
*Victim Impact Statements and
Sentencing: Findings from
Empirical Research*

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Proponents Saw Victim Impact Statements as Benefit to Victims & CJS

- 1982 Omnibus Victim and Witness Protection Act mandated VISs in federal cases
- Aimed to afford victims chance to voice their concerns in writing or orally
- Expected to promote court decisions that better reflected harm done to victims
- Expected to increase satisfaction of victims with justice process

Victim Impact Statements Have Always Generated Controversy

- VISs may reduce uniformity in sentencing and introduce greater degree of arbitrariness
- VISs may result in harsher sentences across the board
- VISs may expose court to inappropriate public pressure

Are Fears of Critics Justified: Do VISs Result in Harsher or Less Uniform Sentences?

- Researchers have approached problem from two perspectives:
 - Simulations of judicial or jury decisions
 - Examination of real case files
- Each has its advantages

Simulation Studies: Randomized Laboratory Experiments (3 studies)

- Researchers present mock jurors with different versions of simulated trial
- In different conditions, trial may include VIS indicating serious harm; VIS indicating minimal harm; or no VIS
- “Jurors” tend to give harsher sentences in versions of trial that included VIS than versions without

Research on Actual Cases: Davis & Smith, 1994

- Hypothesis: VISs increase court officials' awareness of impact and therefore they will elect to met out harsher sentences
- True experimental design: 293 felony victims of robbery, assault, burglary assigned to VIS or no-VIS condition
- No significant effect of VIS on severity of sentence
 - probation vs incarceration or length of incarceration

Research on Actual Cases: Davis & Smith, 1994 (cont'd)

- Second hypothesis: VISs increase the degree of congruence between victim harm and sentences (sentences will better reflect degree of harm to victim, whether that is large or slight)
- No greater correspondence between sentence severity and degree of harm to victims in condition where VISs forwarded to court officials compared to condition where harm assessed, but not forwarded to officials

Reconciling the Empirical Research

- Simulation studies tend to find that VISs result in harsher sentences or in sentences that more closely reflect harm to victim
- But research on real cases finds little or no effect of VISs on sentences
- Why the discrepancy?

Simulation Studies Don't Reflect the Conditions in a Real Courtroom

- Studies have found that sentences are predominantly determined by legal considerations like nature of charge and offender's criminal record
- Court officials overwhelmingly state that VISs seldom contain novel information (Henley, et al 1994)
 - "If a person is robbed at gunpoint, it is assumed that the person is shaken up and traumatized" (Bronx prosecutor)
- "Retelling of injuries by professionals who approach harm in clinical fashion flatten harm and take power out of victim stories" (Erez & Rogers, 1999)

Research Findings Should Allay Fears of Critics: But, if VISs Don't Influence Sentences, What Is Rationale for VISs?

- Prime argument for VISs is that they are therapeutic for victim
- But empirical studies have not found greater satisfaction among victims who have had VIS
- One study suggests that completing VIS raises victim expectations: When they are not met, satisfaction drops

End Result is a Dilemma: Either VISs Affect Sentences or Unrealistically Raise Victim Expectations

■ Suggestions:

- Educate victims about reality of sentencing and the small likelihood that VIS will have discernable effect on sentence
- Increase power of VIS through victim allocution or other, more powerful methods to express harm done