



# 12 Things Every Virginia Judge Should Know When Faced with **NON-FATAL STRANGULATION**

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**1 VIRGINIA CODE.** Under Virginia Code Section **18.2-51.6** any person who, without consent, impedes the blood circulation or respiration of another person by knowingly, intentionally, and unlawfully applying pressure to the neck of such person resulting in the wounding or bodily injury of such person is guilty of strangulation. Strangulation is a class six felony, punishable by a term of imprisonment of one to five years.

**2 CASE LAW.** In Dawson v. Commonwealth, **63 Va. App. 429** (2014), the Virginia Court of Appeals held that bodily injury should be given its everyday, ordinary meaning and means “**any bodily hurt whatsoever**”-internal or external. See also Ricks v. Commonwealth, **290 Va. 470** (2015). “Victim need not experience any observable wounds, cuts, or breaking of the skin.”

**3 BAIL.** Under Virginia Code Section **19.2-120B.14**, a Judge shall presume, subject to rebuttal, that no condition or combination of conditions will reasonably assure the appearance of the defendant or the safety of the public if the defendant is charged with strangulation - the presumption against bail only applies if the parties are family or household members.

**4 LACK OF VISIBLE INJURIES.** On average, only **50%** of strangulation victims have visible injuries, and only **15%** have injuries that can be photographed at the time police respond.<sup>1</sup> Research has shown that most victims of adult non-fatal strangulation are women.<sup>2</sup>

**5 IT CAN HAPPEN FAST.** A victim of strangulation can become unconscious in **5-10** seconds and die within minutes.<sup>3</sup> It takes very little pressure to block off vital structures in the neck. A study in France documented it only

takes **4** pounds of pressure to block the jugular vein, **11** pounds to block the carotid arteries, and **33** pounds to block the trachea.<sup>4</sup> Opening a can of soda only requires **20** pounds of pressure.<sup>5</sup>

**6 IMPACT TO THE BRAIN.** Strangulation is a form of asphyxia that usually deprives the victim’s brain of oxygen. Millions of brain cells die every second the brain is deprived of oxygen.<sup>6</sup> The consequences of this include, but are not limited to, loss of memory, inability to concentrate, behavior changes, brain damage, and difficulty speaking.<sup>7</sup> Judges should not expect the victim to describe this near-death experience calmly and chronologically.

**7 LANGUAGE.** Many court participants use the word “choke” rather than the correct legal and medical term “strangulation.” Strangulation is external compression of the neck that can impede blood flow (oxygen) to or from the brain or direct air compression. Judges should focus on the facts described-not the terminology.<sup>8</sup>

**8 LETHALITY.** In almost every lethality assessment, strangulation is a high-risk factor for lethality. The most dangerous domestic violence offenders strangle their victims.<sup>9</sup> The next step may be homicide; the violence will not decrease.<sup>10</sup>

**9 HIDDEN DANGER.** Strangulation may cause internal injuries: immediate, delayed and/or long-term consequences. Of most concern, is injury to the carotid artery, including a carotid dissection leading to stroke or death days or weeks after the assault.<sup>11</sup>

**10 FUTURE DANGER.** A woman who has suffered a non-fatal strangulation by her intimate partner is **750%** more likely to be killed by that partner.<sup>12</sup>

**11 MEDICAL ATTENTION:** Victims often do not seek medical attention for their injuries and may be unaware of any internal injuries. In the event the victim is exhibiting any signs or symptoms of injuries consistent with strangulation, you may want to encourage the victim to seek medical attention.

**12 QUESTIONS TO CONSIDER ASKING IN COURT.** The victims of strangulation often minimize what occurred. You might want to ask additional questions, including, but not limited to:

- Did the attack happen from front or back?
- Did the attacker use a ligature?
- If the attack was manual, did the attacker use one hand or two?
- How long did it last? (When asking this question, a judge must understand that trauma may affect a victim's ability to recall the length and sequence of events.)
- Did you have marks or bruises on your neck at the time of assault or after?
- Did you have trouble breathing or swallowing?
- Did you have a sore throat?
- Did your voice change? Did you have trouble speaking?
- How did you feel when pressure was being applied?
- Is it possible you may have lost consciousness? Any vision changes? Did you see stars? (The victim may not know.)
- What did the attacker say before, during, and after the attack?
- Did you have small red spots (petechia) anywhere-eyeballs, eyelids, inside throat, scalp, behind ears?
- On a scale of 1-10, how much pressure did the attacker use?
- On a scale of 1-10, how much did it hurt?
- Why and how did it stop?
- Where did the attack occur?
- Did you change clothes after the attack? (Victim may have urinated or defecated.)
- And, what did you think was going to happen? Did you think you would die?

## REFERENCES

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