

## **Empathy: Victim Impact Panels and DWI Offenders**

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### **ABSTRACT**

A Victim Impact Panel (VIP) is one of many intervention methods implemented to reduce DWI recidivism. While other sentences focus on tangible punishments and rewards, a VIP provides emotional motivation to change one's behavior and attitudes towards drinking and driving. In study one, I 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, I 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.

### **INTRODUCTION**

Although the rates of alcohol-related fatalities in the United States have been declining in the past few decades, drinking and driving is still a very prevalent hazard in our society. According to the National Highway Traffic Safety Association (NHTSA), thirty-nine per cent of all fatal automobile crashes in 2005 were considered alcohol-related, resulting in 16,885 fatalities (NHTSA, 2007). One person died every 31 minutes from an alcohol-related automobile accident. Nonetheless, this is only one of the pressing concerns associated with drinking and driving. Driving while intoxicated (DWI) is also related to other serious human and property damages and is expensive for society in terms of social and fiscal factors costing the United States over \$50 billion in 2000 (NHTSA, 2007). Criminal justice professionals are not only concerned about the initial risks associated with drunk driving but also with the high level of DWI recidivism or repeat offenses (C' de Baca, Miller, & Lapham, 2001; Donovan, Queisser, Salzberg, & Umlauf, 1985). Approximately one-third of alcohol-related driving offenses are committed by people who have prior alcohol-related driving offenses (NHTSA, 2007). According to the Bureau of Justice Statistics, the recidivism rate for DWI is approximately 51% with the majority being rearrested within one year (Langan & Levin, 2002).

Nationally, many intervention programs have been developed to help reduce DWI recidivism rates. La Crosse County has implemented one such program called OWI (operating while intoxicated) court. The OWI program in La Crosse began in August of 2006; consequently, the evidence of its effectiveness is minimal. The OWI program targets second or higher OWI offenders and those offenders that are considered to be "irresponsible users" rather than addicted to alcohol. Over the past six months the La Crosse OWI court has admitted over 100 participants with a retention rate of 86% (Zollweg, personal communication, Feb 27, 2007).

OWI courts benefit from the ability to implement multiple intervention and treatment programs. In La Crosse County, common sentences for offenders included in the OWI court are frequent interactions with a judge, increased

supervision by probation officers, and random alcohol testing (La Crosse County, 2006). Another common sentence is the use of an intervention program that was developed over 30 years ago – Victim Impact Panels (VIP) (Fors & Rojeck, 1999).

Victim Impact Panels were first integrated into the DUI court program in 1982 by Mothers Against Drunk Driving (MADD) in response to the high number of DWI offenses (Fors & Rojeck, 1999). Even before La Crosse County initiated the OWI court program, it began using VIPs in 2001. MADD introduced the panels with the purpose to “individualize and humanize the consequences of impaired driving, to change attitudes and behaviors, and to deter impaired driving recidivism” (Lord, 2001). Consisting of three or four speakers, the panels most often feature bereaved victims, although, police officers, injured people and remorseful offenders are also included depending on the circumstances (MADD, 1999). The panels aim to change attitudes toward drinking and driving, as well as behaviors associated with it.

Sprang (1997) conducted a study to evaluate the pre and post-VIP attitudes to drinking and driving. Immediately before attending the VIP, 87.1% of the participants stated they would continue drinking and driving and one week after attending the VIP only 10% of the participants stated they would. Results indicated that VIPs can indeed decrease DWI recidivism rates (e.g. Fors & Rojeck, 1999). In July 2000, Purdue University conducted a study of 587 first time impaired driving offenders (as cited in Lord, 2001). All participants received normal sanctions (fines, probation, license suspension/restriction, etc) and were placed in one of six groups. One group was sentenced to normal sanctions and, in addition, required to attend the MADD VIP. This group had the lowest overall recidivism rate over the three year period. Moreover, another group that was sentenced to spending a full day at a hospital (which also exposed them to the emotional component of drinking and driving accidents) produced the second lowest recidivism rates. Fors and Rojeck (1999) conducted post-VIP evaluations of DWI recidivism both six and twelve months after the VIP. Their study compared a group of DWI offenders that attended the VIP and a comparison group of offenders that did not. Attending the VIP significantly reduced the chances of being rearrested for a DWI.

While traditional programs focus primarily on alcohol education and monitoring and license controls to reduce recidivism, a VIP provides the offender with the emotional motivation to avoid drinking and driving in the future (Fors & Rojeck, 1999). According to NHTSA’s *How-To Guide for Victim Impact Panels*, emotions play an intricate role in the effectiveness of the VIP. Bless, Bohner and Strack (1990) found that, when in a sad mood, people are more easily moved by a convincing argument than when they are in a happy mood. Thus, a VIP engages each attendee’s emotions with the goal of effectively changing their attitudes and behaviors (Lord, 2001).

Empathy is one emotion that is explicitly targeted in a VIP. Empathy refers to “the ability to understand and share in another’s emotional state or context” (p.988, Cohen & Strayer, 1996). Numerous studies have looked at the relationship between committing crimes and levels of empathy (e.g. Badovinac, 1994; Joliffe & Farrington, 2004). The majority of them concluded that individuals with lower levels of empathy are at a higher risk to enact crimes (Pithers, 1999). Consequently, criminal justice interventions have shown an increase in treatment programs aimed at enhancing empathy in order to reduce recidivism (Ross & Ross, 1995; Serin & Kuriychuk, 1994).

While much of the current research literature focuses on sexual abusers (e.g. Pithers 1999; Carich, Metzger, Baig, & Harper, 2003), studies have been conducted to assess the relationship between feelings of empathy felt by offenders and criminal offenses in general. Joliffe and Farrington (2004) conducted a meta-analysis of 35 studies on this relationship. They distinguished between *cognitive empathy* (an understanding of another’s feelings) and *affective empathy* (sharing another’s emotional state). They found that lower cognitive empathy was negatively correlated with offending but affective empathy was not. They also found no significant differences in empathy levels between sex-offenders and mixed offenders (offenders not defined as sex offenders). This implies that empathy-enhancing programs would be no less effective for mixed offenders than they would be for sex-offenders. In another study, Pithers (1999) found that empathy-enhancement positively affected sex offenders’ feelings toward treatment programs, suggesting that empathy-enhancing programs are an “essential element” in the intervention process to reduce recidivism.

Badovinac (1994) conducted one of the few studies on empathy and VIPs. She found positive shifts in both behavioral intentions and attitudes. In contrast to previous studies on crime and empathy, attending a VIP did not appear to effect empathy levels. However, her research was exclusively conducted with chronic offenders. MADD strongly discourages using offenders with multiple DWI offenses due to the possibility of alcohol dependence and high need for additional treatment.

Finally, several studies have shown that race, age, and gender all affect how recipients respond to VIPs (e.g. Fors & Rojeck, 1999). Yet, research on the relationship between race, age or gender of the panel speakers and the offenders attending the VIP is scarce. According to Alfred Bandura’s social learning theory, we are more likely to model people who are more similar to us in age, gender, prestige etc (Schultz & Schultz, 2005). Moreover, Hanson

and Scott (1995) found that indifferent or adversarial relationships are detrimental to feelings of empathy. These findings suggest that VIPs should be most effective if the offenders perceive the speakers positively and similar to themselves.

This is a two part study. Study one consisted of applied research in La Crosse County's OWI court and assessed the effects of Victim Impact Panels on victim empathy. I hypothesized that the VIP would increase feelings of empathy for a short period of time. Study two assessed the roles that victim age, sex and severity of injury sustained play in affecting feelings of empathy for a speaker at a VIP. I hypothesized that the highest levels of empathy would be reported for victims closest in age to the participants and those who suffered the highest severity of injury.

## METHOD

### Study 1

Participants were 61 persons, 47 male and 14 female, who attended a Victim Impact Panel (VIP) in May ( $n = 33$ ) or August of 2007 ( $n = 28$ ). Ninety-seven percent ( $n = 59$ ) of the participants were present at the panel for a driving offense. Of the respondents, 16% were attending for a DUI, 32% for 4+ DWI offenses, 28% for 3rd offense DWI, and 21% 2nd offense DWI. I obtained demographic information on the participants through the La Crosse County Justice Sanctions office. Participants completed a short questionnaire immediately prior to the panel, immediately after and then again eight weeks later. The questionnaire 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:

- 1) I become sad when I see other people when they are sad.
- 2) I can usually realize when a person is angry.
- 3) Other people's emotions do not affect me.
- 4) I usually understand how people are feeling when they are happy.

### Study 2

Participants were 90 undergraduate University of Wisconsin-La Crosse students ranging from 18 to 22 years of age ( $M = 18.96$ ,  $SD = .90$ ). Eighty percent ( $n = 72$ ) of the participants were female. Upon entrance into the classroom, each participant received an informed consent form and I explained to them the procedures of the study. Additionally, I gave each participant a partial transcript from the original VIP accompanied by an introductory paragraph and a questionnaire. In order to assess the roles that severity of injury, gender and age play in affecting feelings of empathy for a victim of DWI offenses, the introductory paragraph described the victim by age (21 or 60), sex and severity of injury sustained (wheelchair bound or no noticeable injuries). After reading the partial transcript, each participant 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.

## RESULTS

Study one results confirmed my hypotheses. After attending the VIP, participants showed a significant increase in empathy scores (Time 1  $M = 22.15$ ,  $SD = 3.67$ ; Time 2  $M = 22.89$ ,  $SD = 3.98$ ), *one-tailed, paired t* ( $60$ ) =  $-1.92$ ,  $p = .059$  (see Table 1). Collectively, the findings from study one suggest that VIPs can play a role in increasing victim empathy for a short period of time. However, as I hypothesized, the increase in empathy was not preserved over the eight week period. Due to the considerably low number of responses that I received for the third survey ( $N = 12$ ), I can not draw any valid conclusions as to the true preservation of the empathy over time. While there was a significant increase in empathy after observing the VIP for the participant pool as a whole, results showed no significant changes between the three empathy scores for the participants who completed the third questionnaire eight weeks after attending the VIP. Moreover, I found interesting results in attitude changes among the participants. For the participant pool as a whole there was a significant "positive" change in their responses to the question "I believe that my punishments have been appropriate for my crime of driving while intoxicated" (see Table 1). Attitudes towards future drinking and driving behavior became more "negative" in that the participants were more likely to agree that they would drink and drive in the future when responding to the post-VIP questionnaire – possible explanations are discussed.

I assessed the differences in attitudes between the twelve participants who returned the third survey and the remaining 49 participants who did not (see Table 2). When comparing the two groups, I found that the most notable difference between them was their initial attitudes toward their own crime. The twelve respondents for the third survey agreed significantly more strongly with the statements: "I believe the crime I committed is deserving of a

punishment” and “I believe that my punishments have been appropriate for my crime of driving while intoxicated” (see Table 2) While the difference in response to the second statement was not statistically significant, this may be due to the low number of respondents in the third questionnaire category. Additionally, the twelve respondents also had more positive initial attitude toward the VIP in that they more strongly agreed that it was an effective intervention program for reducing DWI offenses (see Table 2). I also ran statistical analyses to assess any demographical differences between the 12 participants who completed the third survey and the 49 who did not. The analyses showed there were no significant demographical differences between the two groups of participants.

Study two results were contrary to my hypotheses. I used a 2x2x2 ANOVA to analyze any interactions between the three independent variables. The three independent variables that were manipulated in the introductory paragraph were victim age (21 or 60), sex and severity of injury sustained (wheelchair bound or no noticeable injuries); I also assessed the role of participant gender. I found significant main effects for victim age and participant gender (see Table 3). Older victims elicited significantly higher levels of empathy than did younger victims (Age 60  $M = 42.11$ ,  $SD = 4.09$ ; Age 21  $M = 39.98$ ,  $SD = 5.03$ ),  $F(1, 89) = 5.73$ ,  $p = .02$ . Additionally, male participants reported significantly lower levels of empathy than female participants regardless of victim characteristics (Male  $M = 38.65$ ,  $SD = 4.25$ ; Female  $M = 41.66$ ,  $SD = 4.62$ ),  $F(1, 89) = 3.81$ ,  $p = .06$ . One interaction was found between victim sex, injury and participant gender but due to low participant numbers in the cells, and thus low power, I was not able to draw valid conclusions from the results. Results showed no other significant interactions between the four variables.

An independent samples  $t$ -test revealed interesting differences between the participants who had a personal DWI experience ( $N = 19$ ) versus those who had not had a past DWI experience ( $N = 71$ ). While there were no significant differences in empathy levels between the two groups, the two groups did have significantly different attitudes about drunk driving. Surprisingly, the participants who had a personal experience with a DWI offense agreed less strongly with the statements “I think drunk driving is a crime” and “I think drunk drivers deserve to be harshly punished, i.e. prison time” (Past experience:  $M = 1.37$ ,  $SD = .60$ ; No experience:  $M = 1.10$ ;  $SD = .30$ ,  $t(89) = 2.45$ ,  $p = .01$ ) (Past experience:  $M = 2.47$ ,  $SD = 1.47$ ; No experience:  $M = 1.65$ ;  $SD = .94$ ,  $t(89) = 2.99$ ,  $p = .00$ ) respectively – explanations are discussed.

**Table 1.** Study One Participant Empathy and Attitudes ( $N = 61$ )

Attitude Question	$M$	$SD$	$t(60)$	$p=$
Time 1: Empathy Score	22.15	3.67		
Time 2: Empathy Score	22.89	3.98	-1.92	.06 <sup>ab</sup>
TIME 1: I think a VIP is a good way to stop people from drinking and driving	2.53	1.67		
TIME 2: “ ”	2.29	1.72	1.37	1.76
Time 1: I believe the crime I committed is deserving of a punishment	2.03	1.52		
TIME 2: “ ”	2.03	1.51	-3.13	1.00
Time 1: I believe that my punishments have been appropriate for my crime	2.36	1.71		
TIME 2: “ ”	2.90	1.93	-3.13	.003 <sup>a</sup>
Time 1: In the future, it is likely that I will drink and drive	6.47	1.43		
TIME 2: “ ”	6.08	1.87	2.15	.04 <sup>a</sup>
<sup>a</sup> signifies a statistically significant change				
<sup>b</sup> signifies a one tailed significance				

**Table 2:** Comparison of Initial Attitudes – Immediate vs. Long Term Participants

Attitude Questions and Empathy Scores	$N = 12$		$N = 49$		$t$	$p=$
	$M$	$SD$	$M$	$SD$		
Time 1: I think a VIP is a good way to stop people from drinking and driving	1.83	1.75	2.70	1.63	-1.63	.05 <sup>ab</sup>

Time 2: “ ”	2.00	1.91	2.33	1.66	-.59	.56
Time 1: I believe the crime I committed is deserving of a punishment	1.25	.62	2.23	1.62	-2.06	.04 <sup>a</sup>
Time 2: “ ”	1.33	.65	2.21	1.61	-1.84	.04 <sup>ab</sup>
Time 1: I believe that my punishments have been appropriate for my crime	2.17	1.70	3.09	1.95	-1.50	.07 <sup>b</sup>
Time 2: “ ”	1.67	1.23	2.54	1.78	-1.60	.06 <sup>ab</sup>
Time 1: In the future, it is likely that I will drink and drive	5.75	2.30	6.17	1.77	-.69	.50
Time 2: “ ”	6.17	1.85	6.54	1.32	-.81	.42
Time 1: Empathy	23.67	2.87	21.78	3.77	1.62	.06 <sup>ab</sup>
Time 2: Empathy	24.00	4.26	22.61	3.91	1.08	.28
<sup>a</sup> signifies a significant difference between the two participant groups						
<sup>b</sup> signifies a one-tailed significance						

**Table 3: Empathy Scores Study Two**

Dependent Variable		<i>M</i>	<i>SD</i>	<i>F</i> (1,89)	<i>p</i> =
Gender of Participant	Male ( <i>n</i> = 18)	38.65	4.25	3.81*	.06
	Female ( <i>n</i> = 72)	41.66	4.62		
Age of Victim	21 ( <i>n</i> = 45)	39.98	5.03	5.73*	.02
	60 ( <i>n</i> = 45)	42.11	4.09		
Sex of Victim	Male ( <i>n</i> = 44)	40.87	4.18	1.21	.27
	Female ( <i>n</i> = 46)	40.20	5.05		
Severity of Injury	Low ( <i>n</i> = 46)	41.15	4.42	.00	.97
	High ( <i>n</i> = 44)	40.19	5.01		

## DISCUSSION

While empathy has been shown to play an important role in more violent personal crimes like robbery, murder and sexual assaults (e.g. Hogan, 1969; Burke, 2001), the inconsistent role of empathy in DWI recidivism may be due in part to the fact that many offenders feel their crime only affected themselves and therefore are unable to feel empathetic towards another person. Farrington (1998) (as cited in Joliffe & Farrington, 2004) stated, “offenders are callous with low empathy... They are relatively poor at role-taking and perspective-taking... This lack of awareness impairs their ability ...to appreciate the effects of their behavior on other people.” The goal of the VIP is to provide the DWI offenders with clear evidence that their actions affect others as well.

These two studies show that empathy indeed does play a role in the Victim Impact Panel process. These results could potentially help develop ways in which justice sanctions programs could maximize the effectiveness of VIPs by increasing the potential victim empathy felt by the offenders; therefore, helping reduce drunk driving recidivism.

It is very important to note that there are significant qualitative differences between the twelve third survey respondents and the remaining 49 participants, most notably in their attitudes toward their crime and punishments. These differences may have affected the preservation effects of the increase in empathy. It is possible that because the twelve participants had higher initial empathy levels that a significant increase after attending was too much to ask – so to speak. Future research should attempt to control these confounding variables.

It is also important to note that there was very little difference in their response to their future DWI behavior. Intuitively, one would expect the 49 respondents who had statistically significantly more negative attitudes toward their crime/punishments etc. (see Table 2) would more strongly agree that they would engage in future DWI behavior. The results do not reflect this idea. I suggest that all the participants, due to the circumstances that brought them to the VIP, may have initially answered dishonestly due to worries about being punished for honest answers. It is possible that the change in response to “In the future it is likely that I will drink and drive” is due to the participants simply answering more honestly. Given the environment that the participants were in (i.e. the fact that most of them were mandated by the courts to attend the VIP), they were probably hesitant to answer such a question honestly. After realizing that their information was in no way going to be used against them, it is possible that they were less apprehensive.

Another factor that may have influenced the results of these studies was the empathy scale. The empathy scale from which the items for this study were taken may not have been as reliable and valid when not used as a complete scale. The original scale, the Basic Empathy Scale (BES), was developed by Jolliffe and Farrington in 2006 and had 20 items. As previously mentioned, I only used select items from the original scale so as to decrease the amount of time needed to complete the questionnaires. Moreover, the BES was accompanied by a five-point Likert scale; I used a seven-point Likert Scale in order to obtain more variation in responses. Therefore, for future research I would suggest using the complete scale in order ensure reliability and validity.

Reliability measures showed that the items that referred to a specific emotion (i.e. anger or sadness) were more reliable than items that asked about emotions in general. This may be due to the ambiguity of questions that ask about emotions in general (i.e. Other people's emotions do not affect me). Additionally, when specifically asked about anger, participants may have been able to more easily relate to the question and therefore answer the statement more accurately. Moreover, anger and sadness are two emotions that are particularly portrayed during the VIP process. This could have made it easier for the participants to respond to statements that referred to these specific emotions. In the future it may be beneficial to use an empathy scale that is shown to be reliable and valid in settings for criminal offenders.

Furthermore, for future research I would suggest using larger participant pools for both studies. The more participants the more power and validity statistical analyses carry. In order to truly assess the role of speaker characteristics, I would suggest doing a matched-sample assessment where participants are matched based on attitudes and empathy and then attend different VIPs with speakers of varying characteristics to see if disparate levels of empathy and/or attitude changes are elicited. If further researchers use a transcribed testimony, I would suggest ensuring that the introductory paragraph is noticeable to the participants. Given the brevity of the description of the speaker in study two, it is possible that participants did not thoroughly comprehend the characteristics of the speaker. Adding a validity check at the end of the survey would effectively assess whether or not the participants read the description.

Lastly, due to limited time and resources I was unable to look at the very important characteristic of race. Because race is undoubtedly an important variable that affects empathy, I would suggest assessing race's role in affecting empathy for panel speakers.

The results from these studies show that empathy plays an important role in the Victim Impact Panel process. However, the analyses show that empathy is fleeting and may only be effective for a short time. This, combined with the fact that most DWI offenders will recidivate within 12 months (Langan & Levin, 2002), suggests that it would be advantageous to help maintain the increases in empathy resulting from the VIPs. While a substantial shift in our society's view of treatment would need to occur, I would propose that implementing a program in which the attendees of the VIP meet every five weeks for the first year after attending the VIP, for example, in order to refresh the feelings elicited by the speakers. This would help preserve the empathy for *at least* that first year and would thus aid in reducing recidivism for the large numbers of DWI offender that recidivate within the first year.

Extensive research has proven that empathy is an important emotion and is linked to the commission of criminal behavior (e.g. Ellis, 1992; Jolliffe & Farrington 2004). Thus, its development is essential in order to reduce criminal behavior. As previously stated, a VIP is an *intervention* program, meaning that it is implemented *after* a crime has been committed. The ultimate goal would be to have *preventative* measures that would help reduce criminal behavior before it occurs. Therefore, my last suggestion for future research would be to develop ways that we can implement empathy-enhancing programs for *all* people not simply the convicted offenders, possibly within school curriculums. I feel that this would help increase society's awareness of the effects of all their actions on other people. This is undoubtedly an excellent goal for which we, as a society and as individuals, can strive.

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