

The Clarke Decision: Study Overview

2020 Biennial Report on Victimization
& Victim Services in Idaho

Boise State University
Lisa Growette Bostaph, Laura King, Lane Gillespie, & Rachel Jeffries

16 Total Policing Agency Interviews

6 Total Independent Victim Service Agency Interviews

Immediate Reaction to the Clarke Decision

82%

of agencies expressed immediate concern for victim safety.

77%

of agencies reported feeling shocked & confused

"Huge step backwards"

55%

of agencies reported an immediate worry about how to respond to domestic violence calls

"Everyone was in panic mode"

Only **3** participating agencies reported having prior knowledge of the impending decision

36.4%

of agencies reported a perceived Increase in Warrant Use

"Made us they think they forgot about the victims"

40.9%

of agencies reported a perceived Increase in Citation Use

36.4%

of agencies reported a perceived Increase in Felony Arrests

On average, policing agencies reported an additional **45-90 minutes** at DV incidents attempting to obtain a warrant.

Victim Responses

- Confused
- Frustrated
- Lack of cooperation

"Why were they arrested before, but not now?"

"Why is no one helping?"



83.3%

of victim service agencies reported a perceived decrease in arrests for misdemeanor domestic violence

Suspect Responses

- Impatient
- Emboldened
- Surprised at not being arrested



"Just take me to jail"

All victim service agencies reported changes to how they provide services to victims

63%

of victim service agencies reported increased time explaining to victims the police response

"Victims are not getting information from officers"

89%

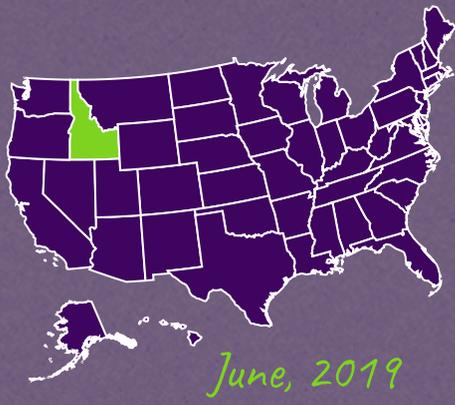
of victim services agencies reported difficulty in contacting or accessing victims to offer services due to safety concerns for the victim if the offender is still present

75%

of victim service agencies reported an increase in civil protection order assistance

"Where is the validity of the [civil] protection order now?"

The same two researchers conducted all interviews and used a standard series of open-ended questions. Responses were captured via note-taking and not recorded.

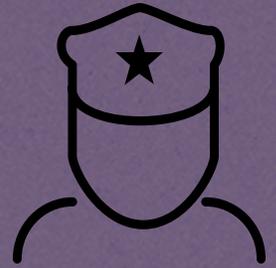


What is the Clarke Decision?

The Clarke decision made it unlawful for police to make an arrest in misdemeanor crimes that happen outside their presence without a signed warrant from a judge. Unfortunately this also applies to domestic violence incidents.

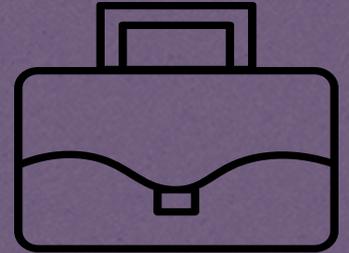
Impacts

1 The response a citizen receives is dependent upon where they live in Idaho. There is no consistent response provided by policing agencies.



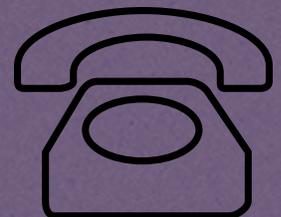
2 Officers have begun recommending that victims seek civil protection orders. Violations to these orders however are still misdemeanors that officers can't intervene in because of the *Clarke* decision.

3 As a result of the inability for officers to remove suspects from the scene of a domestic violence incident, victims are encouraged to leave despite many issues with this solution.



4 Victim service agencies report difficulties in accessing victims to offer services due to safety concerns that offenders are still present and may become aware that the victim is seeking services.

5 Victim service agencies report that policing agencies' response post-*Clarke* possibly harms the police-victim relationship resulting in victims' reluctance to call the police during subsequent victimizations.



6 Officers have begun using citations as opposed to obtaining an arrest warrant to immediately remove the suspect. As a result, court appearances are delayed 14-21 days after the original domestic violence incident occurs.

22 agency interviews were conducted assessing the impact of the *Clarke* decision on policing's response to victimization.

Researchers found that the primary issue emanating from the loss of warrantless arrest in misdemeanor domestic violence by the *Clarke* decision is the safety of victims and their children.

14

Recommendations to Improve Domestic Violence Response in Idaho

1



Invest in community-based victim services statewide.

- New resources in areas without victim services
- Increase staffing, emergency housing, financial assistance, counseling & legal assistance.



2



Invest in victim-witness units within policing agencies.

- New units in jurisdictions without them
- Increased staffing in existing units to allow for on scene response with officer on DV calls



Community-based agencies provide victim assistance regardless of contact with the criminal justice system.

3



Funding priority should be given to community-based victim services when population numbers and/or prevalence rates don't justify the funding of both victim-witness units and community-based agencies.

4



On-scene response by victim services.

On-scene response by victim services should be considered the standard practice of care when victims have contact with the criminal justice system.



Training on:

Accessing & providing services to victims when offender interference is likely.

5



Invest in basic victim services trainings.

- Twice a year
- Held at different locations across the state

6



Pass a constitutional amendment to reinstate the option of warrantless arrest for select crimes, based on their propensity for future physical harm.



e.g.
Idaho Risk
Assessment of
Dangerousness

7

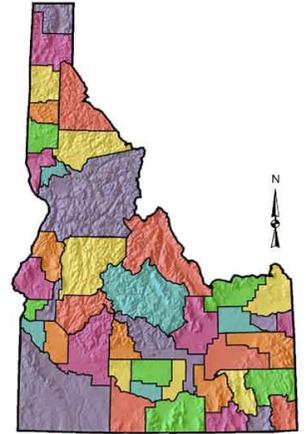


Use of on-scene assessment tools that provide information on possible level of dangerousness and/or lethality should be considered standard practice across all policing agencies.

8



Mandate telephonic and electronic warrant availability across the state.



9

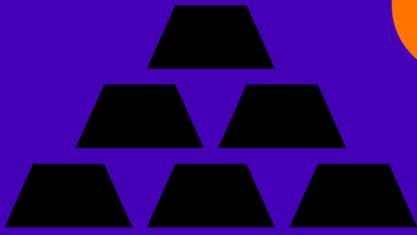


Institute a telephonic and electronic emergency civil protection order process for policing agencies.

10



A 24-hour window of appearance should be considered standard practice when citations are issued for domestic violence and/or other related crimes.



11



When domestic violence cases are referred to prosecutors for review, they should be triaged or prioritized to reduce delays in charging decisions.

12



As standard practice while on-scene, police should directly connect victims to victim services.



As opposed to handing out materials concerning available services.

Training on:

- Use of on-scene risk assessments
- Alternatives for police response
- Investigatory skills specific to dv
- Trauma-focused approaches

13



Invest in mandatory POST and CEU training on domestic violence.

IMPORTANT POINT!

Locations with established relationships and coordination across victim service agencies and the criminal justice system were better prepared to deal with the challenges that the *Clarke* decision has brought about.



14



Establish coordinated community response teams or task forces in all counties.

**Boise State University
Criminal Justice Program
School of Public Service**

Lisa M. Growette Bostaph, Laura L. King, Lane K. Gillespie, & Rachel Jeffries