

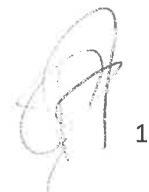
**FORMAL STATEMENT**

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**FORMAL STATEMENT****STATEMENT OF QUALIFICATIONS****Christine Margaret Foley states:**

That is my full name.

1. I am a Registered Medical Practitioner. I have been practising as a Registered Medical Practitioner since 1981.
2. My qualifications include:
  - Bachelor of Medicine and Surgery MBChB, from University of Otago 1980.
  - Diploma in Obstetrics, from the University of Auckland 1982.
  - Part I qualification in the Family Medicine Training Programme of the New Zealand College of General Practitioners 1986.
  - I am vocationally registered in Family Planning and Reproductive Health since 2010.
  - I hold Fellowship of the New Zealand College of Sexual and Reproductive Health (NZCSRH)
3. My current employment is as a Senior Medical Officer at the Pohutukawa Adult Sexual Assault Clinic.
4. The Pohutukawa Clinic, Greenlane Clinical Centre, Auckland, provides medical and forensic services for patients who may have experienced a sexual or physical assault, including alleged, or possible, non-fatal strangulation or suffocation (NFSS).
5. My past employment has included working as a General Practitioner from 1986 until 1994. I was also on the Auckland Roster for examination of children and younger adolescents who require assessments for possible sexual assault from 1987 to 1994. I have been on the Auckland Roster for examination of older adolescents and adults since 1987.
6. I have been working in the area of sexual assault medicine since 1987.
7. MEDSAC (Medical Sexual Assault Clinicians Aotearoa) is the national organisation which provides the training and accreditation for sexual assault and NFSS (Non-fatal Strangulation and suffocation) forensic examiners in New Zealand.

  
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8. I hold MEDSAC Accreditation as a Sexual Assault Forensic Examiner for adults and adolescents.
9. I completed the MEDSAC training course on the assessment of NFSS in 2021.
10. I hold MEDSAC accreditation as a forensic examiner for NFSS for adults and adolescents. Attaining accreditation involves review of case notes, medical reports, references and details of on-going relevant further education by a committee. This requires regular renewal.
11. I attend regular peer review sessions and seminars in this area of work.
12. I do regular teaching in this area of health care, including teaching on the forensic examination in alleged Sexual Assault.
13. I have been asked to provide opinion evidence by both prosecution and defence in the past.
14. I have read and understood the High Court Rules 2016, 'Code of Conduct for Expert Witnesses- schedule 4'.

**BACKGROUND**

15. I have been requested by Constable Fallen, of the Mount Wellington Police to provide a report and opinion on this case.
16. On the 20<sup>th</sup> November 2024 at approximately 1000 hours, I assessed a woman, who had reported an alleged physical assault, which included having pressure applied to her neck.
17. The woman identified herself as Ms Melissa BIRD, aged 52 years (DOB-15/10/1972). She stated she was of Maori ethnicity.
18. The alleged assault had occurred at approximately 0600 hours on Thursday the 7<sup>th</sup> November 2024. I therefore commenced the examination approximately 13 days after the alleged event.
19. The assessment was performed at the Pohutukawa Clinic, Greenlane Clinical Centre.
20. The examination was performed with the assistance of CNS (Clinical Nurse Specialist) Vanessa Cramond.

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21. Consent for the examination and preparation and release of a report was obtained from the complainant, in the presence of CNS Cramond.
22. After the initial history was taken I also spoke with the complainant's daughter, Rylee who was able to provide further information with respect to her mother's reported ongoing symptoms and her observations of her mother's ongoing functioning since the alleged event.

**OTHER SOURCES OF INFORMATION**

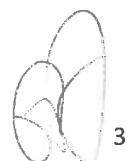
23. I have been provided with the following photographs.
  - 3 photos taken by Police on the 7<sup>th</sup> November 2025
  - 3 photos taken by the complainant's daughter on the 7<sup>th</sup> November 2025
  - 3 photos taken by the complainant's daughter on the 7-10<sup>th</sup> November 2025
  - 2 photos taken by the complainant's daughter on the 17-18<sup>th</sup> November 2025
  - No exact times for the photos was provided.

I also took 10 photos on the day of this assessment.

I have had access to the Ambulance Care Summary Report of the 7<sup>th</sup> November 2024

**HISTORY**

24. Based on the history provided by the complainant, the alleged events, as I understood them included:
  - The alleged event having taken place in a motel, where the complainant had been staying with her then male partner.
  - The complainant waking to the defendant holding her hand behind her back. She was at that time lying on her stomach.
  - Having his hands placed around her neck from behind.
  - Feeling her neck being squeezed by both of the hands
  - Being pushed and pulled to the floor
  - While lying on the floor on her right side, having the defendants knee held against her left neck.
  - While still in this position being repeatedly hit by fists over her left side and back, left side of face and head and left arm.



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- Being kicked on her legs.
- Having 3 necklaces which were around her neck “ripped off” before the alleged assault was over.
- In general, the complainant’s recall for details of this alleged event was patchy, and she was uncertain as to whether she had lost consciousness.

**25. At the time of the alleged pressure around her neck by hands, and then on the side of her neck by a knee, the complainant described:**

- The patchy recall made it difficult for the complainant to differentiate exact symptoms between the 2 separate alleged episodes of neck pressure
- Having difficulty breathing and feeling short of breath
- Feeling pain in her neck
- Her voice being “raspy”
- Feeling dizzy and light headed such as she felt she could “pass out”
- A suspicion that she may well have lost consciousness, but unable to remember
- Feeling a popping sensation in her left ear
- Feeling confused and drowsy
- She was able to report that the second episode where a knee was used to apply pressure seemed to go on for longer and that she experienced visual disturbance- “seeing stars”
- Feeling pain in the parts of her body that were subjected to being hit

**26. Following the alleged assaults, the complainant described**

- Feeling “gasping” with her breathing for a short period of time
- Continuing neck pain which was settling by the time of the assessment
- Painful swallowing which lasted approximately 2 to 3 days
- A raspy voice continuing for approximately 3 to 4 days
- Intermittent feeling of light headedness which was still present
- A feeling that the hearing in her left ear was impaired, which was still present
- A feeling of difficulty coordinating her movements which lasted for approximately a week



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- Ongoing confusion, memory gaps, feeling fuzzy in the head, feeling like she has "concussion". This was still present. This included
  - Difficulty remembering recent events-for example what she had done the day before
  - Difficulty concentrating
  - Intolerance of "too much going on", and inability to concentrate on complex conversations
  - Tiring easily
  - Inability to remember phone numbers which she would ordinarily have no difficulty with
  - Difficulty assessing a sense of time

**27. Ambulance Officers had attended the hotel and assessed the complainant at 0754**

According to the Ambulance Officer records, this assessment noted

- *Mild contusions to LHS (Left Hand Side) occiput.*
- *Bleeding from LHS ear, now stemmed.*
- *Contusion to LHS side neck, mild contusions LHS lower ribs under armpit*

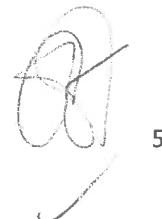
The complainant was advised to attend an Accident and Emergency Clinic for further assessment that day.

This did not eventuate.

**28. The complainant's daughter provided some additional history in the presence of the complainant. This included**

- Confirming her mother's apparent difficulty with memory for recent events
- Ongoing confusion and in general described the complainant as acting in a similar way to after she has had a grand mal epileptic seizure.
- The daughter reported that this post seizure state usually only lasted a few hours and not several days, as she was describing with respect to the recent events

The complainant confirmed that she was on treatment for epilepsy and had not had a seizure that she was aware of for at least the last 18 months.



A handwritten signature consisting of stylized initials and a surname, followed by the number '5' at the bottom right.

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**EXAMINATION**

29. I carried out an examination of the complainant's head, neck and upper and lower body.
30. I took clinical notes as is my standard practice.
31. I took clinical photographs.

**GENERAL EXAMINATION**

32. The complainant was alert and orientated. She was able to consent to the assessment. Pulse rate, temperature and blood pressure were within normal limits.

**33. Head and Neck**

- The entire left side of the forehead, external ear, face, cheek bones and jaw were reported to be tender to touch. There was no associated swelling.
- Over the outer left cheek bone area there was slight bruising visible.
- The occipital (back part of the scalp) area of the left head was tender to touch. There was no associated swelling.
- The left side of the neck was tender to touch with no associated swelling.
- The external left ear (pinna), noted to have blood present after the alleged event, was normal to examination.
- Both ear canals and ear drums (tympanic membranes) were inspected via an instrument called an otoscope. There was a small amount of dried blood noted in the left ear canal. There were no other acute findings.
- Examination of the eyes and mouth was normal.

**34. Chest and torso**

- Over the left front upper chest -just below the clavicle-there was an area of tenderness. There was no bruising visible.
- Over the lower front and side of the chest at the level of the lower rib cage there was also reported tenderness with no bruising visible.
- Over the left loin -mid area of the back there was also reported tenderness with no bruising visible.

The remainder of the examination was normal with respect to any acute findings.

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**PHOTOGRAPHS**

35. All provided photos were generally of poor quality with shadowing, poor lighting and definition, and absence of any measuring scale.

With respect to

36. Three photos which I understood were taken by the Police on the 7<sup>th</sup>

November 2025, shortly after the alleged events:

They show the complainant, who is wearing a grey top with an orange tee shirt below:

- Two of these photos are of the left side of the head, including the left external ear
  - These demonstrate an area of bruising plus possible abrasion over the outer left cheek and streaks of dried blood over the lower left ear. It is not possible to discern where this dried blood has arisen from.

- One other photo shows an area of redness on the mid left forehead

37. Three photos taken by the complainant's daughter on the 7<sup>th</sup> November 2025

- These 3 photos are all of the upper inner lip of the mouth and show areas of what appear to be 2 patches of mucosal abruption to the surface on the right and left upper inner lip.

38. Three photos taken by the complainant's daughter on the 7-10<sup>th</sup> November 2025

- 2 photos show an area of bruising and possible swelling just above the angle of the left jaw. It is also noted in these 2 photos that the lower earlobe is visible and shows no sign of injury
- 1 photo shows an area of bruising over the upper left chest a few centimetres below the mid clavicle (Collar bone) area.

39. Two photos taken by the complainant's daughter on the 17-18<sup>th</sup> November 2025

- 1 photo shows the same area of bruising over the upper left chest
- 1 photo is of the back of the left neck and shows a patchy area of redness midway down the neck. It is not possible to further assess with respect to any disruption to the surface of the skin.

40. I also took 10 photos on the day of this assessment.

- On review of all of these photos it is apparent that they do not demonstrate any acute findings.



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**SUMMARY OF FINDINGS**

41. This 52-year-old woman experienced an alleged physical assault on the 7<sup>th</sup> November, which included 2 episodes of pressure being applied to her neck and sustaining several blows to her head, face, body, arms and legs.
42. Photographs taken within 24 hours of the alleged event showed  
Bruising to the left face (eyebrow, cheek and jawline) and upper left chest  
Mucosal disruption to the inner upper lip  
Dried blood on the outside of the left ear.
43. Photographs taken approximately ten days after the alleged event showed an area of redness on the left neck and a bruise on the upper left chest.
44. The complainant had a specialist medical assessment on 20 November 2024, approximately thirteen days after the alleged event. During this assessment, she reported:
45. Having had difficulty breathing, neck pain and some neurological symptoms at the time of the alleged neck pressure
46. Short term changes to her swallowing and talking in the days following the alleged events, together with ongoing symptoms in keeping with concussion.
47. Findings on examination of the body included  
Areas of tenderness over the left head, neck, chest and back.  
Faint bruising over the left outer cheek bone.  
It was also clear that the complainant was continuing to struggle with her memory, and ability to function with every day cognitive tasks.

**DISCUSSION****48. General Body Examination**

Injuries (or wounds) are damage to the body due to a mechanical force.

It is usually not possible to comment on the exact nature of the force or circumstances of the injury.

Not all contact to the body will result in visible injuries. If injuries do occur, they may be visible immediately or may not be visible until several hours or days later.



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**49. In regards to the discrete area of redness apparent on the left side of the neck on photos taken approximately 10 days later.**

Redness can result from a variety of causes.

It can indicate increased blood flow, e.g. due to pressure, inflammation, infection or normal physiological processes.

Redness can also be caused by damage to blood vessels and represent bruising, e.g. through application of a blunt force.

The areas of redness may represent the site of contact with the skin. Other causes are also possible.

**50. In regard to the areas of tenderness as outlined**

Tenderness is the perception of discomfort or pain when an area of the body is touched.

Tenderness can result from a variety of causes including discomfort as a result of inflammation, infection, injury and/or underlying processes affecting muscles or other tissues.

The experience of tenderness is subjective. This means that tenderness is something that is reported by the person. It can be affected by a variety of factors.

The complainant had areas of tenderness on the left side of the face and neck, left chest and flank and the back of her head, when examined thirteen days after the alleged event.

Some of these areas were the sites of previous bruising seen in photographs (left side of the face, upper left chest).

The areas of tenderness may represent the sites of soft tissue injury. Other causes are also possible.

**51. In regards to the faint bruising on the left outer cheek bone**

A bruise is an area of discolouration of the skin caused by blood leaking into the skin or tissue as a result of damage to blood vessels.

In the absence of causes of spontaneous bleeding, a bruise is generally caused by contact with a blunt object or surface.

The appearance (e.g. colour and size) of a bruise depends on many factors including those relating to

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- The injury: degree of force, wounding object and time since injury
- The tissue: depth of the bruise, location on the body, laxity of the tissue and thickness of the skin
- The individual: age of the person, general health and medical conditions, skin colour, medication
- Effect of gravity

Most bruises do not have a specific pattern or identifying features which indicate the exact nature of the object(s) or circumstances which caused the bruising.

It is not possible to determine the exact age of a bruise except to say that those with yellow discolouration are likely to be at least 18 hours old. However, the absence of yellow does not imply that the bruise is younger than this.

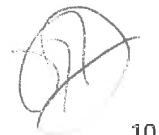
Photographs show bruising to the left side of the face including the cheek, above the left eye, jawline and upper chest. A faint bruise was present on the left cheek thirteen days after the alleged event. These bruises indicate the sites of contact with a blunt object or surface. It is not possible to comment further on the circumstances or timing regarding of the bruises.

**52. In regard to the upper lip findings on supplied photos**

Images taken on the day of the alleged events show areas of mucosal disruption on the upper inner upper lip. These indicate the sites of recent injury to this area, possibly as a result of teeth impacting the inner lip secondary to external pressure. It is not possible to comment further on the exact cause or circumstances of these findings.

**53. In regard to the presence of dried blood over the left ear, as seen on photos taken on the day of the alleged event**

Neither the provided photos or my subsequent examination is able to assist as to the source of this acute bleeding. It is noted that the internal ear exam including adequate view of the ear drum did not show any abnormality, other than presence of some dried blood in the ear canal.



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**54. In regard to the allegation of pressure applied to the neck**

It is alleged that the defendant applied pressure to the complainant's neck with his hands on the first occasion and his knee on the second occasion.

The defendant also allegedly struck the complainant over various parts of her body including her head.

**55. In order to evaluate the alleged pressure to the neck, it is useful to consider the**

**anatomy of the neck.** The neck is a narrow part of the body containing several vital structures. On each side of the neck there are relatively superficial main blood vessels. Arteries carry oxygenated blood from the heart to the head and brain. Veins return blood from the head and brain to the heart. In the front of the neck, the windpipe (or trachea) can be felt as a flexible tube-like structure, running from the throat to the chest (see diagrams in the appendix).

56. The neck is a relatively protected part of the body and does not easily sustain injuries severe enough to affect breathing, talking and swallowing during day-to-day activities.

57. **Strangulation** occurs when external pressure is applied to a person's neck and/or throat either with hands or an arm or using an aid (e.g. a rope, scarf or another object) compressing blood vessels and/or air passages. This can impair breathing and/or blood circulation resulting in a lack of oxygen to the brain, which is the most oxygen sensitive organ in the body.

58. The use of strangulation, or "choking", as a method of intimidation and control during assaults is well recognised (Wilbur 2001). Studies have shown that prior non-fatal strangulation by an intimate partner significantly increases the likelihood of future completed homicide (Glass 2008).

59. Injury or death may be related to one or more of the following **mechanisms** (Hawley 2001):

- Obstruction of venous blood flow returning from the brain (resulting in increased venous pressure above the obstruction)
- Obstruction of oxygenated arterial blood flow to the brain
- Obstruction of the windpipe (trachea) cutting off air flow to the lungs
- Pressure on a cluster of nerve cells in the neck which may occasionally result in an abnormal heart rate or rhythm

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- Pressure on the skin resulting in visible injuries such as redness, bruises and abrasions
- Pressure on the structures in the neck resulting in changes to the voice or swallowing

60. Studies have shown how little pressure is required to impact on the blood and air flow in the structures of the neck (Hawley 2001). Exact figures are difficult to obtain and will depend on several variables. The structures in the neck differ in the amount of pressure required to impact on their function. The veins require the least amount of pressure, the arteries more and the trachea, due to being a more solid structure, the most amount of pressure. It should be noted that the pressure required to impact the trachea is still significantly less than that of an adult's firm handshake.

61. The effects of pressure applied to the neck depends on several factors:

- The amount of force
- The surface area over which the force is applied
- The duration of the applied pressure and whether it was continuous or intermittent
- The anatomic location of the applied pressure, e.g. mainly over the front of the neck compressing the windpipe (trachea) or to the side(s) of the neck (compressing the blood vessels)

62. Following pressure to the neck there are several **possible outcomes**:

- Apparent immediate and complete restoration of normal function.
- Minor tissue damage which heals quickly.
- Significant damage to anatomical structures in the neck.
- Irreversible brain damage or death after longer periods of sustained pressure to the neck.
- Rarely, delayed complications that can cause death up to several years later.
- Long-term effects which may be directly attributable to pressure application to the neck resulting in brain injury due to impaired oxygenation of the brain, e.g. cognitive deficits including impairment of memory and executive function.

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- Long-term effects which may be attributable to a significant traumatic event including pressure application to the neck, e.g. mental health consequences like post-traumatic stress disorder (PTSD).

63. Research of survived strangulation is limited. Most of the medical literature on strangulation is based on deceased individuals. It has been estimated that visible injuries are sustained in only 50% of cases (Strack 2001). It is not possible to accurately correlate the findings or injuries seen with the severity of strangulation.

64. Importantly, there may be minimal or no visible external skin injuries or findings in life threatening or severe strangulation. In fatal cases it is recognised that there may not be any external evidence of injury (Hawley 2001, Zilkens 2016). A normal examination of the face and neck may also mean that no strangulation occurred.

65. **Symptoms and signs** experienced during or following strangulation may be absent or may include (Strack 2001, Hawley 2001):

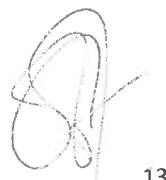
- Indicators of breathing impairment, e.g. breathing difficulties, shortness of breath.
- Indicators of impaired brain functioning, e.g. loss of consciousness ('black out'), loss of control of bladder or bowels, mental status changes such as confusion and memory loss.
- Indicators of injury to the internal neck structures, e.g. voice changes, swallowing difficulties, coughing.
- Indicators of increased venous pressure, e.g. petechiae (pin-point bleeding), subconjunctival haemorrhages (bleeding underneath the surface of the eye), facial swelling.
- Visible skin findings indicating application of force to the neck, e.g. redness, bruises, abrasions, ligature marks.

66. If symptoms or signs do occur following strangulation, they may not be present straight away but develop over time. Most of them usually resolve within hours to days.

67. With respect to this case, based on the history and examination and photography findings, the following will be discussed

Indicators of and potential consequences of:

- pressure being applied to the trachea (windpipe).

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- pressure being applied to the neck vessels
- physical blows to the face and head

**68. Indicators of impaired breathing**

The complainant described difficulty breathing and shortness of breath during the alleged neck pressure, followed by gasping.

These symptoms which can occur with even light pressure to the trachea (windpipe) at the front of the neck.

**69. Indicators of injury to the internal neck structures:**

The complainant reported pain with swallowing and a painful neck which lasted sometime after the event

Swallowing difficulties (and/or pain on swallowing) can result from a variety of causes. They can occur following pressure to the neck as a result of swelling or injury of the oesophagus (swallowing tube) or larynx (voice box), or surrounding tissues. Other causes, such as a viral URTI (cold), are also possible.

The complainant described that her voice was "raspy" which lasted for a few days.

Temporary voice changes can result from a variety of causes. They can occur following pressure to the neck as a result of compression of the nerves to the vocal cords or injury to the voice box (larynx). Other causes are also possible. These include infection, allergies, irritants, medical conditions and activities such as shouting/screaming/singing.

**70. Mental status changes such as confusion and memory loss or uncertainty regarding loss of consciousness**

Whilst some people who have had pressure to their neck can provide a clear account of their assault, many are unable to do so. There are a variety of possible reasons for this. They may have experienced a loss of consciousness as a result of impaired brain functioning which they are unaware of. They may not have experienced a loss of consciousness but have an impaired memory as a result of oxygen deprivation to the part of the brain responsible for forming memories (the hippocampus). They may have been distracted by other injuries or may be in a

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fight/flight response. Other causes of memory loss, confusion and light headedness not related to pressure on the neck are also possible, e.g. medical conditions, head injury, and drug or alcohol use.

It is also noted that the complainant was hit over the head, which on its own can also cause a concussion injury.

**71. Indicators of potential brain injury ("concussion")**

At the time of the medical assessment, the complainant described a variety of other cognitive and physical symptoms including dizziness, light-headedness, forgetfulness, confusion, difficulty concentrating, loss of balance, and memory gaps. These symptoms may indicate impaired brain functioning which can occur following pressure to the neck resulting in oxygen deprivation of the brain, or because of damage to the brain cells secondary to head injury. This symptom cluster is typically seen in mild traumatic brain injury (concussion).

Other causes such as medical conditions, and drug or alcohol use can also cause, or contribute to impaired brain functioning.

The complainant was subsequently referred to the concussion clinic for assessment and treatment.

**CONCLUSION****72. In regard to the alleged physical assault:**

The complainant described being pulled to the floor and multiple blows to her head and the left side of her body including her face, chest and trunk. Photographs showed injuries to the left side of her face, upper lip, upper chest and possibly the back of her neck. These injuries indicate the sites of contact by a blunt object or objects. It is not possible to determine the objects involved or the exact timing in which these injuries occurred.

**73. In regard to the two episodes of pressure to the neck:**

74. The complainant described two episodes of neck pressure, initially with two hands around her neck and then with a knee. She described feeling short of breath and neck pain at the time, followed by swallowing and voice changes. She was uncertain if she

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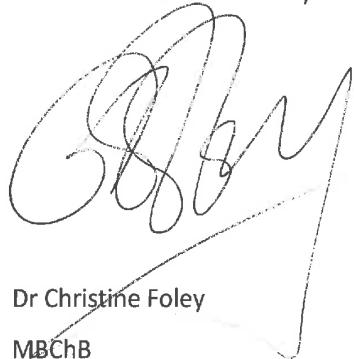
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lost consciousness and had patchy memory for the events. Subsequent physical and cognitive symptoms indicated the presence of a likely brain injury.

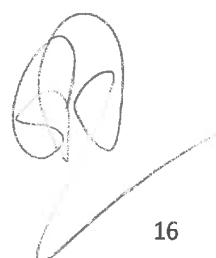
75. It is my opinion that each of the individual symptoms described by the complainant during her assessment has several possible causes. However, when considered as a group, these symptoms, and the area of neck redness seen in a photograph, can occur because of strangulation and/or suffocation, as a result of direct compression of neck structures and/or due to decreased brain oxygenation. Other causes are also possible.
76. Non-fatal strangulation may occur without causing visible or detectable injury. The likelihood of injury depends on multiple factors. In general, the findings of a medical examination are often not able to confirm whether or not non-fatal strangulation occurred.
77. Strangulation is a potentially fatal event.

I confirm the truth and accuracy of this statement. I make this statement with the knowledge that it is to be used in court proceedings. I am aware that it is an offence to make a statement that is known by me to be false or intended by me to mislead.



Dr Christine Foley  
MBChB  
Dip OBS

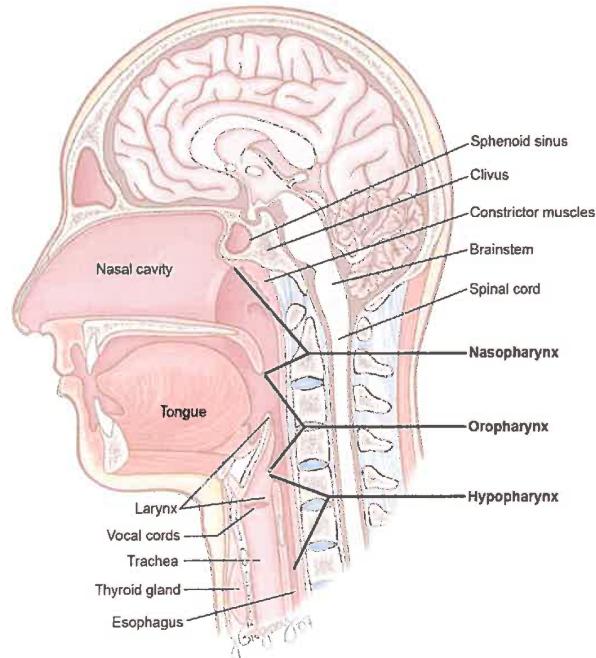
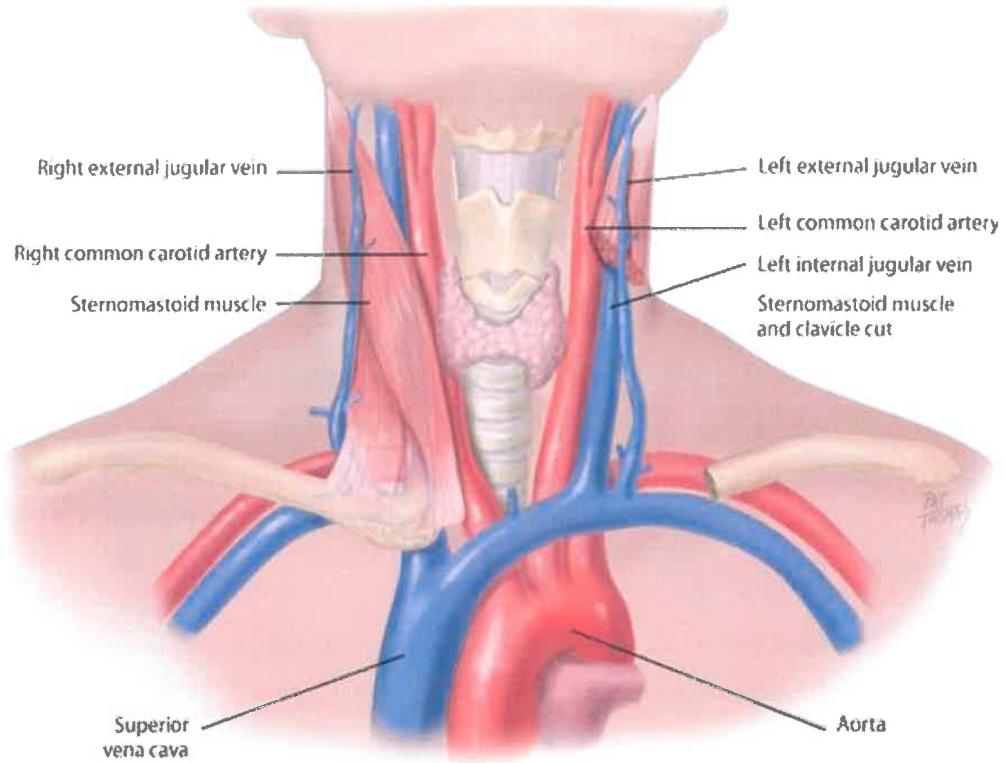
Date: 6th May 2025



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**Appendix One - Front view of the neck****Side view of the neck**

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**REFERENCES**

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Hawley DA, McClane GE, Strack GB. A Review of 300 attempted strangulation cases Part III: Injuries in fatal cases. *J Emerg Med* 2001; 21(3):317-322

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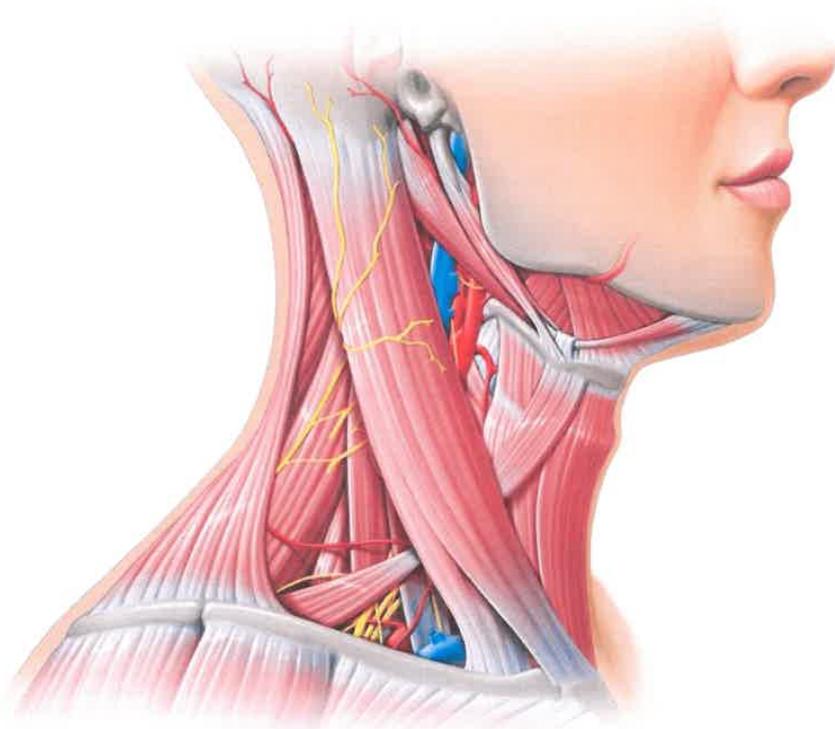
Zilkens RR, Phillips MA, Kelly MC et al. Non-fatal strangulation in sexual assault: A study of clinical and assault characteristics highlighting the role of intimate partner violence. *J Forensic Leg Med* 2016;43:1-7

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For: KAZ\_R FRAIDER  
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