

Publication state: Japan  
ISSN: 2423-8279

Publisher: J-INSTITUTE  
Website: <http://www.j-institute.jp>

Corresponding author  
E-mail: [shj1026@gmail.com](mailto:shj1026@gmail.com)

Peer reviewer  
E-mail: [editor@j-institute.jp](mailto:editor@j-institute.jp)

<http://dx.doi.org/10.22471/police.2017.2.1.42>

© 2017 J-INSTITUTE

## Study of Major Issues of Introduction of KOREAN Clare's LAW and of Improvement Measures for the Public Security Policies

Shin Hyun-joo

*Catholic Kwandong University, Kangneung, Republic of Korea*

### Abstract

*Problems such as murders due to violence among couples, so-called 'Dating Abuse', have recently come to the front. Accordingly, the police organized a task-force, holding an intensive reporting period. However, low reporting rate due to the particularity in their relationship as a couple, and the severity of damages have been only passively managed by investigation agencies and such conditions have been criticized as it seems to influence on the development of violent crimes, at last. For preparation of more effective measures, Clare's Law in England is being considered to be introduced in KOREA. However, it is producing active arguments as it causes violation of personal information, collisions with other legislations. Thus, the thesis would study deeply observe the main issues and implications in relation with Clare's Law, as well as improvement measures for the public security. Thus, this study would observe major issues surrounding Clare's Law and their implications, and investigate further improvement measures for public security policies. As a result of an investigation, a protective custody order, prevention of second crime conviction through cooperations and improvement on related legislations by practicing active responses by investigation agencies are suggested.*

**[Keywords]** *Dating Abuse, Clare's Law, Public Security Policy, Stalking, Domestic Violence.*

### 1. Introduction

Recently, in Korea, violence among couples, so-called 'Dating Abuse', has drawn attention of people changing from a private to a social problem as its severity has intensified. According to the announcement by the National Police, the total number of Dating Abuse in 2015 was 7,692 having 2,306 injuries, 3,670 assaults and 102 murders[1]. Hence, the police established a 'task-force for elimination of Dating Abuse' at all police stations throughout the country for a month since February 3, 2016, and held an intensive reporting period, as a result, 898(61 restraints) were arrested for criminal charges among 1,279 cases reported[1].

Violence among married couples in Korea has been strictly responded, revolving around

victims, being defined as 'Domestic Violence'. On the other hand, violence among unmarried couples has been lightly perceived, as a merely private love quarrel between the people directly involved, hence, only if actual damages occur, criminal punishments were implemented, leading to insufficient and un-systematic responses such as protection of victims and precautionary damage prevention[2]. Due to the particularity of the couple relationship, low reporting rate is a problem and even if a report is made, the passive and soft responses by investigation agencies upon the severity and seriousness of the violence often lead to development of violent crimes[3].

There is no specified punishment regulations for Dating Abuse, hence, claims to enact

a Special Law for effective measures on Dating Abuse are being addressed. Particularly, introduction of so-called Clare's Law being implemented in England is being proposed by the police. Unlike other crimes, Dating Abuse is a violence occurring within a close relationship, hence possibility of recurrence is high and even there is a probability of inducing murders. Therefore, urgency of government intervention on the issue has been acknowledged, however, legislative practices for a preventive implementation is in controversy due to a probability of indiscriminate access to private information. Hence, the causality of Dating Abuse and its real conditions should be monitored for a further research of improvement measures of the public security policies, taking care of major issues and implications of Clare's Law introduction.

## **2. Theoretical Background**

### **2.1. Concept of dating abuse and its cause**

The conceptual definition of Dating Abuse is still ambiguous. It is not a legislative terminology and is being quoted along with other descriptive terms such as violence among close partners and violence in a relationship. Generally, it refers to comprehensive violences including physical, emotional, verbal or sexual violence occurring, in unmarried couples, but in a dating relationship, that is intentionally committed to harm the others unilaterally by a member of the relationship without any mutual agreement[3]. The Korean National Police has been using the terminology meaning, 'commitment of violent behaviors conducted by the other during a process of conflict between a male and a female of an unmarried couple.' through a news release[1].

For the reasons of such Dating Abuse, first, it is Social Learning theory. Those, who had experienced violent learning at young ages, have higher degree of violence and have higher likelihood of being involved in various types of violence[4]. Hence, the people who had suffered from an abuse at their childhood end up believing that any physical or mental

assault to solve problems in conflicting situations with a close acquaintance is completely fine, and perform such behaviors in other similar circumstances[5]. Moreover, there is another research result that the frequency to experience Dating Abuse is higher for those who had experienced ignorance from their parents[6]. In addition, it is Sex Role stereotype. That is, linking personal features of individuals to social categories of genders, female and male, hence, males are expected to be dominant, self-assertive, independent and competitive, while females are expected to be kind, affective and cooperative.

### **2.2. Present state of dating abuse occurrence and responses to the violence**

For establishing the public security policies responding to Dating Abuse, approaches are seemed to combine criminal responses and administrative support model in general and have civil response model as an auxiliary tool. Criminal responses, among the measures, include an active government intervention upon Dating Abuse, like other general crime cases, and request for performances of an investigation, a prosecution, a court of justice and a punitive punishment. Therefore, an appropriately proportional responsibilities are imposed to criminals and the public order remains secured eventually[7].

As there is no direct punishment regulation for Dating Abuse, at the present state, it is dealt with as equally as other normal violences. Thanks to the newly determined law in 2012 against Stalking crimes, a penalty under 100,000 won, detention or a fine can be sentenced. However, as the level of punishment is extremely minor and doubts upon its juridical efficacy or effectiveness are being raised, hence, a pragmatic and effective bill is required[8].

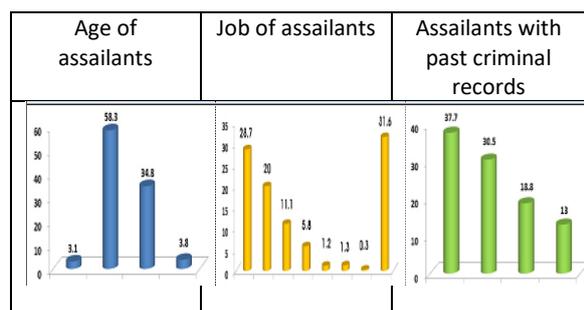
Based on the data from the National Police, the current state of Dating Abuse over the past 5 years as follows as <Table 1>. Injuries and assaults have occurred the most frequently and even murders are being committed many times. Although the actual number of occurrences have been presented similar levels, the severity of violence has become gradually atrocious.

**Table 1.** State of violence among couples by year[9].

Year	Total	Injury	Assault	Violation of law of punishment for an act of violence	Murder	Rape indecent assault
2011	7,292	3,074	2,633	1,068	127	390
2012	7,584	3,028	2,822	1,226	99	409
2013	7,237	2,571	2,848	1,179	106	533
2014	6,675	2,273	2,702	1,109	108	483
2015	7,692	2,306	3,670	1,105	102	509

Accordingly, the Police created a ‘special task-force to eliminate Dating Abuse’ for a month since February 3, 2016 to March 2, and 868(91 datains) were arrested for criminals charges among 1,279 reports received in total throughout the country within the intensive reporting period. Most of the ages of assailants were 20s and 30s, who have no job(27.1%), is a company employee(21.4%) and have private business(10.9%) in order. 41.4% had no previous criminal record and 58.9% was ex-convicts, more than who are not an ex-convict. 11.9% was the ones who have more than 9 past criminal records.

**Figure 1.** Current state of assailants of dating abuses[9].



Most of the victims are females(92%) and even male victims(4.1%) were identified. The types of harm or damage consist of assault, injury(61.9%),arrest, confinement, intimidation(17.4%), sexual violence(5.4%) and 2 attempted murders. The majority of the damage reports were via 112 reporting calls(77%).

It is undoubtedly true that the victims have been presenting passive attitudes to ask for help or to report as they have recognized their issue as a private matter hence should be personally dealt with. Therefore, the Police established various windows for reports and actively promoted such windows so that victims can conveniently report their issue at any time and place.

### 2.3. Receding researches analysis

Referring to a study conducted upon Korean university students regarding any experience of Dating Abuse, 73.3% had an experience of Dating Abuse in any form, and mental, physical and sexual violences were 70.2%, 44.8% and 13.2% respectively – signifying the severity of Dating Abuse among university students is high and serious[10]. In the most advanced studies, researches of ‘Stalking Prevention Law’ is intensively being addressed as a precautionary preventive measure based on discussions of psychological and social etiology, having types and forms of Dating Abuse focused. On the other hand, there is insufficient and little researches of improvement measures of the public security policies and of crime prevention in association with particularity of the crime, Dating Abuse.

In the post-1990s, the American society recognized the seriousness of Dating Abuse, prepared Protection Order, enacted Stalking Prevention Law, and has been dealing with protection of violence victims and preventing Dating Abuse actively[3]. In Germany, under

the principle of 'Assailants should leave and victims should stay at home', multiple measures are being operated to protect women from violence, including Domestic Violence, against them[8].

### **3. Major Contents and Implications of Clare's Law Introduction in England**

The most attentive issue, recently, considering Dating Abuse is 'Clare's Law', a 'Domestic Violence disclosure Scheme(DVDS)' in England. In 2009, a woman called Clare Wood had suffered from violence and even had been murdered by her boyfriend who met via an Internet Dating web-site. This man was an ex-convict who assaulted his girlfriend in his past. A signature seeking campaign to enable identification of violent crime history among couples was held as people believed that the death of Clare could have been prevented if the ex-convict of the assailant could have been identified and informed. As a result Clare's Law was introduced in 2014 and actual numbers of Farewell-murder or Dating Abuse occurrences decreased. Due to the issue, a report, 'Tackling Perpetrators of Violence against Women and Girls' was announced in the 2009 conference of the chief of the National Police Agency. The main feature of the report is that potential victims from Domestic Violence should be able to acquire related information to protection from the state for protecting their children and themselves[11].

Based on the report, a public hearing was held, and its main contents was 'right to ask' offering potential victims the rights to request the police for ex-convicts information of potential assailants and 'right to know', making the police provide ex-convict information to potential victims in advance[12]. Such provision of ex-convict data has been addressed as it enables potential victims to avoid crimes on their own – contributing to prevention of crimes – at the same time, allows reinforced precautionary measures by related institutions. However, the police has claimed for doubts and skeptical perspectives upon why such a new system should be introduced while disclosures of ex-convicts by the

police have been already set available. Integrating the contents, the Department of the Interior demonstrated the system in some regions and formally introduced the system in England and Wales in 2014 thanks to the confirmation of effectiveness of the system[13].

A system that the police can utilize in its process of disclosing ex-convicts of violence and abuse in the past of potential partners was established. This system is assumed to be able to protect victims from possible violence and abuse in the future[14]. Observing in procedure details, a request of information based on the 'right to ask' will involve three step evaluations and, at last, will be responded after an examination of the request by local decision-making forum. Disclosures of ex-convicts information based on the 'right to know' is a practice to be performed by the police when potential victims are identified to be exposed to direct dangers, allowing the local decision-making forum to decide whether the disclosure is essential or not[13].

The English DVDS has been proposing many implications. Concentrating on the risk management through disclosure and sharing ex-convict information among related institutions, hence there has been no law newly enacted. Furthermore, in the current Korean criminal justice system, it is inevitable for prosecutors not to be involved, hence, imposing a corresponsive measure to the level of crime is difficult and a rapid and effective measure to protect victims is disturbed[15].

### **4. Improvement Measures of Security Policies Surrounding Introduction of Korean Clare's Law**

#### **4.1. Active responses by agencies and reinforcement of responsive capability**

To ensure security of victims, various and rapid reporting windows should be prepared and separation or eviction of assailants should be executed. The police should identify the need of protection at the most priority as soon as a report is received, and if it is need, a rapid protection measure should be practiced and anonymity of the reporter should be guaranteed[3].

For a perfect and invulnerable protection, considering any possible situation of the victim and any risk of second conviction, different but simultaneous and complementary protection measures should be performed – for example, reinforcement of patrol in residential areas and provision of protective facilities – and regular inspections to eliminate blind spots of protection should be involved so that a safe environment of the victims to live is maintained even after the end of incident investigation[1]. In most Dating Abuse cases, they are unlikely to be indicted, and even they are, no criminal punishment is sentenced in general. Thus, protection, more than what criminal indictment entails, should be performed. This is because most of assailants of Dating Abuse cases are aware of the residential location, workplace and schools, hence secondary damages are more likely to occur in a large extent, compared to other types of crime[16].

#### **4.2. Actualization of public security policy via cooperations**

Overall conflicts among couples which are likely to develop into violent crimes should be managed even since the phase of case reception, cooperatively dealt with among related departments and should be organically handled so that any secondary damage can be prevented. In addition, arranging a female police officer who is expert in counselling to form a stable counselling atmosphere with female victims and a responsible officer for victims who will offer economic, psychological and legislative support to the victims is essential, as well as collaboration among different departments. Especially, through a consistent monitoring with establishment and utilization of contact network among the special taskforce, victims and reporters, preventive movements for secondary crimes will necessarily be developed[1].

### **5. Discussion and Conclusion**

The objective of this thesis is to discuss improvement measures for public security policies and the present state of Dating Abuse, a

social issue recently addressed. Yet, there is no related law in Korea, hence, it is difficult to define an exact notion of Dating Abuse. Furthermore, Dating Abuse occurring among couples has a similar mechanism to Domestic Violence, hence, the reporting rate is low and even the recognition of such violence as a crime is not admitted. Even if a report is made, due to the weak and insufficient regulations, capabilities of investigation institutions to deal with the cases are considerably inadequate.

Thus, analyzing the implications of ‘Clare’s Law’ being discussed in England of an actual introduction, a few improvement measures would be suggested for public security policies. First, it is reinforcing the responsive capability and second, practicing precautionary prevention measures for second convictions of crimes by cooperating with other departments. Lastly, there is a need of improvements of laws that is directly related to Dating Abuse. DVDS in England consists of contents – right for potential victims who are encountering crimes to request for ex-convict information of potential assailants to the police based on ‘right to ask’ and provision of ex-convict information to potential victims in advance based on ‘right to know’ Examining the statistics in Korea, it is assumed that murders occurring among couples can occur in a form of an ex-convict killing its lover. Hence, providing ex-convicts information of potential assailant to potential victims is a reasonable tool for an effective crime prevention[13]. However, conflicts among the people directly involved, probability of crime occurrence due to the conflicts, acquisition of reliability for judgements of issues and social sympathy upon the range of privacy which the police can intervene into, should be the presupposed in advance to the cautious approaches[4].

## **6. References**

### **6.1. Journal articles**

- [2] Yoon SM. A Consideration of Legislative Measures Counteracting the Dating Abuse. *Law Review*, 16(4), 301-319 (2016).

- [3] Park HJ. Study on the Risks and Improvements of Dating Violence. *Chosun Law Journal*, 22(2), 499-521 (2015).
- [4] Kang YG & Park JP & Park WK & Lee CS. A Study on the Prevention of Date Violence and the Issues of Response. *Police Science Institute*, 30(1), 175-216 (2016).
- [5] Yoon J & Yang SY & Park BK. The Influence of Domestic Violence Patriarchal Gender Role Attitude, and Inferiority Complex on Acceptability of College Dating Violence. *Korean Journal of Youth Studies*, 19(6), 79-107 (2012).
- [6] Straus MA & Savage SA. Neglectful Behavior by Parents in the Life History of University Students in 17 Countries and its Relation to Violence against Dating Partners. *Child Maltreatment*, 10(2), 124-135 (2005).
- [7] Jung SJ. A Study on the Causes of and Countermeasures against Domestic Violence. *Korean Association of Public Safety and Criminal Justice Review*, 63, 207-237 (2016).
- [8] Kim SH. A Study on Punishment of Dating Violence. *Chungang Journal of Legal Studies*, 40(3), 141-169 (2016).
- [10] Kang HK. The Myth of Family Violence and Dating Violence among College Students. *Korean J Youth Study*, 14(6), 21-41 (2007).
- [13] So BD. Introducing the Domestic Violence Disclosure Scheme. *The Journal of Police Science*, 16(2), 61-86 (2016).
- [15] Jung SJ. A Study on the Causes of and Countermeasures against Domestic Violence. *Korean Association of Public Safety and Criminal Justice Review*, 63, 207-237 (2016).
- [16] Ryu BK. The Protection System for the Victims in Dating Violence. *The Journal of Legal Studies*, 22(3), 91-114 (2014).

- [12] Home Office. Domestic Violence Disclosure Scheme a Consultation: Summary of Responses (2012).
- [14] Home Office. Domestic Violence Disclosure Scheme DVDS Guidance (2016).

**Author**

**Shin Hyun-joo** / Catholic Kwandong University Assistant Professor

B.A. Kwandong University

M.A. Kwangwoon University

Ph.D. Kwangwoon University

Research field

- A Study on Humanities in Application of Robot Technology Based on the Criminal Justice System, *Journal of Korean Public Police and Security Studies*, 13(4) (2017).

- Humanistic Response to Crime Prediction and Human Free Will, *Korean Criminal Psychology Review*, 13(1) (2017).

Major career

- 2014~present. Korean Association for Criminal Psychology, Chief Manager.

- 2017~present. Catholic Kwandong University, Assistant Professor.

**6.2. Additional references**

- [1] Korean National Police Agency Press Release (2016).
- [9] <http://www.police.go.kr> (2017).
- [11] Association of Chief Police Officers. Tackling Perpetrators of Violence against Women and Girls: ACPO Review for the Home Secretary (2009)