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NATIONAL VICTORIA CRIME

## Strangulation - a red flag for murder - so does Victoria need new law?

By Tammy Mills

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Victorian police say they need new powers to charge family violence and sexual offenders who strangle their victims.



The risk of women being murdered dramatically increases - [one study](#) found the odds leapt by 800 per cent - if their partner or former partner attempts to strangle them.

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### Talking points

- Strangulation/suffocation in 9% of family violence homicides in Australia.
- The risk of death increases by 800% if previously strangled by a partner.
- Victoria doesn't have a standalone charge of strangulation and police want it.
- QLD has strangulation laws, as do more than 30 states in America.
- Strangulation is often not identified. No visible injuries in 50% of cases.

This week, an inquest into the 2011 death of Mornington Peninsula woman Joy Rowley revealed the 60-year-old was choked unconscious eight months before she was strangled to death.



Joy Rowley was murdered in 2011.

Photo: Supplied

The head of Victoria Police's response to family violence told the Coroners Court that attempted strangulation was a significant contributing factor to Ms Rowley's risk and vulnerability and it should be a stand-alone offence.

He said a discussion paper has been completed and it would go to government for consideration.



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"If there was a specific charge of strangulation, it would automatically flag the seriousness of offence," Assistant Commissioner Dean McWhirter said.

"This is an opportunity for us as a community to start to recognise the seriousness of this type of criminality in the context of family violence and sexual offending."

Several states, including NSW and the ACT, have laws for strangulation, however the elements to prove the crime are difficult to overcome and the legislation is under-utilised, experts say.

More effective, University of Queensland Professor Heather Douglas said, were laws introduced in QLD in 2016 where the burden of proof is less.

"We have had numerous prosecutions, but it has also significantly advanced knowledge about the dangers associated with it and is now a key consideration in bail decisions," Professor Douglas said.

[Almost 900 charges were laid in its first 13 months](#), 163 of which went to the higher district court. As of July last year, 41 defendants were convicted on 49 strangulation charges. The maximum penalty is seven years' jail.

But Women's Legal Service Victoria said the QLD law has not been evaluated so they don't know if women were safer and it would not remedy gaps in police practice that fail to protect women.

"The Crimes Act contains provisions for strangulation to be criminalised. Unfortunately, we regularly see cases where police have not followed existing good practices and policy," policy lawyer Marianne Jago said.

Such was the case in the lead-up to Ms Rowley's murder, in which police this week accepted they breached policy seven times.

Professor Douglas said two relevant offences in Victorian law that could be applied to strangulation - reckless conduct endangering life or serious injury - have low penalties and were mostly used in driving cases.

More than 30 states in America have introduced the offence. [A 2009 review](#) in Minnesota said violent abusers were being charged with a crime that accurately conveyed the core element of the assault and seriousness, rather than "avoiding prosecution or initially being charged with a lesser crime".

[Researchers say strangulation is often misunderstood or mis-identified](#). People expect to see bloodshot eyes and bruises around the neck, but about half the time it doesn't leave a visible injury; it can be as subtle as tiny red spots on the face and neck, or under the eyelids and around the eyes.

Strangulation frequently affects the long-term health of the victim, Professor Douglas said, with neurological and psychiatric symptoms including memory loss, vision change, post-traumatic stress disorder and brain damage.

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