

Victim Impact Panels: Who Benefits and Why?

Driving under the influence (DUI) Victim Impact Panels (VIPs) have been widely used in the U.S. since they were introduced in 1984 by Judge David Admire and Larry and Shirley Anderson as a strategy to reduce DUI recidivism. VIPS grew in popularity in 1989 when they were adopted by Mothers Against Drunk Driving (MADD). Typical VIPs involve two to four victims, either injured themselves or hurt by the injury or death of a family member. These victims tell the stories of their impaired driving-caused suffering to one or more offenders to motivate them enough to stop drinking and driving. On occasion, VIPs have been used as a stand-alone strategy, but generally they are included as one tool in a suite of available anti-recidivism measures.

Research findings on the effectiveness of VIPs have been mixed, with more studies finding no significant recidivism reduction for VIP attendees compared to offenders who did not attend VIPs. Despite mixed findings of their effectiveness to reduce DUI recidivism, VIPs continue to be widely used. The reasons for their continuing popularity have not been well studied. If we look beyond the specific goal of reducing DUI recidivism, other reasons for the popularity of VIPs come to light. More precisely, examining theoretical and practical research into Restorative Justice (RJ)—an alternative and less punitive approach to crime—reveals several reasons that enthusiasm for VIPs continues.

When VIPs initially appeared among DUI interventions available to traffic safety officials, the core rationale of a VIP appealed emotionally and logically to anti-DUI advocates. Shinar and Compton (1995) have summarized this core logic of VIPs: “Traditional DUI measures punish offenders, thus fostering the belief among them that their arrests are due to bad luck or persecution; VIPs, however, challenge offenders to see what they have refused to face – the deep grief and pain their actions caused to others; emotionally connecting to that suffering moves offenders to feel empathy for their victims; VIPs thus mobilize feelings that nudge offenders toward the motivation to change their behavior” (74).

In fact, interview and survey results have shown that, after VIP attendance, participants often do report an increase in empathy and intention to stop drinking and driving. Good intentions, however, are not always followed by actual behavior changes, as many studies have shown. While several earlier VIP studies found significant reductions in DUI recidivism, they were later determined to be methodologically unsound in several ways. First, offenders were often assigned to VIP and comparison groups in ways that biased the outcomes. Several studies noted that female judges were more likely to assign offenders to VIPs than male judges, and pro tem (i.e., temporary) judges were less likely to assign offenders to VIPs. Other studies found that judges are more likely to assign high-BAC offenders to VIPs, and that data errors have resulted in the incorrect labeling of repeat offenders as first-time offenders. These forms of selection bias have made honest VIP-control group comparisons impossible.

A related problem for VIP studies arose from not randomly assigning offenders to VIPs and comparison groups. Numerous factors are known to affect DUI recidivism risk (e.g., age, sex, marital status, BAC at

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arrest, offense history), and random subject assignment reduces the chances that such factors will be unequally concentrated in one group or another, thereby ensuring a more realistic comparison. Prior to a fuller identification of DUI risk factors, however, researchers studying DUI interventions often failed to control for such sources of bias. Even the authors of a study reporting positive effects for VIPs offered only cautious support for their findings. Some researchers have flatly rejected MADD's premise that a lack of empathy is the central problem among offenders; others argue that defining recidivism in terms of re-arrest, statistically a rare event even for hard-core drinking drivers, further biases results. Higher-quality studies have combined random assignment of subjects and the use of techniques like logistic regression to control for DUI risk factors. As a result, VIP studies now routinely find no recidivism differences between VIP attendees and control groups. In fact, several studies have found certain VIP subjects more likely to recidivate than control subjects.

VIPs have not delivered on the anti-DUI promise they seemed to offer when MADD introduced them. Although the idea of VIPs originated in RJ philosophy, VIPs counter RJ's central thesis. The core of RJ is that the main function of legal proceedings should be to repair the harms caused by crime to victims and the larger community alike, and not to inflict pain on offenders via retribution. Some scholars have argued that our current emphasis on punitive countermeasures leaves out the needs of those who have been harmed: the victims and the very people for whom VIPs are named. The needs of victims of DUI and other crimes have been well documented over the past twenty years.

Victims want dialogue with their offenders in conferences like those designed and tested by RJ proponents. After communicating the nature of the harms and losses incurred at the hands of their perpetrators, most victims report feeling better. In fact, studies of such offender-victim conferences have found that they provide great comfort and satisfaction to crime victims. In a study of RJ conferences between juvenile offenders and their victims, the authors found that, post-conference, victims reported higher levels of satisfaction with their case outcomes than victims involved in normal court proceedings. They were also more likely to report that their offenders had been held accountable for their crimes, and that they now felt more forgiving toward their offenders. While these results are clearly promising, a great deal of further research is needed to develop and institutionalize such programs on a more widespread and sustainable basis. Nonetheless, results to date strongly suggest that such RJ conferences probably represent far more benefit to victims than traditional VIPs.

Reference Summaries:

C'De Baca J, Lapham SC, Paine S, & Skipper BJ (2000). **Victim impact panels: Who is sentenced to attend? Does attendance affect recidivism of first-time DWI offenders?** *Alcoholism: Clinical and Experimental Research*. 24:1420-1426. <http://onlinelibrary.wiley.com/doi/10.1111/j.1530-0277.2000.tb02112.x/full>

The purpose of this study was to investigate whether or not specific differences existed between Driving While Intoxicated (DWI) offenders mandated to attend VIPs and offenders who were not mandated. The authors used a local substance-dependency screening program to determine the severity of drug and alcohol dependency or abuse in first-time and repeat DWI offenders convicted in Bernalillo County, NM. The final sample consisted of 5,238 first-time and 1,464 repeat convicted offenders referred for drug and alcohol screening by the court. The authors found that 20 percent of first-time offenders were repeat offenders who had been mislabeled owing to faulty data. Logistic regression analysis found that participation in a VIP was not associated with reduced recidivism risk, but that certain factors were highly predictive of re-offense: male gender, Native American race or Hispanic ethnicity, unmarried status, fewer than 12 years of education, previous substance dependency treatment, a DWI arrest resulting from a crash, a BAC of .20 or higher at time of arrest, and a refusal to submit to a blood or breath test. The authors also found that female judges were significantly more likely to assign offenders to VIP participation, though no explanation for this finding emerged from the data.

C'De Baca J, Lapham SC, Liang HC, & Skipper BJ (2001). **Victim impact panels: do they impact drunk Drivers? A follow-up of female and male, first-time and repeat offenders.** *Journal of Studies on Alcohol*. 62:615-620. <https://www.jsad.com/doi/abs/10.15288/jsa.2001.62.615>

This was a follow-up study of the same VIP and comparison groups selected in C'De Baca *et al* (2000). This study investigated recidivism among drivers convicted of DWI in New Mexico, two-thirds of whom attended VIPs. Earlier research identified several covariates predicting DWI recidivism, including age, marital status, educational attainment, prior driving record and treatment history, BAC at time of arrest, ethnicity, and whether DWI arrest coincided with a vehicle crash. Thus, where possible those variables were also obtained for each subject. Gender is a well-known covariate, so male and female offenders were analyzed separately, for both first-time and repeat offenders. The follow-up period lasted between two and a half to eight years to ensure more complete results. Data analysis showed no significant difference in DWI recidivism between first-offender males or females sentenced to VIPs versus those who did not attend VIPs. The same finding held true for repeat-offender males sentenced to VIPs and their matching controls. However, female repeat-offenders who attended VIPs were more than twice as likely to recidivate as female repeat-offenders who did not attend. To explain this counter-intuitive finding, the authors cited research showing that a repetitive focus on painful current-life situations can engender "a sense of distress, helplessness, and hopelessness, leading to increased drinking and recidivism" (619).

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Crew BK & Johnson SE (2011). **Do victim impact programs reduce recidivism for operating a motor vehicle while intoxicated? Findings from an outcomes evaluation.** *Criminal Justice Studies*. 2:153-163.

<https://www.tandfonline.com/doi/abs/10.1080/1478601X.2011.561645>

This study examined recidivism rates and other outcomes related to attendance at a VIP formed to reduce recidivism among offenders convicted of Operating While Intoxicated (OWI) in three Iowa counties. Though the VIP programs in these three counties were intended for repeat offenders, judges had the latitude to require first-time offenders to attend them. The authors extracted data from Iowa's online court-records system and selected 1,533 individual cases where offenders were convicted of OWI and then reached a successful closure of supervision sometime between July 1, 2000, and June 30, 2006. This six-year frame was chosen specifically to allow at least a three-year follow-up period for each offender in the sample, including 657 offenders who successfully completed VIP attendance and 876 who did not. Results of the data analysis showed not only that VIP attendees were just as likely to reoffend as VIP non-attendees but, surprisingly, that VIP attendees with repeat offenses were significantly more likely to recidivate than non-VIP offenders. The authors concluded that a lack of empathy for victims is not the reason that offenders continue to drive under the influence of alcohol.

Holden SJS & Abram CE (2005). **Reducing underage drunk-driving behaviour through victim-based communications.** Marseille, France: *Proceedings of 32nd International Research Conference in Marketing – The La Londe Conference*, (eds: C. Haugtvedt, L. Warlop & D. Merunka): 40-51.

http://epublications.bond.edu.au/cgi/viewcontent.cgi?article=1046&context=business_pubs

This study examines the effectiveness of a social marketing strategy for communicating with underage drivers about choosing to drink before driving. The authors acknowledge, given the difficulty of communicating effectively with adults about drinking and driving, that communicating effectively with younger drivers is even trickier. Their study focuses on the efforts of MADD in Hawaii to use VIPs in classrooms for presentation to roughly half of all 15–17-year-old students attending school between 1997 and 2001. Two outcome measures were analyzed: 1993-2003 alcohol-involved and non-alcohol-involved fatality data, and student questionnaire responses completed by 4,216 students at 34 schools in Hawaii after participating in the MADD project. Study results revealed that 84 percent of students stated they wanted to make a positive change in their lives, and 83 percent intended to never drink and drive. Finally, study authors pointed out that 15–17-year-old alcohol-related driving deaths decreased during the program. The flaws here are many, including a simplistic post hoc ergo propter hoc (i.e., after this, therefore because of this) fallacy, low subject response rates, and differing pre-program and during-program periods.

Miller PG, Curtis A, S nderlund A, Day A, & Droste N (2015). **Effectiveness of interventions for convicted DUI offenders in reducing recidivism: a systematic review of the peer-reviewed scientific literature.** *American Journal of Drug and Alcohol Abuse*. 41: 16-29.

<https://www.tandfonline.com/doi/full/10.3109/00952990.2014.966199>

This meta-analysis reviewed six interventions intended to reduce DUI recidivism, including VIPs. Seven studies of VIP programs, employing a variety of research designs and displaying differing levels of rigor, were analyzed to determine VIP program outcomes and the credibility of their findings. Four of the studies found no significant reductions in either DWI recidivism or in drinking and driving behavior. Two of the studies were found to be of high quality and neither found an association between VIP attendance and reduced recidivism rates. The authors point out some VIP studies suffered from inadequate attempts to control for confounding variables as well as a lack of random assignment to VIP and control groups.

Polacsek M, Rogers EM, Woodall WG, Delaney H, Wheeler D, Rao N (2001). **MADD victim impact panels and stages-of-change in drunk-driving prevention.** *Journal of Studies on Alcohol*. 61:344-350.
https://www.researchgate.net/profile/Michele_Polacsek/publication/11926532_MADD_Victim_Impact_Panels_and_stages-of-change_in_drunk-driving_Prevention/links/00b4952d834e8ddcdc000000.pdf

The authors compared two specific outcome measures for (1) offenders randomized to “DWI School” (a standard educational program for convicted DWI offenders in New Mexico) with the same measures for (2) offenders randomly assigned to the standard DWI school plus participation in a VIP program. The study’s sample pool consisted of 813 drivers convicted of DWI in Bernalillo County, New Mexico, who were randomly assigned to one of the two groups. The study found that offenders in the DWI School plus VIP group were far more likely to respond to the highly emotional nature of the VIP presentations by expressing their initial determination never to drink and drive again. However, these initial declarations of intent were not associated with any decrease in DWI recidivism at a two-year follow-up check of electronic driver records. Non-significant differences were found between the VIP and non-VIP groups for both intention and recidivism measures.

Rojek DG, Coverdill JE, & Fors SW (2003). **The effect of victim impact panels on DUI rearrest rates: a five-year follow-up.** *Criminology*.41:1319-1340. <http://onlinelibrary.wiley.com/doi/10.1111/j.1745-9125.2003.tb01021.x/full>

This study investigated a VIP in Clarke County, GA, that consisted of all 404 Clarke County residents convicted of a DUI in the first six months of 1994. Since VIP attendance had become mandatory in Clarke County in 1994, the control group consisted of 430 Clarke County residents convicted of DUI during the first six months of 1993, exactly one year prior to the VIP group’s conviction period. The authors acknowledge that the lack of random subject assignment is a weakness in the study’s design. They also acknowledge that the historical circumstances may have differed between the 1994-convicted VIP group and the 1993-convicted controls. Nevertheless, during the first two years of follow-up, either after VIP completion or disposition for controls, 107 controls were rearrested,

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versus only 26 offenders assigned to VIPs, nearly a 4-to-1 ratio. After the first two years, however, the rates of relapse were nearly equal. Overall re-offense rates were 15.8 percent for VIP attendees and 33.5 percent for controls. Although it appears that the results were definitive in this case, the authors cautiously concluded that the findings suggest that VIPs may reduce DUI recidivism but acknowledged that flawed study designs as well as limited understanding of the content, structure, and implementation of VIPs have led to frustration and inconsistency in attempts to measure the actual impacts of VIPs.

Schaaf, K. (2008). **Empathy: Victim impact panels and DWI offenders.** UW-L Journal of Undergraduate Research, XI. <https://www.uwlax.edu/globalassets/offices-services/urc/jur-online/pdf/2008/schaaf.pdf>

In study one, the authors assessed the relationship between VIPs and empathy. Sixty-one participants attending a Victim Impact Panel completed a questionnaire immediately before and after attending a VIP and again eight weeks later. The questionnaires assessed their views about their own crime, their future behavior/intentions concerning drinking and driving and their current state of empathy (as measured by four items from the Basic Empathy Scale). Participants showed a significant increase in empathy scores after attending the VIPs. Collectively, the findings from study one suggest that VIPs can play a role in increasing victim empathy for a short period of time. In study two, the authors assessed the roles that severity of injury, gender, and age play in affecting feelings of empathy for a DWI victim speaking at a VIP. After reading a partial transcript from the original VIP, 90 University of Wisconsin-La Crosse undergraduate students completed a questionnaire that assessed their feelings of empathy, as measured by items from the BES, perception of the crime, and thoughts on future drinking and driving behavior. Older victims elicited significantly higher levels of empathy than did younger victims. Additionally, male participants reported significantly lower levels of empathy than female participants regardless of victim characteristics. Additional analyses report no significant interactions between the victim characteristics and participant gender. Overall, study two suggests that victim characteristics as well as participant characteristics play an important role in affecting empathy levels elicited by speakers at VIPs.

Shinar D & Compton RP (1995). **Victim impact panels: their impact on DWI recidivism.** *Alcohol, Drugs and Driving*. 11:73-87. https://rosap.ntl.bts.gov/view/dot/1607/dot_1607_DS1.pdf?

This study examined data on California (n=742) and Oregon (n=1,350) offenders convicted of DWI and ordered by courts to attend VIPs. These VIP attendees were matched by age and sex with offenders who were not assigned to VIPs. A smaller subject group pairing included offenders assigned to VIPs who simply did not attend them, along with a control group matched by age and sex to those non-attendees. Outcome analysis relied on comparing driver license information for all three groups, and analysis of data showed that VIPs in Oregon had no long lasting effect when measured in terms of recidivism with the possible exception of VIP drivers over age 35. In California, analysis of several measures of recidivism failed to show any significant effects.

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Sprang G (1997). **Victim impact panels**. *Journal of Social Service Research*. 22: 73-84.

https://www.tandfonline.com/doi/abs/10.1300/J079v22n03_04

This study administered pre- and post-test attitudinal questionnaires to 103 DUI offenders sentenced to attend VIPs and to 75 DUI offenders who were not assigned to VIPs. The questionnaires asked respondents to respond to statements like “I believe that DUI/DWI is a crime” and “I will continue to drink and drive”. Results showed that attendance at the VIP decreased offender intention to drink and drive, increased offender belief that DUI/DWI is a crime, and increased offender consideration of the consequences of DUI/DWI. By comparison, no such attitudinal changes were observed in the control group. A one-year follow-up investigation of both groups showed that non-VIP controls were twice as likely to be rearrested for DUI/DWI as VIP attendees.

Strang H & Sherman LW (2003). **Repairing the harm: victims and restorative justice**. *Utah Law Review*. 15:49-56.

https://www.researchgate.net/profile/Lawrence_Sherman3/publication/228799673_Repairing_the_harm_Victims_and_restorative_justice/links/0c96053a544b4c11d3000000/Repairing-the-harm-Victims-and-restorative-justice.pdf

This article advocates for a return to restorative justice in the face of a long tradition of “the jurisprudence of retribution” (15). The study documents a twelfth-century shift in Western legal practice from a restorative basis to a retributive-repressive one: “Restorative justice was once the predominant response to crime in most societies. Its focus was on limiting future harm from retaliation and blood feuds. Its method was to repair the past harm done, rather than to inflict an equal and just measure of pain” (16). The shift in logic of justice was converted from reconciliation to repression. The authors also claim that jurisprudence, in the U.S. and elsewhere, left actual victims out of the judicial process, preferring instead to tinker around the edges with feel-good measures like soliciting written victim impact statements to presiding judges. The authors go on to cite field-test evidence showing that victims feel they receive far more satisfaction from restorative alternatives to court processes than they do from a court process. More specifically, in experimental RJ conferences in Canberra, AU, 39 percent of victims reported forgiving their offenders – a virtually non-existent outcome for most victims attending courtroom trials. Moreover, victims attending RJ conferences were over three times less likely to continue fearing repeat offenses at the hands of their offenders. Finally, 60 percent of RJ conference victims reported finding a sense of closure from the conference, and 54 percent reported feeling that the harms caused by the crimes against them had been repaired.

Theriot MT (2006). **Evaluation of a court-ordered MADD presentation for juvenile alcohol and drug offenders**. *Journal of Offender Rehabilitation*.43:49-72.

https://www.tandfonline.com/doi/abs/10.1300/J076v43n03_04

This study investigated the effects on 99 juveniles convicted of alcohol or drug offenses of exposure to a mandatory three-part “emotionally jarring” MADD VIP-like presentation on the consequences

of drunk driving as well as other dangers stemming from drug or alcohol use. The VIP presentation began with one or two persons describing how they were personally victimized by drunk driving, after which emergency medical professionals, along with former drug and alcohol abusers, discussed the dangers stemming from substance abuse. Law enforcement officers then provided slides and other information about the violence and destruction caused by drunk driving. The presentation ended with vivid testimony from one person who was victimized by drunk drivers. One control group was made up of 84 juveniles arrested and charged with offenses like those for the MADD group, but before the presentation became mandatory. A third group consisted of 72 offenders convicted after the MADD presentation became mandatory but, for whatever reasons, did not attend. The main finding in this study was that attending the MADD presentation did not reduce juvenile alcohol- or drug-related recidivism.

Thompson, K., & Joyce, S. (2022). **Do victim impact panels have sustained effects on DUI recidivism?** *Laws*, 11(2), 28. <https://www.mdpi.com/2075-471X/11/2/28>

This study examines whether Victim Impact Panels reduce DUI recidivism 5 to 8 years post sentence. Original 2-year data on 410 DUI offenders who attended a Victim Impact Panel and 373 DUI offenders from the same court system who did not attend a Victim Impact Panel indicated slight recidivism reduction effects. Logistic regression results at the 5-year period reveal that not attending a Victim Impact panel increases the odds of another DUI by a factor of 1.5 with an upper 95% confidence odds level of 2.2. At the 8-year mark, non-VIP participants were 1.8 times more likely to record another DUI with an upper 95% confidence odds level of 2.6. Offenders with a prior DUI who attended a Victim Impact Panel had significantly lower recidivism rates after 8 years relative to non-attendees. Prior research suggested that males in the 26–35-year age group benefitted more from Victim Impact Panel participation. These data indicate that the effects of age are relatively uniform across male age groups. Overall, these recidivism results indicate that the emotional messages communicated by victims to DUI offenders might carry sustained effects.

Wheeler DR, Rogers EM, Tonigan JS, & Woodall WG (2004). **Effectiveness of customized Victim Impact Panels on first-time DWI offender inmates.** *Accident Analysis and Prevention*. 36: 29-35. <https://www.sciencedirect.com/science/article/abs/pii/S0001457502001112>

This study investigated the effectiveness of a uniquely designed VIP program on the drinking and driving behavior of first-time offenders convicted of DWI in San Juan County, New Mexico. Participants in the study were recruited into the program upon sentencing and then randomized either to the standard San Juan County 28-day DWI Detention/Treatment program (n=56), which includes VIP participation, or to the same standard program but without VIP participation (n=43). MADD VIPs typically include family or friends of DWI victims, or emergency responders who attended victims of DWI, or persons harmed themselves by DWI. In the San Juan County VIP program, panel members even included DWI offenders who were victims of their own impaired driving, e.g., a young Navajo man who became a paraplegic through his own drunk driving. Analysis of results showed that recidivism rates for VIP members were not significantly different from those

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for controls. Moreover, VIP participants showed no improvement in their drinking behavior, their driving-after-drinking behavior, or their binge-drinking behavior compared to controls.

Wilson DB, Olaghere A, & Kimbrell CS (2017). **Effectiveness of restorative justice, principles of juvenile justice – a meta-analysis**. Washington DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Programs. 16(4), 171-176.
<https://www.ncjrs.gov/pdffiles1/ojdp/grants/250872.pdf>

This study is a meta-analysis of 60 programs, mainly from the U.S. and Australia, that contained at least one component modeled on RJ principles. The authors' meta-analysis largely focused on how RJ programs impacted offender recidivism. Those impacts were either small or non-significant. More central to this summary, however, the authors also used random-effects modeling to estimate the pooled impacts on the victims of juvenile crime. Compared with victims involved in more traditional juvenile justice proceedings, victims participating in RJ conferences reported greater levels of satisfaction with the outcomes of their cases, greater levels of forgiveness toward their offenders, higher estimates of fairness in the proceedings, a greater sense that their offenders were held accountable, and much higher perceptions that their opinions and views were considered during the process. These results are highly promising, but a great deal of research is needed to determine whether and how RJ programs can be shaped to offer more sustainable results.