosecutor stated, *"If you look at the domestics that end in murder, almost all of them were precipitated by strangulation."* Since the majority of strangulations were previously charged as misdemeanors many people were unaware of how common strangulation is in domestic violence and how dangerous it is for victims.

Several of the probation officers and city attorneys interviewed said strangulation is a "red flag" for them and that they pay closer attention to these cases. According to one probation officer, *"Most probation officers view strangulation as a red flag, look at it differently, deal with contact differently [between the victim and the defendant], particularly as it relates to what the defendant wants [regarding contact]."* Another stated, *"When we see red flags like this, we are more aware of risk factors and much less tolerant of violations. We take these cases very seriously. [Strangulation is] just one of several red flags we pay attention to."* A city attorney echoed with *"we view [strangulation] as having an increased lethality, at points where risk assessments are done, it is more heavily weighted. It is a factor in how I look at cases."*

Law enforcement officers and victim advocates are also taking these cases more seriously than in the past and warning victims to as well. One victim advocate said she attempts *"to educate victims on the fatality of strangulation and how quickly they can die."* An ongoing mission for those with knowledge of the lethality of strangulation is to instruct victims to use the stronger and more appropriate term "strangulation" rather than "choking" when reporting life-threatening attacks to police officers and medical personnel. The shift in terminology not only grabs the attention of criminal justice system personnel, but also of victims who may have a breakthrough about the lethality of their situation.

In greater Minnesota, survey respondents' views about the impact of the new law in raising awareness varied from county to county. One advocacy organization wrote, *"Our county prosecutor has been very diligent about prosecuting domestic assault*

strangulation cases when he has probable cause to do so. I think law enforcement is also paying more attention to the strangulation signs.” Most survey respondents in rural counties, like their urban counterparts, emphasized the need for more education and training. In particular, they cited a lack of understanding among law enforcement officers and prosecutors about what constitutes “impeding normal breathing.” Many also acknowledged the difficulty of investigating and prosecuting cases with little physical evidence, especially when a victim recants or declines to testify.

Victim Safety

Interviewees felt that overall the felony domestic strangulation law promotes victim safety. As one prosecutor stated, *“When you can charge a felony, it puts a more serious light on the conduct. This enhances victim safety because judges set higher bail.”* A victim advocate commented that more time and resources can be devoted to felony cases than to misdemeanor cases. *“As felony cases, it gives us more time to work with and to gather input from victims because the process takes longer—two to three months as opposed to two to four weeks as with misdemeanors.”*

As this report will discuss in greater detail later on, the data concluded that the felony domestic strangulation law has enhanced victim safety by increasing the number of convictions of strangulation crimes on both felony and misdemeanor charges. In addition, the increased awareness and training received by law enforcement officers, investigators, and prosecutors has resulted in a significant decrease in the number of cases being dismissed when strangulation cases are charged as felonies compared to when they are charged as misdemeanors.

“It enhances victim safety by recognizing the seriousness of that conduct by elevating it above other forms of domestic violence. Studies show it can be lethal. In terms of recognizing the significance of the behavior... people to pay more attention to these cases.”

Hennepin County Judge

Several interviewees were quick to point out a shortfall in the law that limits its impact in promoting victim safety — lenient penalties for defendants convicted under it. As a level four felony (determined by the legislature),

“Anytime we are able to file a felony charge and convict on one we are enhancing victim safety.”

Hennepin County Attorney

Minnesota’s sentencing guidelines prescribe a probationary sentence of a year and a day stayed. Many interviewees said this was not enough of a crime deterrent.

Offender Accountability

All interviewees agreed that the felony domestic strangulation law enhances offender accountability, again supporting this position by citing the greater attention, time, and resources dedicated to felonies. One judge stated emphatically that, *“misdemeanors didn’t [hold offenders accountable],”* adding, *“research says [strangulation] is an escalation, therefore, it is being charged as a felony under which the penalties and*

probation conditions are more serious.” An advocate commented, *“This new legislation has brought many cases that would have been charged as misdemeanors or gross misdemeanors to the felony level. The advantage of that is that these cases have a better chance of getting pre-sentence investigations and supervised probation.”* Additionally, more resources are given to case investigation and evidence-gathering in felony cases than misdemeanors.

Although defendants are more likely to receive probation and their probationary periods tend to be longer when convicted of felonies, this report will discuss later, in greater detail, how in Hennepin County, domestic violence offenders convicted of felonies can actually receive *less* intensive probation than offenders convicted of misdemeanors. This is due to specialized probationary units that supervise misdemeanor probationers. There is no specialized unit for felons.

“Felony convictions will have more serious consequences; more probation, more workhouse time.”

Hennepin County Attorney

One judge talked about changes they had seen in the way law enforcement officers and prosecutors respond to these crimes since the new law went into effect. This individual was not alone; others commented that they had observed law enforcement officers conducting more thorough investigations by taking more pictures and better documenting the crime scene. This individual also felt that prosecutors were “doing their best” to aggressively bring these cases forward. Several prosecutors said that having a specific felony domestic strangulation charge gives them more leverage to ensure a conviction and that cases that were often reduced to lesser charges or dismissed altogether are now resulting in convictions. Other interviewees offered that the increased fines and penalties associated with felonies, such as greater time at the Adult Correction Facility and extended probation periods, were evidence of increased offender accountability. One

“There is nothing about the law [felony strangulation statute] that makes it difficult to prove. The nature of the offense is such that corroboration is not always present. It is difficult to prove the elements of the case. The statute as a tool can attack the problem.”

Hennepin County Attorney

advocate stated, *“We can hold offenders accountable longer. Defendants get longer probation, [and] penalties are greater.”* Another advocate felt that the law helped to bring some dangerous first-time domestic abusers to the system’s attention sooner than if they had been charged with misdemeanors for strangling their victims: *“First reports of domestic violence usually come in as misdemeanors, and it takes a while before they escalate or are enhanced to felonies.”*

Even if the charge is dropped to misdemeanor domestic assault as part of a plea agreement, prosecutors can charge any future misdemeanor-level domestic assaults at a higher level with a previous conviction on a qualified domestic violence-related

offense.⁷ For example, if a defendant has two misdemeanor domestic assault-related convictions within ten years (for most qualified crimes), most new misdemeanor domestic assaults can be charged as felonies. Prior to this law's passage, the charges in many strangulation cases were reduced to non-qualifying charges, such as disorderly conduct, or simply dismissed, rendering any new domestic assault charges unable to be enhanced.

Statewide Felony Strangulation Charging Trends

The chart in Appendix 3 enumerates felony domestic strangulation charges for each Minnesota county under the new statute.⁸ These data were gathered by Minnesota's State Court Administrator's Office.⁹ The 2005 data span a five-month period from August 1, 2005, when the legislation became effective, to December 31, 2005. The 2006 data span an eight-month period from January 1, 2006, to August 31, 2006.

The chart in Appendix 3 indicates a significant upward charging trend in average monthly charges. On average, felony domestic strangulation charges increased by 26.5 cases between 2005 (August 1, 2005 to December 31, 2005) and 2006 (January 1, 2006-August 31, 2006). Several counties, such as Becker, Goodhue, and Polk, went from zero felony domestic strangulation charges in 2005 to twelve, nine, and seven, respectively. Overall, these data reflect the view of domestic violence service providers in greater Minnesota—that their law enforcement officers and prosecutors are becoming more aware of the law and more readily using it.

Part II: Hennepin County Felony Domestic Strangulation Cases

WATCH reviewed 59 Hennepin County cases charged under the new felony domestic strangulation statute between August 1, 2005, and January 31, 2006, to identify charging, conviction, and sentencing patterns. Twenty-four of the 59 cases were charged solely under the felony strangulation statute. All the other cases had multiple charges most commonly terroristic threats, interference with a 911 call or assault.

WATCH learned that:

- Convictions were obtained in 83 percent of cases (felony and misdemeanor).¹⁰
- Forty-two percent ended in convictions under the felony strangulation statute.¹¹
- Seventeen percent ended in convictions under other felonies such as terroristic threats or violation of an order for protection.

⁷ Qualified domestic violence offences are defined in MN Stat. § 609.02 subd. 16a

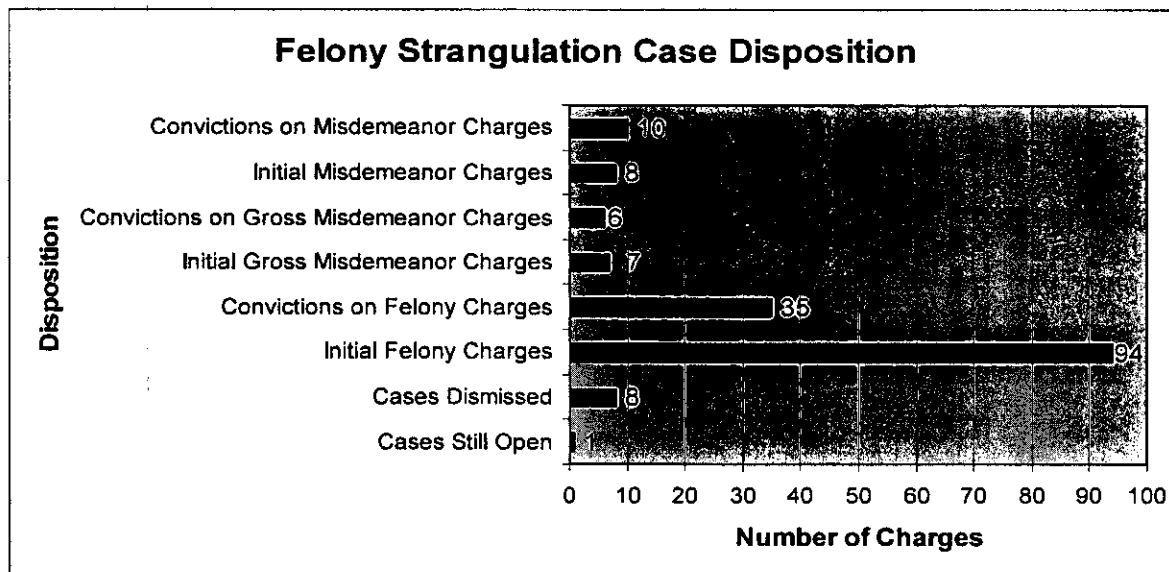
⁸ The data only includes felony domestic strangulation charges. Further, only one count per case of domestic strangulation, is included in this data.

⁹ Counties with no felony domestic strangulation charges from August 1, 2005 to August 31, 2006 are not included in chart.

¹⁰ Three defendants (six percent) were convicted of more than one charge.

¹¹ One defendant was convicted of felony domestic strangulation and another felony – only the felony domestic strangulation conviction is included in these calculations.

- Twenty percent of cases ended in convictions to lesser qualifying domestic violence related crimes such as fifth degree domestic assault.
- Almost seven percent of cases ended in convictions on non-qualifying charges such as damage to property or disorderly conduct.¹²
- Fourteen percent of the cases were dismissed.¹³
- One case is still open at the time of this report's publication.¹⁴



A more thorough examination of these cases, including a demographic breakdown, a review of significant case elements, and complete list of initial and final charges is located in Appendices 4-7.

Sentencing

As stated previously, the presumptive sentence for felony domestic strangulation (with no criminal history) is one year and one day stayed. The sentences for the 59 defendants are listed below. There is no distinction between those convicted of felonies, gross misdemeanors and misdemeanors.

Stayed Sentences (47 percent)¹⁵

- Eight defendants received stayed (for three years) prison sentences ranging from 12 to 48 months. The average sentence was 21 months.
- Fifteen defendants received stayed time at the Adult Correctional Facility. Their sentences ranged from 70 to 450 days and were stayed from one to three years.

¹² One defendant was convicted of two counts of misdemeanor disorderly conduct.

¹³ Initial charges in these cases are included in "initial charges" calculations.

¹⁴ The defendant has entered a guilty plea in this case and has failed to appear for sentencing. Initial and final charges in these cases are included in all calculations.

¹⁵ Some defendants in this group were also sentenced to serve time in the Adult Correctional Facility, therefore they are counted under served sentences as well.

Served Sentences (51 percent)

- Four defendants served time in prison with sentences ranging from 20 to 94 months including credit for time served.¹⁶
- Twenty-one defendants served time at the Adult Correctional Facility. Sentences (including credit for time served) for this group ranged from four to 113 days with an average of 40 days. Fourteen of these defendants received a combination of workhouse time and a stayed sentence.

Stays of Imposition of Sentences¹⁷ (36 percent)

- Eighteen defendants, 13 of which were convicted of felony domestic strangulation, received stays of imposition of their sentences.
- Four defendants convicted of felony domestic strangulation received stays of imposition for two years or less.
- Ten of these 18 defendants were sentenced to serve time at the Adult Correctional Facility. Three of the ten were released because their sentences equaled the amount of time they had already served.
- Five of these 18 defendants were not sentenced to serve time at the Adult Correctional Facility.

WATCH advocates for prosecutors to argue for and judges to sentence defendants to the maximum penalty allowed under the statute. As many criminal justice personnel have pointed out in their interviews with WATCH, longer sentences allow for more intensive probation and the opportunity for the defendant to receive batterer's intervention.

WATCH is concerned that stays of imposition for two years or less are being offered. Stays of imposition allow defendants' guilty pleas to be vacated and their cases removed from the record after successfully completing a probationary period of two years or less and possibly making future domestic assaults unable to be enhanced to greater charges. Four of the 17 cases in which defendants were sentenced to stays of imposition received stays of two years or less.

Recidivism

Eleven of the 59 defendants, four of whom were convicted of felony domestic strangulation, committed probation violations during the year WATCH reviewed the cases. Five of the 11 committed new misdemeanor domestic violence crimes. Violations were rarely met with more than a warning. Five defendants (45 percent) had their probation continued, with three serving a brief stint at the Adult Correctional Facility as a penalty. Probation was revoked in three cases (27 percent), but only after more than one probation violation. Only one of these cases (for which probation was revoked) involved a defendant convicted of felony strangulation.

¹⁶ These tended to be individuals with extensive criminal histories or who were convicted of higher level felonies such as sexual assault.

¹⁷ Stays of imposition require that the defendant enter a guilty plea to a specific charge. The defendant is then placed on probation for the length of the stay (three to five years). If the defendant successfully completes his probation, his guilty plea can be vacated and removed from his criminal record or lowered to a misdemeanor.

WATCH is concerned about the lack of consequences for offenders who commit probation violations, including new crimes, while on probation. Three of the 11 defendants re-offended or violated probation as many as three times, with two serving additional time at the Adult Correctional Facility after their third violation.

Chronology of an Abuser: Steven Andrew Richey

The following case summaries involving one of the 59 strangulation defendants exemplifies the repeated pattern of domestic violence and the need to take such cases seriously as they could result in homicide. These cases show that the standard consequences for domestic violence crimes such as stayed sentences and leniency in addressing probation violations do not attend to the escalation in violence of repeat offenders and the potential lethality in these cases.

Case # 05000418 City of Bloomington vs. Steven Andrew Richey

On December 31, 2004 witnesses called the Bloomington Police Department because they heard screaming and observed a male slamming a female against a car approximately five or six times. Upon arrival, the victim, J.R. told police that her head hurt, but officers noted she was “uncooperative about the assault.” Richey was originally charged with misdemeanor domestic assault in the fifth degree and misdemeanor driving after suspension. Richey pleaded to misdemeanor domestic assault in the fifth degree and was sentenced to serve 30 days at the Adult Correctional Facility. Twenty-four days of Richey’s sentence were stayed for two years. He was given credit for six days. Richey was told to have no contact with J.R. The prosecutor in this case was Ann Kaul, the defense attorney was Jeffery Ward and the judge was Kathryn Quaintance.

Case # 05030013 City of Bloomington vs. Steven Andrew Richey

On April 9, 2005 Bloomington Police Officers responded to a 911 call in which J.R. stated she was physically assaulted by her boyfriend, Steven Andrew Richey. During an argument, Richey repeatedly grabbed J.R. by the neck and threw her onto the bed and “choked” her. J.R. sustained injuries to her neck, arms and hands. Richey was initially charged with misdemeanor domestic assault in the fifth degree. This charge was dismissed in exchange for a guilty plea in the previous case (#05000418). The prosecutor in the case was Ann Kaul, the defense attorney was James Murphey and the judge was Bruce Peterson.

Case # 05076237 State vs. Steven Andrew Richey

On November 28, 2005, J.R. reported to police that her boyfriend, Steven Andrew Richey, physically assaulted her by striking her, dragging her by her legs along the floor, punching her in the face, and strangling her. The criminal complaint documented visible injuries to her neck and face. A criminal no-contact order preventing Richey from contacting J.R. was in place at the time of the attack. Richey was charged with felony domestic strangulation. This charge was later amended to gross misdemeanor domestic

assault in the fifth degree. Richey pleaded guilty to gross misdemeanor domestic assault in the fifth degree and was sentenced to serve one year at the Adult Correctional Facility. The judge stayed 285 days of that year, and gave Richey credit for 80 days. The prosecutor was Beverly Benson, the defense attorney was Charles Weber, and the judge was Kathryn Quaintance.

On March 30, 2006 Richey admitted to violating the conditions of his probation from case # 05000418, Richey's probation was revoked and he was ordered to serve 30 days with credit for 24 days.

Case # 06025131 State vs. Steven Andrew Richey

Just two weeks later on April 12, 2006, J.R. reported to police that her boyfriend Steven Andrew Richey, whom she lives with, told her to get out of bed and, when she did not comply, struck and strangled her, causing her to be unable to breathe. Officers at the scene noted and photographed red marks on her neck consistent with strangulation, as well as her bloody nose, swollen right eye, and cut lip. The criminal no-contact order from the prior case was still in place at the time. Richey was charged with felony domestic strangulation, felony assault in the fifth degree and misdemeanor violation of a criminal no-contact order. After negotiations, he pleaded guilty to felony domestic assault in the fifth degree¹⁸ and received a stay of imposition for three years with no time at the Adult Correctional Facility. The prosecutor was Kerry Meyer, the defense attorney was Jeff Ward, and the judge was Stephen Swanson.

On May 8, 2006, Richey's probation for case #05076237 was revoked and he was sentenced to serve a 90-day sentence at the Adult Correctional Facility.

In total the Hennepin County criminal court record indicates that Richey served 140 days for these four crimes.

A Lack of Accountability

Opinions varied on the degree to which offender accountability is enhanced under the new statute. An investigator for the Family Violence Unit of the Minneapolis Police Department noted a lack of accountability via little law enforcement training on the subject. This investigator pointed out that only printed material and DVDs on strangulation were circulated among patrol officers in each precinct, but little formal training was offered. "*Systematically, we even have a hard time naming it [strangulation],*" said another investigator.

Similarly, a probation officer also mentioned the need for more training to augment the law's implementation, saying that not all probation officers have received the same level of training on domestic violence, which can result in less intensive supervision for some defendants. Hennepin County has two specialized units that supervise only misdemeanor domestic violence offenders. Probation officers in these units receive additional training

¹⁸ Minn Stat. § states that the penalty for this crime is punishable by up to five years imprisonment and/or \$10,000 fine.

on the dynamics of domestic violence, a specialization that does not exist for probation officers responsible for adult felons. This inconsistency can lead to less intensive supervision for domestic violence offenders convicted of felonies than their counterparts convicted of misdemeanors.

Several interviewees stated that the penalties are still not adequate considering the seriousness of strangulation. A victim advocate said, *"I don't think the guidelines are appropriate. This should be a higher-level felony."* One probation officer concerned about the guidelines observed, *"In terms of how they are sentenced, defendants are frequently given a break. I think people are walking out of here with 60 or 90 days [and] with lots of denial. Low sentences feed into denial."*

Other interviewees felt the guidelines were appropriate. One Hennepin County Attorney said, *"as a level four felony, [the statute] is probably the appropriate place to have it on the guidelines. Egregious assaults have the possibility for departure."* A judge agreed, *"I don't think penalties should be increased from the sentencing guidelines. We want to give the defendant an opportunity for treatment."* A second judge followed with, *"I don't want to see the penalties increase. I think it is appropriately a felony level offence and does accomplish what it intended to accomplish."*

Part III: Hennepin County Misdemeanor Strangulation Cases

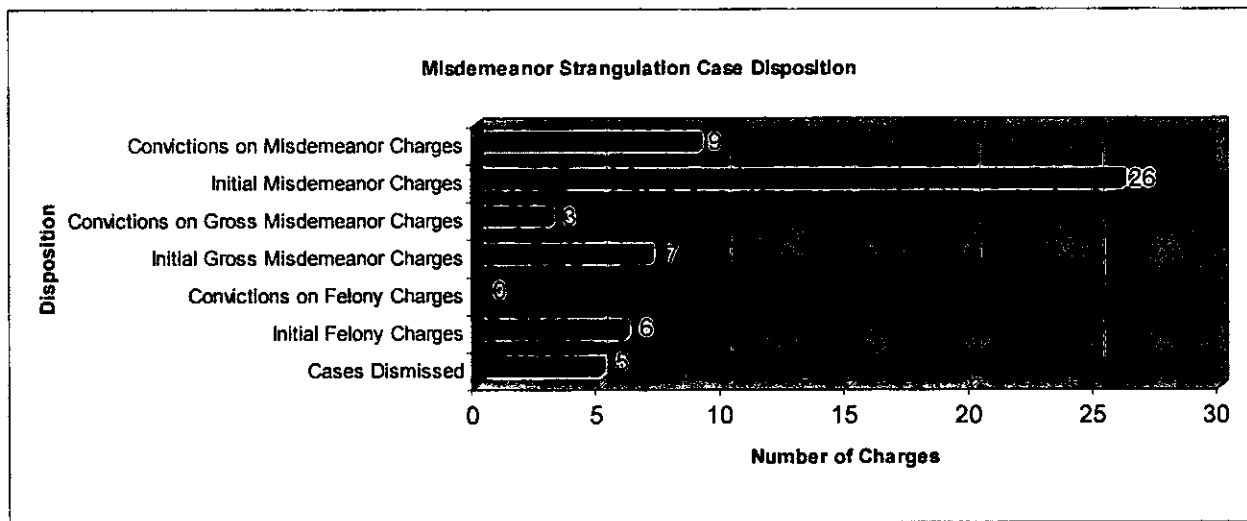
WATCH examined 17 Hennepin County domestic violence misdemeanor cases occurring between August 1, 2005 and February 31, 2006 in which the defendant placed his hands around the victim's neck. The purpose of this portion of this study was to uncover similarities and differences between the felony and misdemeanor cases to help identify charging, conviction, and sentencing patterns in Hennepin County.

WATCH learned that:

- Convictions were obtained in 71 percent of the 17 cases reviewed.
- Law enforcement officers booked 29 percent of the cases reviewed in this section for probable causes as felonies. The charges were later reduced to gross misdemeanor or misdemeanor charges by either the city or county attorney's office during the referral process.
- Although 29 percent of the cases reviewed began with felony charges no defendants were convicted on felony charges.¹⁹
- Eighteen percent of defendants were convicted on gross misdemeanor charges and 53 percent of defendants were convicted on misdemeanor charges.
- Twenty-nine percent of the 17 cases reviewed were dismissed completely.²⁰
- Twelve percent of defendants received stays of imposition. None of these defendants were sentenced to serve time at the Adult Correctional Facility.
- Seventeen percent of defendants violated their probation resulting in one probation revocation.²¹

¹⁹ One case reviewed in this section had two felony charges

²⁰ Initial charges in these case are included in calculations



A more thorough examination of these cases including a demographic breakdown, a review of significant case elements and complete list of initial and final charges is located in Appendices 7-9

Overview of the charging process

In Hennepin County, Minnesota processing strangulation cases begin with the police officer who responds to the scene of the incident. This officer, who, most likely has little formal training in identifying and investigating strangulation cases (according to interviews with law enforcement and criminal justice personnel conducted by WATCH), must determine first if an arrest should be made for a misdemeanor domestic assault offense or for a felony level strangulation offense. If the offense is determined to be a felony level strangulation case, a probable cause hold will be placed on the individual and the case will be investigated by the police department and referred to the county attorney's office. If the officer tab charges the incident as a misdemeanor, the case is then referred to the city attorney's office for prosecution. The city attorney's office can continue to prosecute the case as a misdemeanor or can refer the case for further investigation to their police department, who can either accept or decline to investigate it. In either scenario, the investigation by the police department will assist the county attorney's office in determining whether to charge the case as a felony.

WATCH monitors find it common to see misdemeanor cases involving alleged strangulation in Domestic Violence Court. When this occurs, WATCH makes contact with the prosecuting attorney, to question the charges and encourage that they be amended if possible. In the following section WATCH makes no conclusions about why certain cases were not charged as felonies. There are too many unknowns in the data to make such judgments. However, WATCH feels the review of these cases is important to re-evaluate charging decisions and to encourage appropriate investigation and prosecution of all cases involving strangulation as felonies.

²¹ The revocation of one defendant is still pending

Case Summaries: Misdemeanor Charging Patterns

Charging patterns and trends connected with the passage of the felony domestic strangulation legislation allow for examination of the law's implementation. WATCH has paid particular attention to cases in which descriptions of incidents gathered from criminal complaints and police reports clearly describe the impediment of breathing, but were not charged as felonies. WATCH's concern with this is multifold. First and foremost, not charging cases as felonies that meet the statutory requirement is not promoting victim safety nor does it hold offenders accountable. WATCH is also concerned that if law enforcement officers see charging reductions they may revert to charging strangulation cases as misdemeanors. The following three examples are part of the 17 misdemeanor cases reviewed in the report. It is WATCH's hope and recommendation that all domestic violence cases involving strangulation are investigated and whenever possible charged as felonies.

Case #06027308 City of Minneapolis vs. Aaron Major James

On April 22, 2006, Minneapolis officers responded to a call in which the victim, E.L., reported that her boyfriend became very aggressive, "choking" her on four separate occasions within a very short period of time "**to where she almost lost consciousness.**" The victim's twelve-year-old son witnessed his mother being strangled at least once and heard Aaron Major James threatening to do physical harm to his mother during the assault. James was charged with misdemeanor domestic assault in the fifth degree and driving after suspension. James pled guilty to misdemeanor domestic assault in the fifth degree and was sentenced to 90 days in the Adult Correctional Facility with credit for six days. Thirty days of James's sentences was stayed for two years.

The police report in this case clearly described the impediment of the victim's breathing, yet the case was originally charged as a misdemeanor. WATCH learned this case was referred to the Family Violence Unit of the Minneapolis Police Department for investigation, but most likely was not investigated in time for the pre-trial conference, which lead to this case continuing as a misdemeanor. The prosecutor in this case was Kathy Rygh, the defense attorney was Mark Bearss and the judge was Lloyd Zimmerman.

Case # 06013509 City of Minneapolis vs. Leon Mooney

On February 2, 2006, L.S. reported to police officers that her boyfriend Leon Mooney had assaulted her and prevented her from calling 911. L.S., who at the time of the assault was 8-months pregnant by the defendant, said that Mooney became angry during an argument and punched her in the stomach numerous times, put his hands around her neck and held her against the wall for some time. **The report indicates that the victim had difficulty breathing while Mooney was holding her against the wall.** Mooney was initially charged with a gross misdemeanor interference of an emergency 911 call, two counts of misdemeanor domestic assault in the fifth degree and a misdemeanor disorderly conduct. All charges in this case were dismissed as part of an agreement that Mooney plead guilty to misdemeanor domestic assault in the fifth degree for a more egregious

assault of the same victim on April 26, 2006. Mooney was sentenced to 83 days stayed at the Adult Correctional Facility for the April 2006 assault.

WATCH felt that the assault occurring on February 2, 2006 also warranted a felony domestic strangulation charge. WATCH learned this case was investigated by the Family Violence Unit as a felony and that the investigation provided little corroborating evidence or testimony, resulting in misdemeanor prosecution. The prosecutor in this case was Deborah Styles Brown, the defense attorney was Ann Remington, and the judge was Lloyd Zimmerman.

Case # 05053110 City of Minneapolis vs. Anthony Preston Harris

On August 14, 2005, Minneapolis Police Officers responded to a call in which R.D. reported being physically assaulted by her boyfriend, Anthony Preston Harris. R.D. said she had just broken up with Harris and asked him to leave. Instead of leaving, Harris pushed her down, sat on her chest and strangled her. **Harris released R.D. just before she lost consciousness.** Harris was initially charged with four counts of misdemeanor domestic assault in the fifth degree and one count of misdemeanor disorderly conduct. All charges in this case were dismissed.

WATCH was disturbed with this case as well because the police report indicates the impediment of breathing, yet no felony charge was applied. WATCH learned that responding officers originally charged this case as misdemeanor domestic assault in the fifth degree (the statute had only been into effect for 14 days at the time of this incident). This case was then referred by the City Attorney's Office to the Family Violence Unit of the Minneapolis Police Department who declined to investigate the matter as a felony, because responding officers did not note any injuries. WATCH also learned that the victim recanted prior to trial and that neither the victim nor the witness showed up to the trial which contributed to the charges being dismissed. The prosecutor in the case was Gretchen Zettler, the defense attorney was Scott Holdahl and the judge was Thomas Wexler.

These cases illustrate the importance of thorough on-the-scene investigation, medical care and follow up. Further, the increased number of cases being processed in the Fourth Judicial District leaves little time to meet charging/statutory deadlines. Therefore, at the conclusion of this report, WATCH will make the recommendation that all domestic violence cases that involve strangulation or the defendant placing his hands on the victims neck, are investigated and charged at the highest level possible. Doing so will ensure the collection of all possible evidence and victim/witness statements early in the process, thereby possibly reducing victim recantation.

Misdemeanor Sentencing

Stayed Sentences (67 percent)

- Eight defendants received stayed sentences at the Adult Correctional Facility ranging from 27 to 186 days, with an average stayed time of 63 days.

Served Sentences (42 percent)

- Five defendants served time at the Adult Correctional Facility, with sentences ranging from 21 to 344 days. Two defendants were sentenced directly, while three defendants served time at the Adult Correctional Facility as a condition of receiving a stayed sentence. One defendant had originally received a stayed sentence, but requested to have his sentence executed to avoid being on probation for a year.

Stays of Imposition of Sentences (16 percent)

- Two defendants were sentenced to stays of imposition, the length of their stays was not documented in SIP.

Recidivism

Seventeen percent (two) of defendants violated their conditions of probation. One subsequently had his sentence revoked and served out his sentence at the Adult Correctional Facility; the outcome of the second defendant's probation violation is still pending.

Chronology of an Abuser – James Edward Williams

The following misdemeanor case summaries involving one of the 17 misdemeanor defendants are included in this report to highlight several key issues. First, and foremost, it illustrates that acts of domestic violence, particularly strangulation, are not isolated incidents, and that criminal justice personnel working with these types of offenders need to be well versed in addressing defendant manipulation and their repeated violations of criminal no-contact orders. Second, it serves to challenge the criminal charging process in the City of Minneapolis and Hennepin County in that many of the crimes described below could have been charged under the felony domestic strangulation statute or been enhanced as qualified domestic violence related offences. Lastly, it focuses on the criminal justice system's failure to hold these offenders accountable through lenient sentences and few probation revocations.

Case #04069700 State vs. James Edward Williams

On October 18, 2004, E.W. reported to police that her boyfriend, James Edward Williams, had forced her into his car, punched and struck her as they drove. Williams had just been released from jail after a probation violation for a felony solicitation, inducement, and promotion of prostitution conviction, and E.W. said he was upset that she hadn't bailed him out and because she had been using his cell phone. E.W. was able to jump from the vehicle, but Williams caught and "choked"²² her and forced her back into the vehicle. Officers noted numerous scratches on E.W.'s neck and chest. Williams was charged with felony kidnapping and felony false imprisonment. In this case, Williams was not charged with assault even though the complaint states that he strangled the victim (this incident occurred before the passage of the felony domestic strangulation law). He pleaded guilty to felony false imprisonment and was released with credit for

²² Term used in criminal complaints/police reports.

time served. The prosecutor was Doug Myren, the defense attorney was Ann Remington, and the judge was Charles Porter.

On November 18, 2005, Judge Patricia Belois issued an arrest and detention order after Williams violated the criminal no-contact order, by strangling E.W. on November 16, 2005 (see case #05073692 below), in addition to failing to complete domestic abuse treatment. Judge Belois held him without bail. On December 21, 2005, the arrest and detention order was quashed and Williams's probation was continued. The probation officer in this case was Steve Myers and the judge was Charles Porter.

On June 16, 2006, another arrest and detention order was issued because Williams failed to obey the criminal no-contact order, complete domestic abuse counseling, attend an anger management program, and remain law abiding. On September 14, 2006, Williams admitted his probation violations, and his probation was continued. The prosecutor in this case was Hillary Caligiuri, the defense attorney was Ann Remington, the probation officer was Steve Myers and the judge was Kathryn Quaintance.

Case # 05000410 City of Minneapolis vs. James Edward Williams

On January 4, 2005, S.S., also identified as a girlfriend of Williams, reported to police that Williams, who was recently released from jail for a domestic assault against her in Anoka County, had assaulted her again. S.S. stated that she went to Williams's sister's house, where he was staying with E.W. because he would not return her calls. S.S. began yelling at Williams. He grabbed her around the neck, "choked" her, and pushed her to the ground. When a third party intervened, Williams let go, and S.S. got up. Williams then punched S.S. on the right side of her face. Police officers on the scene identified four red scratch marks on S.S.'s neck, two that were bleeding. According to the police report, both S.S. and E.W. said they were pregnant by the defendant. Williams was initially charged with misdemeanor fifth degree domestic assault. The case was dismissed by the prosecutor on January 12, 2005, due to insufficient evidence. The prosecutor was Julie Delgado-O'Neil, the defense attorney was Shannon Elkins, and the judge was Steven Pihlaja.

Case # 05026369 City of Brooklyn Center vs. James Edward Williams²³

On April 3, 2005, Williams was charged with two counts of misdemeanor fifth degree domestic assault against E.W. and misdemeanor disorderly conduct. He pleaded guilty to misdemeanor disorderly conduct and was sentenced to 90 days at the Adult Correctional Facility with credit for 90 days already served. The prosecutor was William Clelland, the defense attorney was Sheila Faulkner, and the judge was Warren Sagstuen.

Case # 05073692 City of Minneapolis vs. James Edward Williams

On November 16, 2005, E.W. reported Williams, now her ex-boyfriend, had assaulted, "choked," and threatened her. The assault began when she received a text message from another man while driving with Williams. E.W. tried to call 911, but Williams grabbed her cell phone. E.W. managed to escape from the car and ran to a gas station, where she called the police. According to the criminal complaint, gas station employees locked the

²³ WATCH was unable to obtain a description of this incident.

doors because they were afraid Williams would come in and assault the woman again. Officers on the scene observed “quite a bit” of redness on the victim’s neck. Williams was charged with two counts of gross misdemeanor fifth degree domestic assault and one count of misdemeanor disorderly conduct. He pleaded guilty to misdemeanor fifth degree domestic assault and was sentenced to 90 days in the workhouse, stayed for two years, with credit for 65 days. The prosecutor was Kathy Rygh, the defense attorney was Ann Remington, and the judge was Mary Steenson Dufresne. This offense occurred while the defendant was still on probation (until October 21, 2007) for a misdemeanor assault against E.W. in Dakota County.

On November 21, 2005, Judge Marilyn Rosenbaum issued a bench warrant after Williams failed to make a court appearance. Williams was taken into custody on December 5, 2005. Williams appeared before Judge Heidi Schellhas who conditionally released him on \$1,000 bail.

On September 14, 2006, Williams appeared in court on an arrest and detention order after he violated probation by committing a new domestic assault against E.W. in April 2006. He admitted the violation and his sentence was revoked. Williams was ordered to serve 90 days at the Adult Correctional Facility with credit for 65 days already served. The prosecutor in this case was Hillary Caligiuri, the defense attorney was Ann Remington, the probation officer was Steve Myers and the judge was Kathryn Quaintance.

Case # 06025965 State vs. James Edward Williams

On April 17, 2006, a 911 caller reported that he had seen a man punch a woman in the face and drag her into a room at a Brooklyn Center motel. The victim, E.W., told responding police officers that Williams hit her in the face during an argument. When she tried to leave, he punched her in the face again and dragged her from the hallway into the room by her hair. The criminal complaint also states he “*put his arm around her neck and disturbed her breathing.*” Williams was charged with felony domestic assault in the fifth degree, pleaded guilty to misdemeanor domestic assault in the fifth degree, and was sentenced to 72 days at the Adult Correctional Facility with credit for 72 days. The prosecutor was Hillary Caligiuri, the defense attorney was Ann Remington, and the judge was Kathryn Quaintance.

This chronology points to numerous gaps in the criminal justice system that have allowed James Edward Williams to continue his violence. First and foremost, William’s chronology shows a need to impose and enforce consequences for probation violations both for the commitment of new crimes and for violating criminal no-contact orders. Further, this chronology illustrates discrepancies in charging procedures. In that many of William’s criminal acts were not charged or could have been charged as higher level crimes.

Part IV: Challenges and Gaps in Implementation

The new law presents several challenges. First the statutory language is very specific, and

intent to “impede normal breathing or circulation of the blood” must be proven. In addition, police or medical personnel may not be adequately trained in providing sufficiently detailed documentation of strangulation or related injuries. Third, signs of strangulation may be difficult for law enforcement and medical personnel to detect even with sufficient training. In some cases, a defendant is charged with a felony, but the court accepts a guilty plea to a lesser misdemeanor charge. So while the law is definitely an improvement, many barriers still remain in an attempt to address domestic strangulation and prevent future homicides.

WATCH reviewed the police reports and/or criminal complaints in both the felony and misdemeanor cases to determine if trends such as the terminology used to describe the incident of strangulation or injuries present at the scene were apparent in the elements of these cases, and whether these elements could have been factors in determining the level of charges. WATCH acknowledges that medical reports, documented photographs, and victim’s willingness to cooperate are important factors and may supersede factors such as terminology in making charging decisions. WATCH understands that unless these cases are investigated as felonies, there will be insufficient time (misdemeanor cases are often resolved in 2-3 weeks) and resources (law enforcement investigators are not assigned to misdemeanor cases) devoted to the collection of case elements such as medial reports and follow-up statements from the victim.

Terminology

In the majority (51 percent) of felony cases, criminal complaints used the word “strangle” to describe the defendant placing his hands around the victims’ necks and impeding her breathing (in three cases, “choke” was used as well). A smaller proportion (29 percent) of the criminal complaints examined used the word “choke” alone to illustrate the aforementioned behavior. Neither “strangle” nor “choke” was used in 20 percent of cases.

In 41 percent of misdemeanor cases, reports used neither “choked” nor “strangled” to describe the assault, but indicate the victim was “grabbed by the throat” or “pressure was applied” to the throat instead. In 23 percent of cases, the reports used the word “strangle,” while 12 percent used the word “choke.” In 24 percent of cases, neither term was used, nor was the assault described further.²⁴

“Victims don’t use “strangle.” They use choke or grabbed my neck. Women in these cases usually begin by saying things like, “I thought he was going to kill me,” but like other domestic violence victims, as the case progresses they tend to minimize the incident.”

Hennepin County Victim Advocate

Breathing

The majority of criminal complaints in the felony cases (83 percent) clearly illustrated the statutory requirement to “impede normal breathing or circulation of the blood” through the use of phrases like, “almost lost consciousness,” “could not breathe,” “gasping for air,” or “began to pass out.”

²⁴ WATCH is under the understanding that although the assault was not described in the reports, these are domestic strangulation cases.

Twelve percent of the criminal complaints in misdemeanor cases mentioned the impediment of the victim's breathing, indicating that the victim "almost lost consciousness." This number is of concern as post August 2005 all cases involving strangulation and describing the impediment of breathing could have met the statutory requirements.

Presence of Strangulation Signs or Symptoms at the Scene

In 68 percent of the felony cases there were documented physical injuries directly attributed to strangulation. The most common of these include red marks, bruising, or scratches on the victim's neck. Several victims also reported shortness of breath, light-headedness, and a raspy voice. In 22 percent, no signs or symptoms of strangulation were mentioned in the criminal complaint. Seven percent reported injuries such as bruises, bite marks, or shaky legs not directly attributable to strangulation. Three percent mentioned injuries, but provided no detail about the location or type.

In 47 percent of the misdemeanor cases, the police reports or criminal complaints made no mention of whether or not victims sustained injuries. In 29 percent, they recorded strangulation-related injuries. In 12 percent, documents indicated that injuries were present, but either offered no further information or denoted non strangulation-related injuries, such as scratches to the knee. Lastly, 12 percent stated no injuries were present.

WATCH learned through case inquires and interviews that if police reports don't include documented signs or symptoms of strangulation they will most likely not be investigated further, which prevents them from being prosecuted as felonies.

Medical Attention

The majority of felony criminal complaints (86 percent) did not mention whether or not victims received medical attention. Fourteen percent did indicate that the victims were given medical attention, with half receiving medical care at the scene from paramedics. The other four victims received care at a hospital, with one undergoing a sexual assault forensic exam (SARS) while another had x-rays taken and may have been treated for a contusion and broken blood vessels.

"Victims with more serious injuries or injuries that last longer such as raspy voice and sore, swollen throat tend not to minimize as much as others."

Hennepin County Victim Advocate

Twenty-nine percent of the misdemeanor cases reviewed indicated that the victim refused medical attention at the scene, but the majority of police reports and criminal complaints (70 percent) did not mention whether or not victims received medical attention. Twelve percent of complaints stated no injuries were present at the scene of the crime.

Photographs Taken at the Scene

Seventeen percent of felony cases mentioned police officers or medical personnel photographing victims' injuries either at the scene or at the hospital. One victim's injuries required 15 photos to be taken at the hospital.

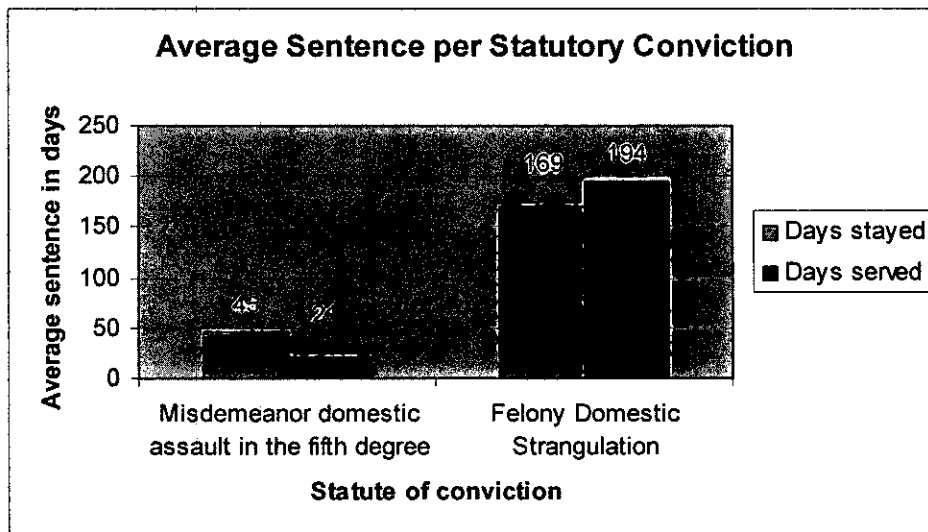
Twelve percent of the misdemeanor cases indicated that photographs of the victims' injuries were taken at the scene. The majority (88 percent) did not mention whether or not photographs of victims' injuries were taken. WATCH is concerned about the lack of photo documentation of injuries in all cases involving strangulation and what role this plays in successful prosecution.

Convictions and Dismissals

As mentioned previously, convictions were obtained in 83 percent of the felony cases, 71 percent of which ended in felony convictions. While, 14 percent of the felony cases reviewed were dismissed.

Seventy-one percent of the misdemeanor cases reviewed resulted in convictions, none of where were convictions on felony charges. Twenty-nine percent of the misdemeanor cases reviewed were dismissed completely.

Sentencing



As mentioned numerous times previously in this report, the presumptive sentence for convictions on the felony strangulation statute is a year and a day stayed for individuals with no criminal history. The above chart depicts the average sentences, both stayed and served time of defendants convicted of misdemeanor assault in the fifth degree and felony domestic strangulation. The data shows that on average defendants in this study convicted of misdemeanor domestic assault in the fifth degree received far less time than the maximum penalty for misdemeanor crimes of up to 90 days imprisonment. In addition, on average defendants convicted of felony domestic strangulation are receiving far lesser sentences than individuals convicted of gross misdemeanors (up to one year imprisonment).

This data does, however, corroborate information WATCH obtained from interviews with criminal justice personnel that highlight the law's effectiveness in enhancing victim

safety and offender accountability via longer sentences. The chart shows that on average, defendants in this study who were convicted on the felony domestic strangulation statute were sentenced to 124 additional days of stayed time and served an additional 173 in the Adult Correctional Facility than defendants convicted of misdemeanor domestic assault in the fifth degree, the most likely charge for a strangulation assault prior to the passage of the statute.

Part V: Recommendations

The majority of those interviewed and surveyed view the felony domestic strangulation statute as a positive step in enhancing victim safety, holding domestic abusers accountable, and preventing domestic homicides. The number of charges under the statute in Hennepin County and throughout the state indicate that the law is being used with regularity in combination with other charges and on its own. This reinforces the position that strangulation is frequent in domestic violence and a serious assault with grave and sometimes fatal injuries to the victim.

The law has clearly increased the awareness of many victims, service providers, and criminal justice personnel about the potential lethality of strangulation. Some law enforcement agencies are dedicating more time and resources to investigating these crimes, more prosecutors are aggressively bringing these cases forward, and advocates are continuing to support and educate victims. WATCH's data show that the law has resulted in an increased number of convictions on strangulation assaults on both felony and misdemeanor charges.

According to the individuals interviewed for this report and based on WATCH's monitoring, the law's implementation is not without its shortcomings. Specifically, WATCH's case review points out inconsistencies in charging patterns, lenient sentences given to potentially lethal offenders, failures to adequately address probation violations and the need to intensify probation supervision.

As one of six states that have felony strangulation statutes, Minnesota has the opportunity to provide leadership nationally on how to implement such a law. WATCH's following recommendations would go a long way in using the statute to its fullest potential.

Recommendation #1

- **Increase probationary supervision of felony level offenders. This could be implemented through a specialized unit to supervise felony level domestic violence offenders or through increasing domestic violence training for probation officers that supervise felony level probationers.**

Recommendation #2

- **Encourage judiciary to increase and standardize probation revocations when defendants violate their probation. Further, encourage the bench to verbalize the seriousness of violations of no-contact orders and orders for protection in domestic strangulation and to address them appropriately.**

Recommendation #3

- **Discourage the judiciary from ordering stays of imposition of sentences for less than two years in domestic strangulation cases.**

Recommendation #4

- **Provide written materials (with on-the-scene check list) for law enforcement officers called to domestic assault strangulation scenes to ensure that all necessary questions are asked of victims and witnesses, injuries are documented and photographed, and appropriate medical treatment is provided.**

Recommendation #5

- **Encourage batterers intervention programs to develop specific types of intervention that target abusers who use strangulation.**

Recommendation #6

- **Convene a domestic strangulation working group of the Hennepin County Family Violence Coordinating Council to look at the coordination and the implementation of the new law in Hennepin County. Use WATCH's report and its findings as a springboard for discussion and action.**

Recommendation #7

- **Conduct yearly reviews of strangulation related misdemeanor cases to ensure that investigation, charging, and referral policies are followed.**

Recommendation #8

- **Encourage service providers, law enforcement and court personnel to host domestic strangulation review teams or working groups in jurisdictions statewide to review the law, WATCH's report, and gaps in local implementation.**

Recommendation #9

- **Provide training on strangulation for all domestic violence service providers, medical professionals and criminal justice system personnel, including specifics on statutory language and requirements.**

Recommendation #10

- **Encourage community education about the high incidence of strangulation in domestic abuse cases; correct terminology when discussing strangulation; the impact of strangulation on victims and their children; the continuum of violence and the role strangulation plays as violence escalates; and the potential lethality of strangulation.**

For an electronic version of the report, see www.watchmn.org.

Appendix 1: Interviews with Criminal Justice Personnel

County Attorney(s)

- 1) What is your experience with Minnesota's new felony strangulation law?
- 2) Is there anything about the felony domestic strangulation law that makes it difficult to prosecute? Please explain.
- 3) Do you have any suggestions as to how to address this difficulty?
- 4) Do you think this law enhances victim safety?
- 5) Do you feel this law enhances offender accountability?
- 6) What are your thoughts on the fines/penalties associated with this law?
- 7) If you could make changes to the statute, what would they be and why?

Public Defender(s)

- 1) What is your experience with Minnesota's new felony strangulation law?
- 2) What do your clients say about assaults involving strangulation?
- 3) What are your thoughts on the fines and penalties associated with this legislation?
- 4) If you could make changes to the statute, what would they be and why?

Law Enforcement

- 1) What is your experience with Minnesota's new felony strangulation law?
- 2) Has the statute changed the way you investigate domestic assaults? If so how?
- 3) Is there anything about this law that makes it difficult to investigate? Please describe?
- 4) Do you feel the law enhances victim safety? How?
- 5) Do you feel the law enhances offender accountability? How?
- 6) How much training have your officers received on identifying and investigating strangulation cases? Do you feel this is adequate?

- 7) If you could make changes to the statute, what would they be and why?

Judges

- 1) What is your experience with Minnesota's felony strangulation law?
- 2) Do you have any concerns about this new law?
- 3) What do you think of the fine and penalties associated with this statute?
- 4) Do you feel this law enhances victim safety? How?
- 5) Do you feel this law holds offenders accountable? How?
- 6) If you could make changes to the statute, what would they be and why?
- 7) Other thoughts

Advocates

- 1) What is your experience with Minnesota's new felony strangulation law?
- 2) Generally, how do women describe incidents of strangulation? Are they minimizing the event or do they say they "feared for their life?"
- 3) In your experience, do women describe strangulation as the first instance of violence in their relationship or an escalating pattern?
- 4) What, if anything, have you heard from women about the impact this legislative enhancement has had on their relationships/lives?
- 5) Do you think this law enhances victim safety? Can you give me an example?
- 6) Do you think this law enhances offender accountability? Can you give me an example?
- 7) If you could make changes to the statute, what would they be and why?

Probation Officers

- 1) What is your experience with Minnesota's felony strangulation law?
- 2) How do probationers describe strangulation and the impact it has had on their relationships? Are they minimizing the behavior? Have they noticed a change in the dynamics of their relationship?
- 3) What are your thoughts on the fine/penalty associated with this new law?

- 4) Does this legislation change the way you address victim safety when you are assigned cases that involve strangulation? Can you give me an example?

City Attorneys

- 1) What is your experience with Minnesota's new felony strangulation law?
- 2) In your opinion, are there many cases that involve the defendant strangling the victim but don't meet the statutory requirements to be charged as a felony? Can you describe or give me examples as to why/how these cases don't meet the statutory requirement?
- 3) Do you attempt to prosecute these cases differently than others?
- 4) If you could make changes to the statute, what would they be and why?

Appendix 2: Battered Women's Program Survey

- 1) Program name and contact information:
- 2) In which Minnesota county(ies) do you provide service?
- 3) In the county(ies) where you provide services, do you know how many felony domestic assault strangulation charges there have been in the months from August 1, 2005 – January 31, 2006 (the first six months of the law being in effect)?
- 4) Do you know how many of these charges resulted in felony convictions?
- 5) Do you know the number of these charges that were reduced to a misdemeanor (lesser charge) such as 5th degree domestic assault?
- 6) What are your thoughts on the impact of this new law?
- 7) What have you heard from victims about how the elevation of this crime has impacted their lives?
- 8) What have you heard from others (prosecutors, court personnel, law enforcement) with regard to the impact or enforcement of this new law?
- 9) Have you seen or heard of innovative strategies used in the investigation/prosecution of this new charge?
- 10) What kinds of training/experience have you as a service provider had on domestic strangulation (training in victims support, identification, documentation)?
- 11) Do you feel this legislation could be strengthened? If so how?
- 12) Any additional thoughts or comments?

Appendix 3: Felony Strangulation Charges across Minnesota

County	2005	2006	Total
Anoka	21	35	56
Becker	0	12	12
Beltrami	0	8	8
Benton	10	13	23
Bigstone	0	1	1
Blue Earth	14	21	35
Brown	2	6	8
Carlton	3	7	10
Carver	6	4	10
Cass	1	3	4
Chippewa	0	4	4
Chisago	1	9	10
Clay	8	15	23
Clearwater	2	1	3
Cottonwood	0	1	1
Crow Wing	3	8	11
Dakota	25	52	77
Dodge	1	3	4
Douglas	5	9	14
Faribault	1	0	1
Freeborn	2	3	5
Goodhue	0	9	9
Grant	0	1	1
Hennepin	65	149	214
Houston	1	2	3
Isanti	0	3	3
Itasca	5	11	16
Kanabec	1	3	4
Kandiyohi	3	10	13
Koochiching	2	1	3
Lake of the Woods	0	1	1
Le Sueur	1	3	4
Lyon	1	2	3
Mcleod	0	5	5
Mahnomen	0	4	4
Meeker	3	5	8
Mille Lacs	0	3	3
Morrison	5	2	7
Mower	1	12	13
Nicollet	1	3	4
Nobles	3	4	7
Olmsted	13	30	43
Otter Tail	2	7	9
Pine	1	5	6
Polk	0	7	7
Pope	0	4	4
Ramsey	34	77	111
Red Lake	2	1	3

Redwood	1	0	1
Rice	5	7	12
St. Louis	18	49	67
Scott	21	25	46
Sherburne	1	4	5
Sibley	1	2	3
Stearns	11	32	43
Steele	7	5	12
Stevens	1	0	1
Swift	1	4	5
Todd	0	3	3
Wabasha	1	2	3
Wadena	0	1	1
Waseca	1	6	7
Washington	11	16	27
Watsonwan	0	1	1
Winona	7	8	15
Wright	7	16	23
Yellow Medicine	1	3	4
Total	344	763	1107

Appendix 4: Hennepin County Felony Case Breakdown - Demographics

WATCH read police reports and criminal complaints and reviewed entries on Hennepin County's criminal database, SIP, to obtain the following information about the 59 felony cases in this part of the study.

Defendants' Age and Sex²⁵

All 59 defendants were male, with ages ranging from 19 to 53.

Both the average and median (most frequently occurring) age was 33.

Victims' Sex

Victims were overwhelmingly female (93 percent). Seven percent of victims were male.

Defendants' Relationship to Victims

- Sixty-two percent of cases involved a defendant who was the victim's current boyfriend or husband.
- Twenty percent of cases involved defendants who were ex-husbands or ex-boyfriends.
- Five percent of cases involved defendants who were fathers, stepfathers, or a mother's fiancé.
- Five percent of the cases involved a defendant who was the victim's brother
- Seven percent of cases involved an unclear relationship between the victim and defendant.

Prior Domestic Violence Related Convictions

Twenty-two percent (thirteen) of the 59 defendants had previous convictions on domestic violence related charges including domestic assault, malicious punishment of a child, violation of orders for protection, criminal sexual conduct, and disorderly conduct.

²⁵ Race is not included as a demographic as WATCH did not have racial background on all defendants.

Appendix 5: Hennepin County Felony Case Breakdown Other Observations

Method of Strangulation

The majority of defendants (83 percent) strangled their victims with their hands. In seven percent of cases the defendant used a weapon such as a towel to strangle his victim. The remaining 10 percent of victims were strangled though a combination of methods such as the defendants hands/arms (via a choke hold) or by suffocation.

Multiple Episodes/Additional Assaults

Many victims reported multiple strangulation episodes during the course of the domestic assault. This happened in 29 percent of cases, yet *no defendants were charged with more than one count of strangulation*. Three percent of defendants strangled their victims as many as five times during one assault.

Defendants used strangulation in combination with additional physical violence in the majority of cases (64 percent). Most victims reported being punched, struck, kicked, and slapped, one as many as 20 times, *many of these assaults were not charged*. One complaint detailed an assault that lasted over three hours. One strangulation victim also reported being sexually assaulted and another being subjected to an attempted sexual assault.

Presence of Children at the Scene

- Children were present to witness the assault in 21 percent of cases.
- When children were present, they attempted to intervene either by trying to stop the attack or by calling 911 in twenty-five percent of cases.
- One victim was nursing her infant at the time she was assaulted.

Other Observations

In 31 percent of cases, the defendant threatened to kill the victim, her family, or her friends, *most resulting in a terroristic threats charge*. Three percent of cases involved the victim being threatened with a weapon other than the defendant's hands. In five percent of cases the victims were juveniles; in three percent of cases, the victims were pregnant by the defendant; and in two percent of the cases, police officers witnessed the assault.

Appendix 6: Hennepin County Felony Strangulation Case Breakdown

<p>Complete List of Initial Charges in Felony Cases</p>	<p>Complete List of Final Charges (Convictions) in Felony Cases</p>
<p><u>Felony</u> 61 domestic strangulation 18 terroristic threats 3 third degree criminal sexual conduct 2 first degree burglary 1 violation of an order for protection 1 theft of a motor vehicle 1 first degree criminal sexual conduct 1 fourth degree assault 1 fifth degree possession of controlled substance 1 false imprisonment 2 fifth degree assault 2 second degree assault</p> <p><u>Gross Misdemeanor</u> 1 malicious punishment of a child 4 interference with a 911 call 1 prohibited person in possession of a firearm 1 child endangerment</p> <p><u>Misdemeanor</u> 5 fifth degree assault 1 disorderly conduct 1 violation of an order for protection 1 violation of a no contact order</p>	<p><u>Felony</u> 25 domestic strangulation 6 terroristic threats 1 third degree criminal sexual conduct 2 first degree burglary 1 violation of an order for protection 1 domestic assault</p> <p><u>Gross Misdemeanor</u> 1 malicious punishment of a child 3 fifth degree domestic assault 1 third degree damage to property 1 terroristic threats</p> <p><u>Misdemeanor</u> 7 fifth degree domestic assault 4 disorderly conduct</p>

Appendix 7: Hennepin County Felony Strangulation Case Sentence Breakdown

Judges have the power to reject plea agreements made between prosecutors and defense attorneys. They also can depart from the sentencing guidelines and sentence defendants either above or below the presumptive sentences for crimes. Departures from the sentencing guidelines need to be warranted by the factual basis of the case. Because many of the defendants in this study were not given the minimum presumptive sentence for this crime (one year and one day stayed), WATCH reviewed the relationship between judges and the sentences received. The following summary includes only the 25 defendants convicted of felony domestic strangulation.²⁶ Prior convictions may have been taken into account in determining individuals' sentences, however, they are not accounted for in this section. Nine judges sentenced defendants on felony domestic strangulation charges during the review period.

Judge Daly presided over three cases:

- One defendant was sentenced to serve time at the Adult Correctional Facility in addition to stayed prison time.
- One defendant was sentenced to a two-year stay of imposition in addition to serving time at the Adult Correctional Facility.
- One defendant was sentenced to a three-year stay of imposition in addition to being sentenced to serve on a work crew.

Judge McKinsey presided over four cases:

- Two defendants were sentenced to three-year stays of imposition in addition to serving time at the Adult Correctional Facility.
- One defendant was sentenced to a one-year stay of imposition.
- One defendant was sentenced to serve time in prison.

Judge Quaintance presided over five cases:

- Two defendants were sentenced to three-year stays of imposition in addition to serving time at the Adult Correctional Facility.
- Two defendants were sentenced to serve time at the Adult Correctional Facility in addition to stayed prison time.
- One defendant was sentenced to a three-year stay of imposition and a fine.

Judge Sommerville presided over four cases:

- Two defendants were sentenced to served and stayed time at the Adult Correctional Facility.
- One defendant was sentenced to a three-year stay of imposition in addition to serving time at the Adult Correctional Facility and serving on a work crew.

²⁶ One defendant was convicted of felony domestic strangulation and felony terroristic threats.

- One defendant was sentenced to serve time at the Adult Correctional Facility but was also sentenced to stayed prison time.

Judge Swanson presided over five cases:

- Two defendants were sentenced to two-year stays of imposition in addition to serving time at the Adult Correctional Facility.
- One defendant was sentenced to both stayed and served time at the Adult Correctional Facility.
- One defendant was sentenced to a five-year stay of imposition in addition to serving time at the workhouse.
- One defendant received only a fine.

Judge Nord presided over one case:

- One defendant was sentenced to serve time at the Adult Correctional Facility in addition to stayed time in prison.

Judge Sagstuen presided over one case:

- One defendant's case is still open as he has failed to appear for sentencing.

Chief Judge Weiland presided over one case:

- One defendant was sentenced to serve prison time.

Judge Lynn presided over one case:

- One defendant was sentenced to a three-year stay of imposition in addition to serving time at the Adult Correctional Facility.

Appendix 8: Hennepin County Misdemeanor Case Breakdown – Demographics

WATCH read police reports and criminal complaints, etc. to obtain the following information:

Defendants' Age and Sex

All 17 defendants in the misdemeanor sample were male with ages ranging from 20 to 52. About half of the defendants were in their 20s, and the other half evenly divided among their 30s, 40s, and 50s.

Victims' Sex

All victims were female except for one male.

Defendants' Relationship to Victims

In 66 percent of cases, the defendant was identified as the victim's boyfriend or husband, and in 11 percent of cases the victim's ex-boyfriend. The defendant was the victim's father in one case (six percent).

Prior Domestic Violence Related Convictions

Eight defendants (47 percent) have previous convictions on domestic violence related charges including felony assault, misdemeanor domestic assault in the fifth degree, and disorderly conduct.

Appendix 9: Hennepin County Misdemeanor Case Breakdown – Other Observations

Method of Strangulation²⁷

The defendants' method of strangulation was only known in ten cases. Of these, 60 percent of defendants used two hands to strangle their victims, 30 percent used one hand, and ten percent used either one or two hands.

Multiple Episodes/Additional Assaults

Only one of the misdemeanor cases referred to the victim being strangled multiple times during a single assault. The police report stated that the victim said the defendant strangled her "on four different occasions within a very short period of time to the point where she almost lost consciousness."

Other forms of violence in addition to strangulation were recorded in the majority of cases (59 percent). Defendants slapped, punched, pushed, and dragged their victims multiple times during the assault. Unlike the felony cases, *these additional assaults were charged.*

Children Present at the Scene

Children were present during 35 percent of the misdemeanor assaults. One report mentioned a child who intervened in the assault.

Other Observations

Only one case described threats to the victim's life, and none involved the victim being threatened with a weapon other than the defendant's hands. In one case, the victim was a juvenile, and in another, the victim, who was not only strangled, but punched repeatedly in the stomach, was eight months pregnant. Four of the victims told police officers they had been assaulted in the past by their abusers. In one case, the victim had an active order for protection against her abuser, and in another case, the victim had moved from Washington to Minnesota to escape the defendant's abuse.

²⁷ The term "strangulation" is used to describe the defendant's act of placing his hands around the victim's neck. WATCH acknowledges these cases may not meet the felony statutory requirement of "impeding the breathing" of the victim.

Appendix 10: Hennepin County Misdemeanor Case Breakdown

Complete List of Initial Charges in Misdemeanor Cases	Complete List of Final Charges Convictions in Misdemeanor Cases
<p><u>Felony</u> 5 third degree assault 1 domestic strangulation</p> <p><u>Gross Misdemeanor</u> 3 fifth degree domestic assault 1 violation of an order for protection 1 third degree assault 3 interference with a 911 call</p> <p><u>Misdemeanor</u> 19 fifth degree domestic assault 7 disorderly conduct</p>	<p><u>Gross Misdemeanor</u> 2 fifth degree domestic assault 1 violation of an order for protection</p> <p><u>Misdemeanor</u> 6 fifth degree domestic assault 4 disorderly conduct</p>

3/30/2010
HB1634

Dear Chairwoman Reynolds and Members of the Senate Judiciary Committee,

My name is Meghan Sherwin and I live in Manchester, NH. I am a stay at home mother of three children. I am writing you today to try to convince you that HB1634, an act relative to relative to assault by strangulation, needs to be passed by the Senate!

I am the daughter of Arlene Lopata-Houle who was strangled on April 24, 2009. This whole experience has forever changed my life. It took my mother and my best friend away and the pain that it has caused my family and I is overwhelming.

I believe that if domestic violence as a whole would always be charged as a felony then maybe we would not have so many victims in our State. We know that domestic violence happens everyday. Maybe the abuse rates in our state would be reduced if abusers knew that our laws were more strict. Maybe by passing this bill domestic violence murders would stop all together.

Please consider the victims that are still here with us today as well as those that have passed on when you are considering this bill.

Thank you for your service and for taking the time to read my letter.

Sincerely,
Meghan Sherwin
Manchester NH

PO Box 406
Strafford, NH 03884
603-817-0584

March 30, 2010

Madame Chairwoman and members of the Committee:

I am here today to speak in support of HB1634. I live in Strafford and work as a full time detective with the Rochester Police Department and as a part-time paramedic with Frisbie Memorial hospital. I have been with the police department for 9 years and worked in Emergency Medical Services for 21 years. My specialty at the police department is investigating domestic violence cases. I have also received extensive specialty training by national experts on the topic of strangulation.

In my experience, I have responded to and investigated many cases involving non-fatal strangulation. In most of those cases there have been no external signs of trauma identified. Dr. Dean Hawley, a forensic pathologist in Indianapolis, wrote in an article in the Journal of Emergency Medicine that there are often no external signs of injury in fatal cases. This makes prosecution of the non-fatal cases at the felony level very difficult, as the injury that is occurring is internal.

In my experience as a paramedic, I have treated several patients that have reported being strangled. In many of these cases the patients report feeling lightheaded, dizzy or "fuzzy". These feelings are created by the anoxic death of brain cells. The restriction of blood flow that occurs when a person is strangled causes the brain to begin suffocating and this results in the death of brain cells. Once brain cells die they do not regenerate and a person can suffer permanent impairment as a result. Dr. George McClane reports in his article in the Journal of Emergency Medicine that mental status changes may be long term as a result of strangulation.

As a result of the lack of external visible injuries and the wording of our current statutes most of these cases cannot be prosecuted at the felony level. This in turn results in offenders not being held accountable for a potentially lethal act and further endangers victims. Many other states have passed legislation similar to HB1634 and have seen increased awareness about the potential lethality of strangulation, increased victim safety and are holding offenders accountable.

Strangulation is a life-threatening event that should be treated as such by our statutes. When a person is strangled there are often no external signs of injury, but make no mistake there are internal injuries. We must send a clear message that strangulation is serious and will not be tolerated in New Hampshire. I urge you to consider voting in favor of HB1634.

Thank you for your time and consideration of this important legislation.

Sincerely,



Robert E. Frechette

HB 1634, Relative to assault by strangulation.

In a low, slow, calm voice and with his hands around the victim's throat, he says: Now that I've got your attention, we need to go over a few things. First, you're not going to make any more noises are you?" He waits; she says nothing but stares at him in fear. He then says: "Good. You are also not going to resist me, are you?" Again, no verbal response. He says, "That's right. And most importantly, you're not going to tell anyone are you?" Silence. "O.K. Let's get started." He then rapes her. She never told.

--Report from an abuser who was never held accountable for a rape/strangulation

March 30, 2010

Dear Chairwoman Reynolds and Honorable members of the Senate Judiciary Committee:

I am writing in reference to **HB 1634**, an act relative to assault by strangulation. As Executive Director of Ending The Violence (a Dover, NH-based violence intervention and prevention agency) I **SUPPORT** HB 1634. For the past twenty years, I have worked with perpetrators of domestic and sexual violence. Today, I would like to share with you some of the comments abusers have made that demonstrate the horrendous intent and devastating impact of strangulation in interpersonal relationships.

These comments can be loosely divided into three categories related to intent and impact: (1) intimidation and control; (2) silencing the victim as a way of avoiding detection; and (3) punishment and retribution, sometimes with lethal consequences.

Intimidation and control:

"No better way to get her full attention, especially when she realizes I could end her life in a snap, literally."

"Once I put my hands around my girlfriend's throat, I remember becoming GOD. I literally had her life in my own hands. Now that's addictive."

"Hey guys, do this once, (not even hard, but look like you mean it) and they'll do anything you want them to. No need to go hitting your old lady."

"The look of terror in her face is such a rush. She can't help but look at you. You're right there."

"You know what I did? I told her that I could give her the orgasm of a lifetime. I put my hands around her throat and told her to relax. Then I gave her what she wanted, but when I didn't let go afterward, the look of fear was awesome. And who is she going to tell?"

"I would never really hurt her, but I want her to know that I could."

Silencing the victim as a way of avoiding detection:

"It's the fastest way to re-establish control over your women. And if you're caught, you just tell them that she's into rough sex. It's not like there is a law against it."

"We call it the "squeeze play." In baseball it's how you avoid getting tagged out. With your wife, it's how you avoid getting hooked up by the cops."

"Did you know that you can come this close to killing her and not leave a trace of evidence? How's that for the perfect crime?"

"It's the fastest way I know to shut down hours of bitching. I mean immediately!"

"It's sign language for "you better not tell." We call it "giving her the silent treatment" 'cause you can make sure she ain't talking afterward."

Punishment and retribution, sometimes with lethal consequences:

"If it's legal to put a choke collar on your dog, you should be able to do this to your bitch. You don't use it unless she misbehaves – great teaching tool."

"One and done. What do you mean? One big squeeze and she's through."

"Do you know how easy it is to kill someone that way?"

It is no wonder, when one considers these admissions, that along with rape and pet abuse, strangulation is a high risk factor for fatality. Our law must be amended to accurately reflect that harm and danger.

HB 1634 will do just that by giving law enforcement better guidance to adequately handle the severity and danger of strangulation. By explicitly spelling out the crime of strangulation as a felony, the bill will be a powerful tool for intervening in domestic violence and keeping it from intensifying.

Ending The Violence respectfully requests that the Committee supports HB 1634 and votes OTP.

Sincerely,

Scott Hampton, Psy.D.
Executive Director
Ending The Violence
90 Washington Street, Suite 305
Dover, NH 03820
endingviolence@comcast.net
(603) 742-2954



March 30, 2010
HB1634, Relative to Assault by Strangulation.

Good afternoon Chairwoman Reynolds and members of the Senate Judiciary Committee. For the record my name is John Cantin and I'm here today to speak in support of House Bill 1634.

I am the father of the deceased Melissa Cantin Charbonneau. Melissa died on 22 Oct 2009 at 2 PM from a gunshot wound. Two days before this, Melissa was assaulted by her husband. During this assault, he threw Melissa around her bedroom and then down the stairs. Then he dragged her into the living room and proceeded to strangle her. Fortunately, Missy's step-daughter was there and able to get her father's attention, which caused him to stop strangling Melissa. After he left the house, Melissa said that she didn't think she was going to make it because she was losing consciousness.

Melissa's husband was arrested that evening, but because he was only charged with a misdemeanor, he was out after a mere \$30 bail was paid. Even with all the evidence of the vicious assault and an eye-witness, her husband was out on the streets a short time after his arrest.

Melissa had been a victim of domestic and sexual violence for the last couple of years. The day of her strangulation she stood up to him and said no. She got a restraining order the next day. The police department and YWCA took photos of her bruises. And after seeing those bruises myself, it's hard to believe that her abuser was back on the streets so quickly after doing that to her.

Later that evening, the restraining order was served on Melissa's husband, which stated that he was to be out of the house for the next few days while Melissa gathered some items. Even though police were informed he had a hunting rifle, no weapon was collected.

The next day, while Melissa and I entered the house to get her things, her husband used that rifle to kill my daughter and to shoot me at point blank while I tried to protect her and get her out of the house. I saw my daughter shot and killed before my eyes by her husband who was bailed out for \$30 less than 2 days before.

I felt she was gone on the first shot. And I heard her husband run down the stairs and disappear into the next room. I ran into that room after him. He pointed the rifle at me and I tried to move it up into the air away from my face. Her husband would not let go of the rifle and put it to his throat. I went back to Melissa and bent over to drag her out of the house and seek help. As I did, her husband shot me at point blank range.

The sound, the kick, and the burning in my back sent me right out the front door. I felt like I had no use of my arms to pull Melissa out, so I ran for my life trying to warn the people at the school just down the street where Melissa's 7 year old son attended. We later found out that her husband took his own life.

During the shooting, I felt pretty hopeless and knew I was not going to make it. However for some reason, I am here telling you my story of the event and it is a wonder that I am still here. But my daughter is not.

The damage this tragic event has caused goes beyond any words I can say here today. Their 7 year old son lost both of his parents that day. The community has lost an incredible woman and dedicated nurse from Bedford Hills. Additionally, we lost a man who needed to be helped because even though he did this, he suffered from anxiety and was self medicating. In my eyes, he suffered from mental illness and saw no way out of this. He clearly had his own demons.

If strangulation was a felony during this situation, I believe this shooting would never have had to happen. What happened to Melissa and me is because the laws are inadequate and failed to protect us. A class B felony would have provided this protection. Melissa's husband would have been in jail longer, getting him off the streets and providing a cool down period. If this was done, law enforcement would have found that this man was on Crystal Meth, Cocaine, Steroids, and an anti depressant drug.

Melissa made the ultimate sacrifice when saying no more abuse to her husband. This tragic ending to her life must not go unnoticed. Current laws do not physically protect the victim. Restraining orders are not effective if the perpetrator disregards the law. How often do we read the papers and find the victim was murdered but there was a restraining order in effect.

Victims need better protection and I believe changing strangulation to a felony can help. House Bill 1634 is a good beginning to protect individuals like my daughter. I urge you to consider passing it to help better protect victims. I am certain that this could have prevented the tragic event that took Melissa from us.

HB 1634

March 30, 2010

Good Afternoon,

My name is Michael Racette. I live at 54 Maple Lane in Manchester NH where I have resided since 1979.

I would like to thank the committee for the opportunity today to speak in favor of HB 1634. I also wish to express my condolences and respect for Melissa Charbonneau's family for their loss and for what they have had to endure.

I am currently employed for 32 years with the Department of Health & Human Services. I am an appointed member of The Governor's Commission on Disability. I am also on the Concord Coordinating Council on Domestic Violence. Throughout my years working with families I have seen many domestic violence cases but I am not here only because of these. I also am not here to represent the organizations I work for or have affiliations with, but instead I am here as a concerned citizen of NH, a friend and past neighbor to Missy Charbonneau. I am also here as a survivor of domestic violence when I was a child. I have come before this committee to speak in favor of HB1634 relative to assault by strangulation.

My residence is situated behind Hazel Lane in Manchester and my back yard borders the property where Melissa Charbonneau formerly Melissa AKA Missy Cantin grew up. Being a neighbor to Missy when she was a child I have fond memories of a little girl who used to talk to me over a fence and cut through my yard with a giggle and a wave. I never dreamed that her life would end in such a violent way.

If HB 1634 had previously been in place, there is a chance the events concerning Missy Charbonneau may not have happened as they did and Missy might still be with us today. Her life did not need to end this way. I believe if strangulation had been a Class B felony, the Judicial System would have had another tool in which to protect Missy, and those who come after Missy that will need help.

I ask the committee to support the passage of HB1634 making strangulation a Class B felony. Passing this bill can help prevent further victims of domestic violence from becoming a victim of homicide. Missy tried to protect herself and her children, but the legal system she reached out to did not protect her.

The witnesses and children that are left behind in domestic violence are additional victims. I know from first hand experience the emotional trauma that children experience from domestic violence. When I was about 5 years old, the man who was married to my mother at the time tried to strangle her just like what happened to Missy. As an adult I still have a clear recollection of my older brother and me coming into the kitchen of our home on a Christmas Eve, and seeing my mother frozen with fear and pain as her husband clamped his hands around her tiny throat and choked her. He then commanded

my brother and I to go into our bedroom or he would kill her right there in front of us. My brother and I did what he said. My older and wiser brother then lowered me out the bedroom window. We escaped to a neighbor's house and the police were called. It was a Christmas Eve when this happened. Although I am 56 years old now every Christmas Eve I still have the memory of this painful event. I pray that Missy's children will not have to endure these same kinds of painful memories.

There was no HB1634 back then making strangulation a Class B felony and my family endured these domestic difficulties for about another three years until my mother packed up my brother and I. We fled over a 100 miles to south where we remained for several years.

Similar things were in play on that Christmas Eve as were in play when Missy was strangled and subsequently murdered. There was a family with children, a battered woman and a dad's judgment that was clouded by substance abuse and there also was no HB 1634.

HB 1634 might not prevent an initial attack, but it will let the system intervene more strongly and help to protect surviving victims from a further attack by making it more difficult for the perpetrator to get out of jail so quickly without a period of cooling down. It also gives the perpetrators of this kind of violence an opportunity to have an intervention that might also save them too.

There may have been other mistakes made by some law enforcement people surrounding the removal of weapons from the home. Even so the perpetrator would not have had access to his weapon so soon after the strangulation attack on Missy, if the judicial system had a better tool to intervene such as making strangulation a Class B felony.

I thank the committee for having let me speak in favor of this bill. I also again wish to express my condolences and respect for Missy's family for what they have had to endure.

Thank You

Attachment #7

March 30, 2010

Dear Members of the Senate Judiciary Committee,

My name is Jennifer Ramsey, I live in New Boston, New Hampshire. Prior to living in New Boston, I lived in Manchester. I work at BAE Systems in Merrimack, New Hampshire as a Contract Administrator. The reason for my letter today is to inform you on my support of the HB 1634, Strangulation Bill.

As a child, we think nothing bad could ever happen to anyone that we love. We think that no one will ever die or be hurt, especially by someone they love. But as you grow older, you realize that isn't true. My best friend as a child was Melissa (Cantin) Charbonneau. We had some great childhood memories. She was a wonderful, sweet and special person who was killed by her husband. A husband who, only 2 days prior attempted to kill her!

The mere definition of strangulation; choking: the act of suffocating (someone) by constricting the windpipe; means you are trying to kill them. One does not put their hands on someone else neck and chokes them unless the intent is to kill.

Under NH Law, a person is guilty of an attempt to commit a crime if, with a purpose that a crime be committed, he does or omits to do anything which, under the circumstances as he believes them to be, is an act or omission constituting a substantial step toward the commission of the crime. So, under NH law, how would constricting someone's windpipe not constitute attempted murder? Similarly, under NH law, the penalty for attempt is the same as that authorized for the crime that was attempted, except that in the case of attempt to commit murder the punishment shall be imprisonment for life or such other term as the court shall order.

The question Melissa (Cantin) Charbonneau's family and friends have wrestled with is; if Jonathan Charbonneau had been charged with a felony, would he have been able to murder his beautiful wife and injure her father?

It is hard to understand why he wasn't even charged with First Degree Assault? The definition states, a person is guilty of First Degree Assault if he/she purposely causes serious bodily injury to another, which is classified as a class A Felony. How is strangulation not purposely causing serious bodily injury to another?

I would urge you to consider the above remarks and consider voting in favor of pass the HB 1634, Strangulation Bill. We must act to protect the citizens of this great State. We cannot continue to allow people to purposely injure others and not face severe penalties. Thank you for your consideration.

Sincerely,



Jennifer Ramsey
1 Bessie Leavitt Lane
New Boston, NH 03070
(603)487-1121

Attachment #8

March 30, 2010

Dear Members of the Senate Judiciary Committee,

My name is Stephanie Corbeil, I live in Manchester, New Hampshire. I work at Dartmouth Hitchcock clinic as well as Rockingham Regional Ambulance Service. I also volunteer for the Auburn Fire Department. The reason for my letter today is to inform you on my support of the HB 1634, Strangulation Bill.

As a first responder with both the fire department and the ambulance service I have seen firsthand what domestic violence can do. Usually we are called to the home by the police to tend to the injuries of the victim. Besides the physical evidence of domestic violence there is the emotional toll the victims and their family have to deal with. While the injuries heal the emotional turmoil is still there.

Women who leave their batterers are at 75% greater risk of severe injury or death than those who stay. 31,260 women were murdered by an intimate from 1976-1996. A child exposed to the father abusing the mother is at the strongest risk for transmitting violent behavior from one generation to the next. We need to stop this cycle!

October 22nd 2009 an amazing woman was gunned down in front of her father by her own husband. A husband who 2 days prior severely beat her, threw her down stairs, and strangled her in front of a 10 year old child. This husband spent 3 hours in lock up and paid a \$30 fine. Where the victim was in the hospital longer and probably had to pay more in a co pay. On the same day another woman was a victim of domestic violence she also lost her life.

Melissa (Cantin) Charbonneau was like an older sister to me. We grew up across the street from each other. Melissa and my sister were inseparable and through their bond I had another sister. Melissa was beautiful both on the inside and on the outside. She was a very dedicated mother and a caring nurse. She would have done a lot of good in her life. So in her death we must pick up where she left off. Passing this bill will help other women in her situation. Through her death she will still do a lot of good.

I would urge you to consider the above remarks and consider voting in favor of passing the HB 1634, Strangulation Bill. Thank you for your consideration.

Sincerely,

Stephanie Corbeil
33 Maple Lane
Manchester, NH 03109
(603)668-6314

Attachment * 9

HB1634
3/30/2010

Good morning Chairwoman Reynolds and members of the Senate Judiciary Committee,

For the record my name is Leslie Sudak and I am a resident of Bedford NH.

I am writing to you in full support of HB1634, and act relative to strangulation. Missy Charbonneau was attacked in *exactly* the same manner as I was last year. This case reminds me that I am truly lucky to be here today to tell my story. Last January I reported to the local police that my assailant picked me up off the floor, climbed on top of me and strangled me, just like Missy's husband did to her. To my amazement, no arrest was made in my case. I have spent endless hours to fight for this case to be taken seriously, yet my offender still has not been held accountable for this crime against me and numerous other women.

The reason I am advocating for the passage of this bill is to try to prevent future assailants from using the act of strangulation as a way to silence their victims. It is my hope that the passage of this legislation will trigger awareness of the lethality of strangulation, and will provide victim service agencies with the opportunity to educate law enforcement of the importance of taking this vicious act seriously.

I respectfully ask that you vote Ought to Pass on HB1634.

Sincerely,

Leslie Sudak
Bedford, NH

LESLIE SUDAK CRAMER
75 CAMPBELL ROAD BEDFORD NH 03110
603.867.0900 NHBUTTERCUP@GMAIL.COM

State V. George Arlen
Parole Hearing

Dear Parole Board Members,

I think George should not be allowed in Cheshire and Western Hillsborough County because I am afraid of running into him in a public place. I am in fear of running into him because I don't want to relive those memories again. I didn't receive notification of George Arlen's parole which caused me to worry about being attacked again. He has made several threats to kill me including saying he would get a gun and kill me and strangled me while holding his grandson. I don't think he should have been granted parole for the act of violence he committed against me and I don't think he served enough time.

Since the crime occurred on November 2, 2008 I have suffered from nightmares where I can't get the thought of George telling me that he was going to kill me out of my mind, and then waking up in the ambulance and not being able to breathe. My nightmares make me relive the ambulance ride where everyone was standing over me and calling my name. I was not able to speak because I was in shock of what happened to me. I kept asking the ER people if I was dead. I remember screaming and coming in and out of a seizure. I had never had a seizure before. I thought I was dead. When I wake up I feel frightened and I feel in the moment that I can't breathe. When I woke up it felt like I had pins and needles all over my body and I could barely walk and talk. When I woke up in the ambulance I also remember making gargling sounds as I was going in and out of consciousness. I kept worrying about my kids. At the ER I had to have Allison, ER

personnel, sit with me until I realized where I was and what had happened to me. She kept reassuring me that I was alive and that I was going to be okay.

Emma, our 3 year old daughter at the time, was there at the time of the crime and I still fear that she has seen me get choked or had heard something. She still has nightmares and wakes up screaming and crying. Also he threatened my fiancé Dennis by calling and leaving threatening messages while Emma was in the background. This shows that he doesn't care about the effect on Emma.

Since the crime, I have been angry about what George did to me because he could have killed me. He even thought that he killed me. The Police Officer told me that on the 911 call, George said, "She's in bad shape. I think she's dying." I never want to go through something like this ever again. This was the scariest time of my life. I am so afraid of when George is released- that he is going to try to hurt me again. I shouldn't have to live in fear everyday, everywhere I go. Even now while George is in jail, I am always watching my back, because his family harasses me everywhere I go (grocery store, my home, driving down the road). Please consider my suggestion that George Arlen not be allowed back in Cheshire County because of the reasons I gave above.

Thank you for your consideration and time to consider my safety and concerns,

Sincerely,

Kelly Bailey
March 10th 2010

Good afternoon Chairwoman Reynolds and Members of the Senate Judiciary Committee, my name is Rebecca Murphy and I'm here today to speak in support of House Bill 1634.

Missy Charbonneau was a vibrant person and my cousin. She was a dedicated nurse to the elderly, a loving mother, and a spit-fire of a girl. You probably already know that she was killed by her husband in Oct of 2009. What you may not realize is that just 2 days before he shot her, he had been arrested for strangling her.

Because strangulation is a simple assault punishable as a misdemeanor, bail was set low, and he was out of jail quickly. He then shot and killed Missy less than 48 hours after being released. Had strangulation fallen under 2nd degree assault, making it punishable as a class B felony, the outcome may have been different.

I realize no one can say for sure whether the events from that day would have unfolded the way they did if strangulation had been a felony. However, I do know that the difference between bail for a misdemeanor and a class B felony is a substantial amount of money. And it would have taken longer for her husband to post bail.

Maybe her husband staying in jail a little longer would have helped diffuse the situation. Maybe the charge of a felony would have raised the correct red flags to get the right intervention to protect Missy. Maybe it wouldn't have made any difference at all.

We'll never know in Missy's situation. And now my family has to live with maybe, instead of living with Missy.

But the future victims of strangulation should have the opportunity to be protected by the system. Passing this bill can help to send the message that strangulation is a serious offense and it might even help to deter someone from committing the act. Perhaps it could even raise the red flags to protect the victims from further violence. I want to see strangulation taken seriously enough by our laws that it's considered a felony.

I urge you to consider passing this bill. If we can make this a serious enough crime, perhaps we can spare another person from the fate of my cousin, Missy, and spare their family from living with maybe.

Speakers

SENATE JUDICIARY COMMITTEE

Date: 3/30/10

Time: 2:15

Public Hearing on HB 1634-FN

HB 1634-FN – relative to assault by strangulation.

Please check box(es) that apply:

SPEAKING FAVOR	OPPOSED	NAME (Please print)	REPRESENTING
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/> Rebecca Murphy	Self
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/> Paul Corbeil	self
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/> Rita L. Huard	self
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/> Betty Corbeil	Self
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Monica Boisvert	Self
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/> _____	Self
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/> Meghan Morrison	Self
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/> Kenneth Antos	Self
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/> Susan J. Paris	Self
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/> Kathleen Santoru	Self
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/> Jessica Adams	Self
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/> John R. Cate	self
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/> Jamie Paris	self
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/> James Murphy	SELF
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/> Mike BRISSON	self
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/> Terri Nolan	self
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/> Sheri Davis	Self
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/> Full Bar	self
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/> Cristella Breucher	Self

Testimony

Submission A

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL

ORVILLE B. "BUD" FITCH II
DEPUTY ATTORNEY GENERAL



March 30, 2010

Senator Deborah Reynolds, Chair
Senate Judiciary Committee
State House, Room 302
Concord, NH 03301

Re: House Bill 1634-FN; An Act Relative To Assault By Strangulation.

Dear Senator Reynolds:

I am writing on behalf of Attorney General Michael Delaney in support of House Bill 1634. The bill would address an important gap in our laws.

Recently, strangulation has been identified as one of the most lethal forms of domestic violence. Many abusers use strangulation as a terrorizing act of power and control over their victims. Although it often leaves no marks or external evidence on the skin, strangulation can have substantial adverse physical, neurological, and psychological effects. Studies have shown that strangulation is a significant risk factor for an attempted or completed homicide of a woman by her intimate partner.

Despite the seriousness of such conduct, in most circumstances in New Hampshire strangulation can only be charged as simple assault, a misdemeanor level offense. Such a charge simply does not adequately reflect the gravity of the act. House Bill 1634 would change that by redefining strangulation as a second degree assault, a class B felony.

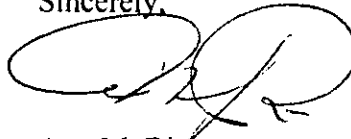
Under current law, proof of a second degree assault against an adult under RSA 631:2 requires proof that the person did one of three things: (1) knowingly or recklessly caused serious bodily injury to another; (2) reckless caused bodily injury to another by means of a deadly weapon; and (3) recklessly caused bodily injury to another under circumstances manifesting extreme indifference to the value of human life. Because strangulation rarely results in visible serious bodily injury, and often leaves no external marks at all, a charge of second degree assault is not viable. And, where the only physical manifestation of strangulation may be a red mark or minor bruise, it is often difficult to prove that the perpetrator acted with extreme indifference to the value of human life.

To rectify that, House Bill 1634 would eliminate the requirement of bodily injury or serious bodily injury in the case of strangulation. Instead, it would require that the State prove that (a) the perpetrator either applied pressure to the victim's throat or neck, or blocked the victim's nose or mouth, and (b) that the victim experienced impeded breathing or blood circulation, or a change in voice—three common symptoms of strangulation.

By passing this bill, the committee would provide law enforcement a far more effective tool to address this serious and potentially lethal conduct. I urge you to vote in support of the bill.

Thank you for your consideration of this important issue. Please do not hesitate to contact me if you have questions.

Sincerely,

A handwritten signature in black ink, appearing to be 'AR', written over a large, loopy scribble.

Ann M. Rice
Associate Attorney General
Criminal Justice Bureau
(603) 271-3671

Copy to: Senator Lasky
Senator Roberge
Senator Letourneau
Senator Houde

Submission B

March 30, 2010

Dear Members of the Senate Judiciary Committee:

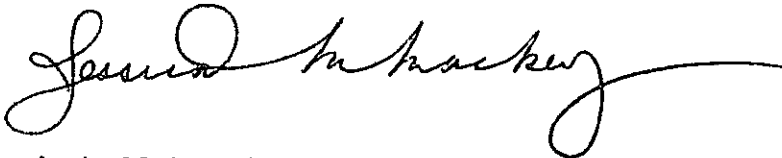
My name is Jessica Marie Mackey. I am 28 years old and currently reside in Hudson, NH. I work for BAE Systems in Nashua, NH and prior to my current position I served 8 years in the United States Army Reserve. I am writing this letter today in memory of Missy Charbonneau, in order to show my support for the HB 1634, Strangulation Bill.

When I was a little girl I witnessed more violence than anyone should ever have to experience in a lifetime. For the short period my father lived with us, he repetitively beat my mother, leaving marks all over her body for people to see. One violent act that lives on in my memory is the time my older brother and I were screaming for my father to let me mom live, as he had her up against the refrigerator with her neck constrained by both his hands. My brother ended up getting involved just so my father would stop. I was 4 and my brother at the time was only 8 years old. Our father ended up going to jail, but not for the constant beatings of my mother, but for another horrid sexual crime he imposed on my mother's sister. If he had been charged with a felony and arrested for the strangulation and death threats he imposed on my mother, the brutal rape of my aunt may never have taken place.

I have heard the term "vicious cycle" describe many things, but its most predominantly used to describe domestic violence. As I watched my mother go through two abusive relationships, I promised myself I would never be in the same situation. I would never allow a man to lay his hands on me and threaten to take my life. I guess the old saying "Never say never" also applies here. Over the past 10 years I have allowed an abusive alcoholic to rule my life. He struck me when I was carrying his first child, and it continued on until last year. The last time he was violent towards me I thought I was never going to see my children again, because I believed at that moment, he was going to kill me. He had me on the floor of our own home strangling me repeating over and over again, "I'm going to kill you now." If it wasn't for the police being called by the neighbors, he possibly would have. He was released the next morning, as if nothing ever occurred. He didn't go to court until a month or so after that. I still have nightmares play out in my head, that if he only had access to a gun after that, he may have played out exactly what he threatened me with that night.

I could continue on about my own personal experiences but I want to remind those who are reading this, that the real focus of this letter is the passing of the HB 1634, Strangulation Bill. I respectfully ask for your support of HB 1634, so that in the future beautiful women like my mother, my aunt and Melissa (Cantin) Charbonneau are not another part of the vicious cycle of domestic abuse.

Respectfully,



Jessica Marie Mackey
69A Windham Road
Hudson, NH 03051
(603) 888-1907

Voting Sheets

Senate Judiciary Committee

EXECUTIVE SESSION

Bill # HB 1634

Hearing date: 3/30/10

Executive session date: 3/30/10

Motion of: OTP

VOTE: 5-0

Made by Reynolds
Senator: Lasky
 Houde
 Letourneau
 Roberge

Seconded Reynolds
by Senator: Lasky
 Houde
 Letourneau
 Roberge

Reported Reynolds
by Senator: Lasky
 Houde
 Letourneau
 Roberge

Motion of: _____

VOTE: _____

Made by Reynolds
Senator: Lasky
 Houde
 Letourneau
 Roberge

Seconded Reynolds
by Senator: Lasky
 Houde
 Letourneau
 Roberge

Reported Reynolds
by Senator: Lasky
 Houde
 Letourneau
 Roberge

<u>Committee Member</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Reported out by</u>
Senator Reynolds, Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Senator Lasky, Vice-Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Houde	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Letourneau	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Roberge	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*Amendments: _____

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date: March 31, 2010

THE COMMITTEE ON Judiciary

to which was referred House Bill 1634-FN

AN ACT relative to assault by strangulation.

Having considered the same, the committee recommends that the Bill:

OUGHT TO PASS

BY A VOTE OF: 5-0

AMENDMENT # s

Senator Deborah R. Reynolds
For the Committee

L. Gail Brown 271-3076

New Hampshire General Court - Bill Status System

Docket of HB1634

Docket Abbreviations

Bill Title: relative to assault by strangulation.*Official Docket of HB1634:*

Date	Body	Description
12/10/2009	H	Introduced 1/6/2010 and Referred to Criminal Justice and Public Safety
01/12/2010	H	Public Hearing: 1/20/2010 11:00 AM LOB 204
01/26/2010	H	Executive Session: 2/2/2010 10:00 AM LOB 204 (Continued 2/2/2010 1:30 PM LOB 204 if Necessary)
02/04/2010	H	Committee Report: Ought to Pass for Feb 10 CC (vote 18-0); HC 13 , PG.524
02/10/2010	H	Removed from Consent Calendar (Rep Vaillancourt); HJ 16 , PG.748
02/10/2010	H	Special Ordered to Regular Place in Feb 17 Consent Calendar: MA Without Objection; HJ 16 , PG.783
02/17/2010	H	Ought to Pass: MA VV; HJ 18 , PG.936
03/17/2010	S	Introduced and Referred to Judiciary, SJ 10 , Pg.172
03/22/2010	S	Hearing: March 30, 2010, Room 103, State House, 2:15 p.m.; SC13
03/31/2010	S	Committee Report: Ought to Pass 4/7/10; SC14
04/07/2010	S	Without Objection, Chair moved to Special Order to the front of the Calendar; SJ 13 , Pg.275
04/07/2010	S	Ought to Pass, RC 24Y-0N , MA; OT3rdg; SJ 13 , Pg.275
04/07/2010	S	Passed by Third Reading Resolution; SJ 13 , Pg.283
04/14/2010	H	Enrolled Bill Amendment #1301 Adopted; HJ 32 , PG.1589
04/14/2010	S	Enrolled Bill Amendment #1301 Adopted, SJ 15 , Pg. 301
04/21/2010	S	Enrolled; SJ 15 , Pg.332
04/21/2010	H	Enrolled; HJ 35 , PG.1671
05/06/2010	H	Signed By the Governor 05/04/2010; Effective 01/01/2011; Chapter 0008

NH House

NH Senate

Contact Us

New Hampshire General Court Information Systems
 107 North Main Street - State House Room 31, Concord NH 03301

Other Referrals

COMMITTEE REPORT FILE INVENTORY

HB 1634 ORIGINAL REFERRAL

_____ RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE SECRETARY AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

DOCKET (Submit only the latest docket found in Bill Status)

COMMITTEE REPORT

CALENDAR NOTICE on which you have taken attendance

HEARING REPORT (written summary of hearing testimony)

HEARING TRANSCRIPT (verbatim transcript of hearing)

List attachments (testimony and submissions which are part of the transcript) by number [1 thru 4 or 1, 2, 3, 4] here: 11

SIGN-UP SHEET

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

~~___~~ - AMENDMENT # _____ - AMENDMENT # _____
___ - AMENDMENT # _____ - AMENDMENT # _____

ALL AVAILABLE VERSIONS OF THE BILL:

AS INTRODUCED _____ AS AMENDED BY THE HOUSE
 FINAL VERSION _____ AS AMENDED BY THE SENATE

PREPARED TESTIMONY AND OTHER SUBMISSIONS (Which are not part of the transcript)

List by letter [a thru g or a, b, c, d] here: A, B

EXECUTIVE SESSION REPORT

___ OTHER (Anything else deemed important but not listed above, such as amended fiscal notes):

IF YOU HAVE A RE-REFERRED BILL, YOU ARE GOING TO MAKE UP A DUPLICATE FILE FOLDER

DATE DELIVERED TO SENATE CLERK

9/29/10

D. Dale Brown
COMMITTEE SECRETARY