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THE IMPACT OF MINNESOTA'S FELONY STRANGULATION LAW

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"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."*

> ***"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

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.

> ***"Anytime we are able to file a felony charge and convict on one we are enhancing victim safety."***
>
> Hennepin County Attorney

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), 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 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."*

> ***"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

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

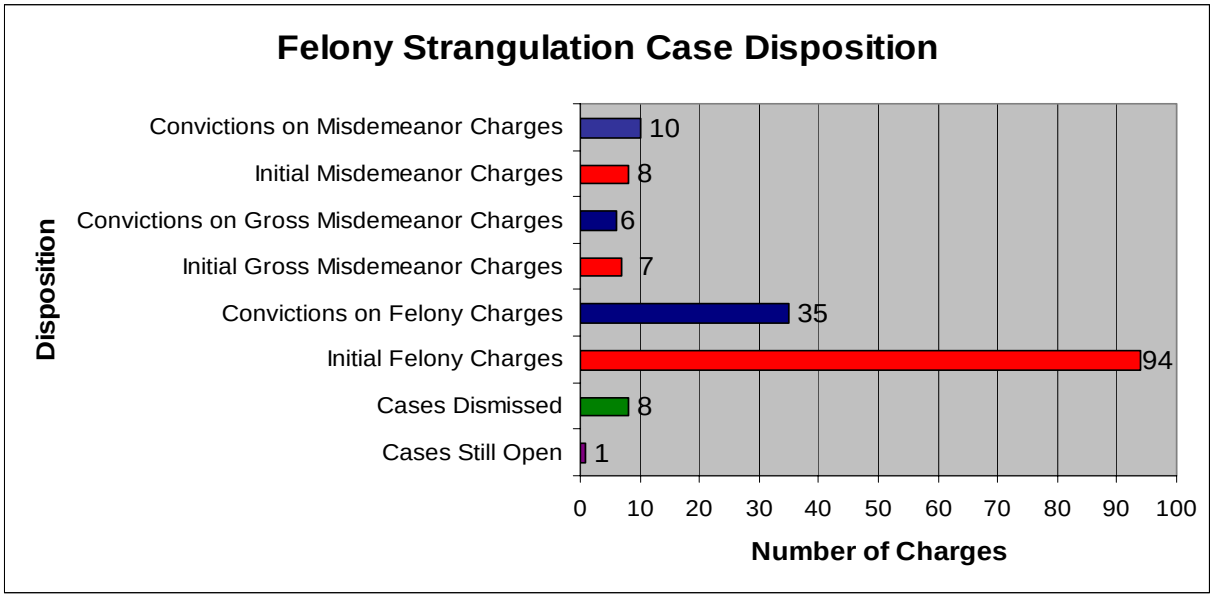
[8] The data only includes felony domestic strangulation charges. Further, only one count per case of domestic strangulation, is included in this data.

[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 through 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 theses 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 Sentences[17] (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 statue. 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 degree[18] 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."*

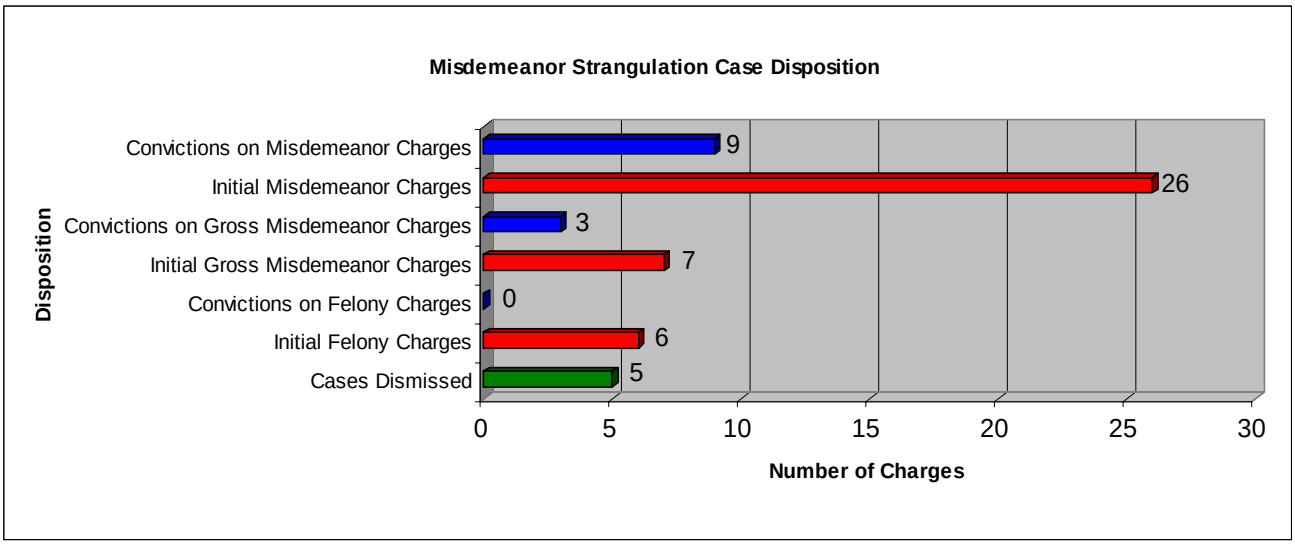
Other interviewees felt the guidelines were appropriate. One Hennepin County Attorney said, *"as a level four felony, [the statute] is probably the appropriate place to have it on the guidelines. Egregious assaults have the possibility for departure."* A judge agreed, *"I don't think penalties should 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 through examination of these cases including a demographic breakdown, a review of significant case elements and complete list of initial and final charges is locate 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 Moony

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 Williams[23]
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.

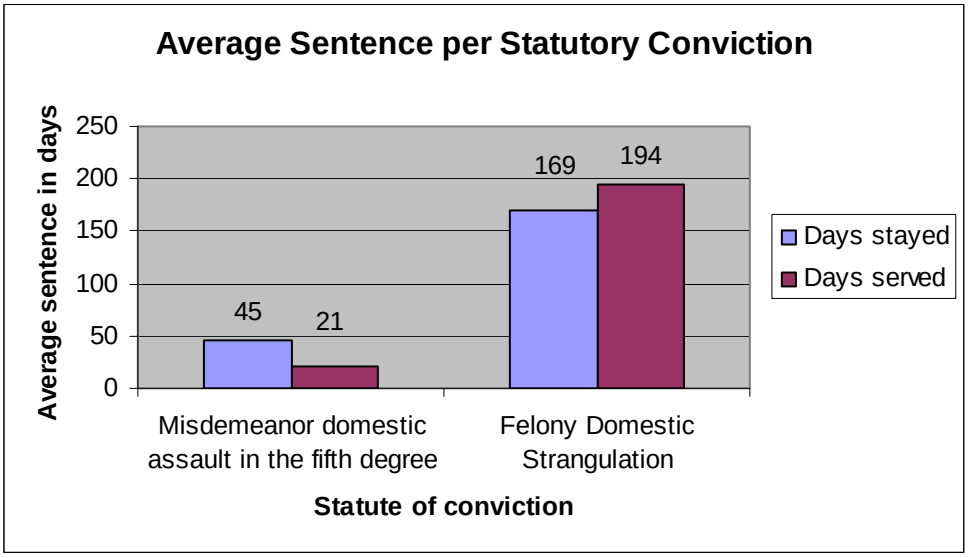
Twelve percent of the misdemeanor cases indicated that photographs of the victims' injuries were taken at the scene. The majority (88 percent) did not mention whether or not photographs of victims' injuries were taken. WATCH is concerned about the lack of photo documentation of injuries in all cases 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 though 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 the 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 they 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 statuary 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
Watonwan	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 Sex[25]
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

Complete List of Initial Charges in Felony Cases	Complete List of Final Charges (Convictions) in Felony Cases
Felony 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 Gross Misdemeanor 1 malicious punishment of a child 4 interference with a 911 call 1 prohibited person in possession of a firearm 1 child endangerment Misdemeanor 5 fifth degree assault 1 disorderly conduct 1 violation of an order for protection 1 violation of a no contact order	Felony 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 Gross Misdemeanor 1 malicious punishment of a child 3 fifth degree domestic assault 1 third degree damage to property 1 terroristic threats Misdemeanor 7 fifth degree domestic assault 4 disorderly conduct

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 a 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 Strangulation[27]
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
Felony 5 third degree assault 1 domestic strangulation Gross Misdemeanor 3 fifth degree domestic assault 1 violation of an order for protection 1 third degree assault 3 interference with a 911 call Misdemeanor 19 fifth degree domestic assault 7 disorderly conduct	Gross Misdemeanor 2 fifth degree domestic assault 1 violation of an order for protection Misdemeanor 6 fifth degree domestic assault 4 disorderly conduct