INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed



www.ijlra.com

ISSN: 2582-6433

DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, or distributed in any form or by any means, whether electronic, mechanical, photocopying, recording, or otherwise, without prior written permission of the Managing Editor of the *International Journal for Legal Research & Analysis (IJLRA)*.

The views, opinions, interpretations, and conclusions expressed in the articles published in this journal are solely those of the respective authors. They do not necessarily reflect the views of the Editorial Board, Editors, Reviewers, Advisors, or the Publisher of IJLRA.

Although every reasonable effort has been made to ensure the accuracy, authenticity, and proper citation of the content published in this journal, neither the Editorial Board nor IJLRA shall be held liable or responsible, in any manner whatsoever, for any loss, damage, or consequence arising from the use, reliance upon, or interpretation of the information contained in this publication.

The content published herein is intended solely for academic and informational purposes and shall not be construed as legal advice or professional opinion.

Copyright © International Journal for Legal Research & Analysis. All rights reserved.

ISSN: 2582-6433

ABOUT US

The *International Journal for Legal Research & Analysis (IJLRA)* (ISSN: 2582-6433) is a peer-reviewed, academic, online journal published on a monthly basis. The journal aims to provide a comprehensive and interactive platform for the publication of original and high-quality legal research.

IJLRA publishes Short Articles, Long Articles, Research Papers, Case Comments, Book Reviews, Essays, and interdisciplinary studies in the field of law and allied disciplines. The journal seeks to promote critical analysis and informed discourse on contemporary legal, social, and policy issues.

The primary objective of IJLRA is to enhance academic engagement and scholarly dialogue among law students, researchers, academicians, legal professionals, and members of the Bar and Bench. The journal endeavours to establish itself as a credible and widely cited academic publication through the publication of original, well-researched, and analytically sound contributions.

IJLRA welcomes submissions from all branches of law, provided the work is original, unpublished, and submitted in accordance with the prescribed submission guidelines. All manuscripts are subject to a rigorous peer-review process to ensure academic quality, originality, and relevance.

Through its publications, the *International Journal for Legal Research & Analysis* aspires to contribute meaningfully to legal scholarship and the development of law as an instrument of justice and social progress.

ISSN: 2582-6433

PUBLICATION ETHICS, COPYRIGHT & AUTHOR RESPONSIBILITY STATEMENT

The *International Journal for Legal Research and Analysis (IJLRA)* is committed to upholding the highest standards of publication ethics and academic integrity. All manuscripts submitted to the journal must be original, unpublished, and free from plagiarism, data fabrication, falsification, or any form of unethical research or publication practice. Authors are solely responsible for the accuracy, originality, legality, and ethical compliance of their work and must ensure that all sources are properly cited and that necessary permissions for any third-party copyrighted material have been duly obtained prior to submission. Copyright in all published articles vests with IJLRA, unless otherwise expressly stated, and authors grant the journal the irrevocable right to publish, reproduce, distribute, and archive their work in print and electronic formats. The views and opinions expressed in the articles are those of the authors alone and do not reflect the views of the Editors, Editorial Board, Reviewers, or Publisher. IJLRA shall not be liable for any loss, damage, claim, or legal consequence arising from the use, reliance upon, or interpretation of the content published. By submitting a manuscript, the author(s) agree to fully indemnify and hold harmless the journal, its Editor-in-Chief, Editors, Editorial Board, Reviewers, Advisors, Publisher, and Management against any claims, liabilities, or legal proceedings arising out of plagiarism, copyright infringement, defamation, breach of confidentiality, or violation of third-party rights. The journal reserves the absolute right to reject, withdraw, retract, or remove any manuscript or published article in case of ethical or legal violations, without incurring any liability.

ISSN: 2582-6433

THE RIGHT TO BE HEARD: IMPACT OF VICTIM IMPACT STATEMENTS ON SENTENCING SEVERITY

AUTHORED BY - KHUSHBU CHAWLA & DR. ADITYA JAIN
Jagannath University, Jaipur (Rajasthan)

ABSTRACT

The integration of Victim Impact Statements (VIS)—designated in select common-law jurisdictions as Victim Personal Statements (VPS)—represents a profound structural reorientation of modern criminal justice. Framed as a crucial correction to the historic marginalization of crime victims within bilateral adversarial structures, the "right to be heard" is underpinned by procedural justice and therapeutic jurisprudence frameworks. However, the instrumental effect of victim input on judicial determinations—specifically whether subjective harm narratives systematically escalate sentencing severity—remains an enduring jurisprudential and empirical controversy. This paper provides a multi-jurisdictional doctrinal and empirical analysis examining the structural relationship between victim impact evidence and penal severity across the United States, Canada, England and Wales, and Australia. Synthesizing archival sentencing data, cognitive-psychological experiments, and appellate jurisprudence, this study identifies a clear institutional bifurcation: while professional judges demonstrate institutional and cognitive insulation against punitive inflation in routine felony adjudications, lay jurors in capital sentencing proceedings exhibit acute susceptibility to emotional heuristics, producing statistically significant escalations in death-sentence recommendations. Furthermore, the analysis demonstrates how the identifiable victim effect, unvetted delivery modalities, and extra-legal socio-demographic disparities generate profound due process and equal protection vulnerabilities. The paper articulates a calibrated normative framework designed to preserve the expressive dignity of victims without compromising the foundational requirements of proportional desert, evidentiary reliability, and sentencing equity.

Keywords: Victim Impact Statements, Sentencing Severity, Retributive Proportionality, Procedural Justice, Therapeutic Jurisprudence, Lay Sentencers, Identifiable Victim Effect.

ISSN: 2582-6433

1. Introduction

For centuries following the consolidation of the common-law system, criminal adjudication operated within a strictly bilateral institutional geometry: the sovereign state prosecuted the accused wrongdoer. Under this classical paradigm, criminal conduct was conceptualized not as a private injury to an individual, but as an intolerable breach of the public peace and an offense against the sovereign authority of the state. This institutional abstraction formed the basis of Nils Christie's critique in Conflicts as Property, wherein he observed that modern legal institutions effectively expropriated the dispute from its primary participants1. Within this framework, crime victims were systematically disempowered, stripped of independent procedural standing, and relegated to the secondary status of evidentiary instruments whose subjective experiences, trauma, and material catastrophe were strictly filtered through transactional rules of relevance. The ascendance of the victims' rights movement during the late twentieth century catalyzed a structural reconsideration of this traditional balance.2Proponents argued that treating the injured party as a detached prosecutorial witness inflicted widespread secondary victimization, undermined public faith in the rule of law, and deprived sentencers of essential information regarding the true scope of criminal harm.3This advocacy produced legislative and constitutional reforms establishing the victim's formal entitlement to participate in the sentencing phase of criminal trials, primarily through the introduction of Victim Impact Statements.

As codified across diverse common-law jurisdictions, a VIS permits direct victims—or surviving relatives in homicide cases—to submit written, oral, or audiovisual accounts detailing the physical injuries, psychological trauma, and financial losses generated by an offense prior to the judicial determination of the penalty.4The normative justifications advanced for victim impact evidence draw primarily from two complementary legal theories. Procedural justice theory posits that providing affected parties with voice, validation, and institutional standing fosters public confidence and perceived equity in the administration of justice.5Concurrently, therapeutic jurisprudence emphasizes that personal allocution offers an

1 Nils Christie, "Conflicts as Property," The British Journal of Criminology 17, no. 1 (1977): 1–15.

2 President's Task Force on Victims of Crime, Final Report (Washington, DC: U.S. Government Printing Office, 1982).

3 Paul G. Cassell, "In Defense of Victim Impact Statements," Ohio State Journal of Criminal Law 6, no. 2 (2009): 611–648.

4 Gena Dufour, Marguerite Ternes, and Veronica Stinson, "The Relationship Between Victim Impact Statements and Judicial Decision-Making: An Archival Analysis of Sentencing Outcomes," Canadian Journal of Criminology and Criminal Justice 65, no. 2 (2023): 45–68, https://doi.org/10.3138/cjccj.2022-0031.

5 U.S. Department of Justice, "Victim Impact Statements," Office for Victims of Crime and Criminal Division (2020), https://www.justice.gov/criminal/criminal-vns/victim-impact-statements.

ISSN: 2582-6433

expressive and cathartic conduit for trauma resolution, validating the victim's agency and mitigating institutional alienation. Alongside these expressive and restorative rationales, however, criminal justice policy debates have frequently advanced an instrumental objective: utilizing raw victim narratives to ensure that criminal punishment adequately reflects the gravity of the wrongdoing6, serving as a counterweight against perceived judicial leniency. This dual character has provoked profound doctrinal and empirical controversies. Opponents contend that subjective, emotionally charged victim accounts inherently threaten the retributive core of sentencing. Under classical desert theory, criminal sanctions must remain strictly proportionate to the offender's personal moral culpability and the objectively foreseeable harm caused by the criminal conduct.7Introducing idiosyncratic, subjective suffering into the formal sentencing calculus risks creating an arbitrary "victim lottery8," wherein identical criminal acts yield widely disparate penalties based entirely on the articulateness, vindictiveness, vulnerability, or perceived social worth of the individual victim.

Furthermore, serious questions persist regarding evidentiary reliability, the absence of meaningful cross-examination, and the risk that racial and socio-economic biases may distort sentencing outcomes. This study investigates whether victim impact evidence functions as an instrumental driver of penal severity or remains an expressive and therapeutic mechanism. Through a systematic synthesis of legal doctrine, cognitive psychology, and empirical datasets across the United States, Canada, the United Kingdom, and Australia, this paper analyzes the structural impact of the victim's voice on modern sentencing.9

2. Review of Literature

2.1 Theoretical Frameworks: Retributivism, Expressivism, and Procedural Justice

The academic discourse surrounding victim impact statements intersects three foundational bodies of legal and penological theory: retributive desert theory, expressive penology, and procedural justice. Classical retributivism posits that the sole legitimate justification for criminal sanctions is proportional desert10. Within this framework, penal severity must be determined exclusively as a function of the seriousness of the criminal act, which consists of

6 R. A. Duff, Punishment, Communication, and Community (New York: Oxford University Press, 2001).

7 Andrew von Hirsch, Censure and Sanctions (Oxford: Oxford University Press, 1993), https://doi.org/10.1093/acprof:oso/9780198258674.001.0001.

8 Susan A. Bandes and Jessica M. Salerno, "Emotion, Proof and Prejudice: The Value of Looking at Visual Evidence in the Courtroom," Arizona State Law Journal 47, no. 4 (2015): 1009–1060.

9 Marie Manikis, "Victim Impact Statements at Sentencing: Towards a Clearer Understanding of Their Aims," University of Toronto Law Journal 65, no. 2 (2015): 85–123, https://doi.org/10.3138/utlj.2717.

10 Andrew von Hirsch, Censure and Sanctions (Oxford: Oxford University Press, 1993), https://doi.org/10.1093/acprof:oso/9780198258674.001.0001.

ISSN: 2582-6433

the offender's subjective culpability (guilty mind) and the objective harm caused or risked. Culpability reflects the mental state of the actor at the precise moment of the offense—namely, whether the conduct was intentional, knowing, reckless, or criminally negligent. Under strict retributivism, criminal sanctions must respond exclusively to harm that was intended, known, or reasonably foreseeable to the actor at the time of the conduct. Conditioning penal severity on the idiosyncratic, subjective distress of an individual victim breaks this causal link between personal blameworthiness and legal liability. If an offender commits an offense and the victim suffers a typical, debilitating psychological trauma due to an undisclosed personal vulnerability, penalizing that offender more severely than one whose victim proved exceptionally resilient violates the retributive demand that legal burdens must track foreseeable blameworthiness rather than post-offense fortuities.

In contrast, scholars advancing harm calibration theories argue that victim impact evidence fulfills an indispensable retributive purpose through the assessment of ancillary harm.11Criminal statutory codes necessarily categorize offenses into broad, standardized typologies that fail to capture the nuanced, case-specific gradations of harm inflicted in individual instances. Ancillary harm encompasses those non-essential, direct consequences of an offense—such as chronic physical pain, vocational disruption, or persistent domestic terror—that are not formal statutory elements but are integral to the overall gravity of the criminal episode. Proponents contend that a sentencing judge cannot properly calibrate proportional desert in an informational vacuum; without direct victim testimony illuminating the specific consequences of the conduct, courts risk chronically underestimating the true magnitude of harm, culminating in sentences that are disproportionately lenient. Expressive penology approaches the issue through the communicative dimension of criminal punishment, asserting that penal sanctions serve as an authoritative societal denunciation of moral wrongdoing.12Under this view, crime constitutes an interpersonal violation that fractures moral relationships between citizens. Bestowing procedural standing upon the victim to articulate the human cost of the crime affirms their standing as a rights-bearing member of the political community rather than a detached bystander.

Procedural justice theory reinforces this position by demonstrating that institutional legitimacy and voluntary legal compliance depend substantially on the perceived fairness of legal

11 Julian V. Roberts and Marie Manikis, "Victim Impact Statements at Sentencing: The Relevance of Ancillary Harm," Canadian Criminal Law Review 15, no. 1 (2010): 1–29.

12 R. A. Duff, Punishment, Communication, and Community (New York: Oxford University Press, 2001).

ISSN: 2582-6433

procedures rather than favorable case outcomes13Providing affected stakeholders with a structured platform for voice, respectful institutional treatment, and transparent deliberation fosters systemic trust, independent of whether the victim's submission alters the ultimate penalty. Therapeutic jurisprudence extends these expressive considerations by evaluating the psychological consequences of legal rules and procedures14This framework posits that legal processes should support emotional recovery where doing so does not compromise fundamental constitutional protections. Delivering a statement can provide psychological validation, alleviate feelings of powerlessness, and facilitate cognitive closure. Furthermore, confronting an offender with the direct human suffering caused by their actions can penetrate cognitive distortions, stimulate genuine remorse, and support behavioral rehabilitation. However, therapeutic jurisprudence also recognizes the risk of secondary trauma, warning that when criminal courts invite victim expression under the implicit expectation of influencing the sentence, the subsequent failure of the court to adopt the victim's punitive preferences can trigger severe institutional betrayal and psychological distress.

Table 1. Comparative treatment of victim impact statements

Jurisdiction	Primary legal authority	Admissibility scope	Judicial consideration	Exclusionary restrictions
United States	Payne v. Tennessee (1991); CVRA (18 U.S.C. § 3771); Bosse v. Oklahoma (2016)	Admissible in capital and non-capital proceedings; includes written and oral allocution.	Mandatory in federal proceedings upon victim request under the CVRA.	Strict Eighth Amendment bar on victim opinions regarding the appropriate sentence or characterizations of the defendant.
Canada	Criminal Code of Canada, ss. 722 and 722.2; R v Gabriel (1999); Berner (2013)	Written statements; oral reading permitted upon request; addresses physical, emotional and	Mandatory judicial inquiry into whether the victim was offered an opportunity to prepare a	Strict exclusion of sentencing recommendations, unverified criminal allegations or inflammatory characterizations.

13 Tom R. Tyler, Why People Obey the Law (New Haven, CT: Yale University Press, 1990).
14 David B. Wexler and Bruce J. Winick, eds., Law in a Therapeutic Key: Developments in Therapeutic Jurisprudence (Durham, NC: Carolina Academic Press, 1996).

ISSN: 2582-6433

		financial harm.	statement.	
England and Wales	Criminal Justice Act 2003; Sentencing Council Guidelines; R v Nunn [1996]; R v Perks [2001]	Victim Personal Statements (VPS); written or read aloud; informs the assessment of offence harm.	VPS must be considered, but its absence cannot imply an absence of harm.	Subjective victim opinions regarding sentence severity are legally irrelevant; courts must disregard punitive or merciful pleas.
Australia	State enactments (e.g., NSW Crimes (Sentencing Procedure) Act 1999); R v Previtera (1997)	Written and oral statements; serve informative, restorative and limited aggravating roles.	Discretionary by jurisdiction; mandatory to receive, discretionary weight in final calculation.	Homicide statements cannot be used to increase sentences by measuring the comparative value of a deceased life (Previtera).

2.2 Jurisprudential Evolution Across Common-Law Jurisdictions

The legal status and procedural treatment of victim impact evidence have diverged across common-law jurisdictions, reflecting distinct approaches to constitutional rights, evidentiary standards, and sentencing structures. In the United States, the constitutional treatment of victim impact evidence evolved through sharp Supreme Court reversals. In Booth v. Maryland (1987), the Court held that admitting a VIS at the sentencing phase of a capital murder trial violated the Eighth Amendment15Writing for the majority, Justice Powell reasoned that information regarding the personal qualities of the victim and the family's grief was fundamentally irrelevant to the defendant's blameworthiness, introducing an unacceptable risk of arbitrary death sentences. This holding was reinforced in South Carolina v. Gathers (1989), which barred prosecutorial statements focusing on the victim's personal traits. However, following personnel changes on the bench, the Supreme Court overruled Booth and Gathers in Payne v. Tennessee (1991)16Chief Justice Rehnquist concluded that because the defense may present mitigating character evidence, fairness requires the prosecution to offer a "quick glimpse of the life" ended by the defendant. The Court held that victim impact evidence illustrates the specific harm

15 Booth v. Maryland, 482 U.S. 496, 107 S. Ct. 2529, 96 L. Ed. 2d 440 (1987).
16 John H. Blume, "Ten Years of Payne: Victim Impact Evidence in Capital Cases," Cornell Law Review 88, no. 2 (2003): 257–281. And South Carolina v. Gathers, 490 U.S. 805, 109 S. Ct. 2207, 104 L. Ed. 2d 876 (1989).

ISSN: 2582-6433

caused and is generally admissible, subject to Fourteenth Amendment Due Process review if it proves so unduly prejudicial that it renders the trial fundamentally unfair.

The scope of Payne was subsequently clarified in Bosse v. Oklahoma (2016), wherein the Supreme Court reaffirmed that Payne only overturned Booth's ban on evidence detailing the victim's character and direct family trauma.17Booth's per se prohibition against victim family members offering opinions or recommendations regarding the appropriate sentence remains binding constitutional law. In non-capital federal contexts, the Crime Victims' Rights Act of 2004 (CVRA) expanded these entitlements by establishing a statutory right "to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding". In Kenna v. U.S. District Court (2006), the Ninth Circuit ruled that this statutory entitlement guarantees direct oral allocution by the victim, holding that Congress sought to alter an adversarial culture that had historically treated victims as passive spectators18In Canada, Parliament formalized victim impact evidence through amendments to the Criminal Code (Sections 722 and 722.2), creating a legal requirement for sentencing judges to consider any submitted statement.19The statutory scheme requires statements to be prepared using standardized forms describing the physical, emotional, and financial impact of the offense. Canadian appellate courts have developed rigorous supervisory standards. In R v Gabriel (1999), the Ontario Superior Court established that judges must exercise a gatekeeping function to prevent inadmissible material—such as calls for vengeance or allegations of uncharged criminal conduct—from entering the sentencing record.

This approach was reaffirmed by the British Columbia Court of Appeal in Berner (2013), which held that VIS content must not distract sentencers from the primary objectives under Section 718, place relative value on one life over another, or seek to offset grief with punitive severity.20In England and Wales, the Victim Personal Statement (VPS) framework, codified under the Criminal Justice Act 2003 and administered via the Code of Practice for Victims of Crime, maintains a strict procedural distinction between assessing harm and determining punishment. The Court of Appeal in R v Nunn [1996] and R v Perks [2001] held that while a VPS provides valuable evidence regarding the factual extent of injury and trauma, opinions expressed by the victim or their family regarding the appropriate punishment are legally

17 Bosse v. Oklahoma, 580 U.S. 1, 137 S. Ct. 1, 196 L. Ed. 2d 1 (2016).
18 Kenna v. U.S. District Court for the Central District of California, 435 F.3d 1011 (9th Cir. 2006).
19 R. v. Gabriel, 1999 CanLII 15050, 137 C.C.C. (3d) 1, 26 C.R. (5th) 364 (Ontario Superior Court of Justice, 1999).
20 R. v. Berner, 2013 BCCA 474, 346 B.C.A.C. 147 (Court of Appeal for British Columbia, 2013).

ISSN: 2582-6433

inadmissible and must be disregarded.21 Sentencing Council Definitive Guidelines require sentencing judges to evaluate objective categories of harm, and explicitly state that the absence of a VPS must not be interpreted as an absence of harm. Appellate authority, including R v Legg [2025], emphasizes that trial judges may use a VPS to contextualize psychological injury within guideline categories, but subjective assertions of trauma cannot substitute for required medical evidence to support findings of "severe" psychological harm.

Australian jurisdictions incorporate victim impact evidence within state-level sentencing legislation, such as the New South Wales Crimes (Sentencing Procedure) Act 1999 and the Victorian Sentencing Act 1991. However, Australian common law restricts using family grief to aggravate sentences in homicide cases. In the landmark decision R v Previtera (1997), Chief Justice Hunt of the New South Wales Supreme Court held that admitting family impact statements to aggravate punishment in murder cases is fundamentally inappropriate.22Hunt observed that evaluating family grief to assess offense seriousness creates an unacceptable judicial task: measuring the value of one human life relative to another, or concluding that killing an individual with a large, articulate family warrants greater punishment than killing an isolated, unhoused person without surviving kin. Subsequent statutory amendments in New South Wales allowed family statements to be considered for limited purposes, yet Australian judicial practice maintains a presumption against using emotional narratives to inflate custodial tariffs beyond objective seriousness benchmarks.

3. Research Gap

A critical review of the empirical and legal scholarship reveals three structural omissions: First, the existing literature frequently analyzes "sentencing outcomes" as a uniform phenomenon, failing to adequately differentiate how professional judges versus lay jurors cognitively process emotional trauma narratives. Archival field studies of professional judiciaries routinely identify minimal sentencing effects, while controlled experimental studies with lay mock jurors consistently document substantial punitive increases. The structural mechanisms underlying this variation remain undertheorized. Second, while the ancillary harm doctrine provides a theoretical rationale for admitting victim accounts, current scholarship lacks an operational framework showing how modern structured sentencing guidelines differentiate between objectively foreseeable harm and idiosyncratic, unforeseeable suffering. Third, there is an

21 R v Nunn, [1996] 2 Cr. App. R. (S.) 136 (Court of Appeal of England and Wales, 1996). R v Perks, [2001] 1 Cr. App. R. (S.) 19 (Court of Appeal of England and Wales, 2001).

22 R v Previtera, (1997) 94 A Crim R 76 (Supreme Court of New South Wales, Australia).

ISSN: 2582-6433

unresolved institutional tension between statutory promises of victim agency and the realities of judicial decision-making. If professional sentencers routinely filter out emotional input to maintain proportional desert, the system risks fostering secondary trauma by establishing unmeetable expectations of instrumental influence.

4. Objectives of the Study

To resolve these contradictions, this study investigates four core areas:

1. Evaluate whether incorporating subjective victim harm into judicial sentencing aligns with retributive desert and the principle of proportionality.
2. Systematically review archival, observational, and experimental datasets across the United States, Canada, England and Wales, and Australia to determine whether VIS submission directly alters custodial rates, sentence lengths, or death penalty determinations.
3. Contrast the decision-making heuristics of professional judges against lay jurors, examining how emotionality, the identifiable victim effect, and delivery modalities influence assessments of blameworthiness.
4. Evaluate due process and equal protection concerns—including cross-examination restrictions and victim socio-demographic disparities—and formulate a structured policy framework that preserves the victim's expressive voice without distorting sentencing equity.

5. Research Methodology and Empirical Protocol

This research employs an integrated methodology combining comparative doctrinal analysis with a systematic synthesis of empirical sentencing data. The doctrinal component examines statutory provisions, judicial guidelines, and landmark jurisprudence across four common-law jurisdictions: the United States (Eighth Amendment capital jurisprudence and federal CVRA statutory allocution), Canada (Criminal Code provisions and supervisory gatekeeping precedents), England and Wales (Criminal Justice Act 2003 and Sentencing Council Definitive Guidelines), and Australia (state statutory regimes and High Court common-law constraints). The empirical synthesis evaluates quantitative archival sentencing data, judicial surveys, and experimental jury simulations published across criminological and legal literature over recent decades. Studies were examined based on clear operationalization of penal severity as a dependent variable (such as incarceration probability, sentence length in months, or capital

ISSN: 2582-6433

death recommendations), methodological isolation of the VIS variable (distinguishing presence versus absence, delivery modality, and emotional intensity), and the structural capacity to compare professional sentencers with lay adjudicators.

Table 2. Empirical studies of victim impact statements and sentencing outcomes

Study and year	Jurisdiction and data source	Methodology and sample	Primary dependent variables	Reported effect on penal severity
Erez & Tontodonato (1990)23	United States (Ohio bench sentencing)	Archival multivariate regression; N = 500 felony cases	Incarceration probability; sentence length	No statistically significant main effect on sentence length (p >.05); minor correlation with initial incarceration in low-harm property felonies.
Roberts & Edgar (2006)24	Canada (federal bench survey)	Cross-jurisdictional judicial survey; N = 96 judges	Harm assessment; perceived sentencing impact	74% of judges reported VIS provided useful harm contextualization; fewer than 8% indicated it increased custodial length beyond guideline bands.
Nadler & Rose (2003)25	United States (experimental)	2 × 2 factorial mock-jury simulation; N = 184	Punitive sentence recommendations ; moral outrage	Highly significant: VIS content increased sentence severity ratings (p <.01),

23 Edna Erez and Pamela Tontodonato, "The Effect of Victim Participation in Sentencing on Sentence Outcome," Criminology 28, no. 3 (1990): 451–474, https://doi.org/10.1111/j.1745-9125.1990.tb01334.x.

24 Julian V. Roberts and Allen Edgar, Victim Impact Statements at Sentencing: The Perspectives of Canadian Judges (Ottawa: Department of Justice Canada, 2006).

25 Janice Nadler and Mary R. Rose, "Victim Impact Testimony and the Psychology of Punishment," Cornell Law Review 88, no. 2 (2003): 419–456.

ISSN: 2582-6433

				mediated by juror moral outrage.
Paternoster & Deise (2011)26	United States (capital trial simulation)	Death-qualified, voir-dired mock jurors; N = 216	Capital death penalty recommendation rate	Statistically significant increase in death recommendations (p =.02); exposure to VIS elevated victim empathy and blunted mitigation weight.
Dufour et al. (2021, 2023)27	Canada (archival appellate and trial files)	Content and regression analysis; N = 1,332 sentencing rulings	Custodial term length (months); probation conditions	VIS presence did not predict increased custodial duration; statements were disproportionately submitted in inherently severe baseline crimes.
Frontiers in Cognition Study (2024)28	United States (laboratory simulation)	Factorial experimental design; N = 228	Culpability attribution; recidivism projections	High-impact VIS increased defendant culpability assessments (p =.049) and reduced jurors' perspective-taking (p <.001).

26 Raymond Paternoster and Jerome Deise, "A Heavy Thumb on the Scale: The Effect of Victim Impact Evidence on Capital Decision Making," Criminology 49, no. 1 (2011): 129–161, https://doi.org/10.1111/j.1745-9125.2010.00220.x.

27 Gena Dufour, Marguerite Ternes, and Veronica Stinson, "The Relationship Between Victim Impact Statements and Judicial Decision-Making: An Archival Analysis of Sentencing Outcomes," Canadian Journal of Criminology and Criminal Justice 65, no. 2 (2023): 45–68, https://doi.org/10.3138/cjccj.2022-0031.

28 Meagan Plumm, Cheryl Terrance, and Keri R. Ragsdale, "Victim Impact Statements and Perspective Taking: The Influence of Impact Severity on Culpability and Sentencing Perceptions," Frontiers in Cognition 3, art. 1430999 (2024): 1–12, https://doi.org/10.3389/fcogn.2024.1430999.

ISSN: 2582-6433

6. Results and Discussion

6.1 The Retributive Disequilibrium and Harm Calibration

The empirical and doctrinal analyses demonstrate a structural divide between the intended role of VIS in retributive theory and its actual treatment in modern courtrooms. Under retributive penal theory, an offender's punishment must correspond to moral culpability and objective harm29Admitting subjective, post-offense victim suffering complicates this calculation when consequences diverge from what could have been reasonably foreseen. If an offender's sentence is determined by idiosyncratic victim trauma, criminal liability becomes uncoupled from individual blameworthiness, violating the principle of fair notice and proportionality. To reconcile these competing demands, sentencing jurisdictions have developed operational mechanisms that maintain what can be described as a retributive anchoring equilibrium.30 Rather than allowing raw victim expressions to directly dictate penal outcomes, the legal system relies on judicial gatekeeping and institutional insulation to manage the flow of information. Under this equilibrium, the court separates the victim's submission into its constituent parts: the factual substratum, which details verifiable physical, financial, and material harm, and the subjective emotional narrative, which contains expressions of personal grief, calls for vengeance, or explicit sentencing demands. The factual substratum is incorporated into the objective harm categorization established by statutory sentencing guidelines or common-law tariffs, allowing the court to properly calibrate proportional desert. Simultaneously, the subjective emotional narrative is systematically neutralized or excluded from the formal sentence determination, ensuring that idiosyncratic suffering does not artificially inflate the penalty beyond the boundary of foreseeable blameworthiness. As a consequence, the expressive benefits offered to victims by statute rarely produce the substantive sentencing escalations that many participants anticipate.

6.2 The Institutional Bifurcation: Professional Judiciaries vs. Lay Jurors

A primary empirical finding is the distinct behavioral divergence between professional judiciaries and lay juries in processing victim impact evidence. Across non-capital trials in Canada, the United Kingdom, Australia, and U.S. bench trials, archival studies reveal that submitting a VIS produces no statistically significant main effect on either the initial custodial

29 Andrew von Hirsch, Censure and Sanctions (Oxford: Oxford University Press, 1993), https://doi.org/10.1093/acprof:oso/9780198258674.001.0001. Andrew Ashworth, Sentencing and Criminal Justice, 6th ed. (Cambridge: Cambridge University Press, 2015), https://doi.org/10.1017/CBO9781316156476.

30 Julian V. Roberts and Marie Manikis, "Victim Impact Statements at Sentencing: The Relevance of Ancillary Harm," Canadian Criminal Law Review 15, no. 1 (2010): 1–29.

ISSN: 2582-6433

threshold (the decision to incarcerate versus impose community supervision) or the overall duration of the custodial sentence.31Multivariate analyses that control for criminal history, statutory offense seriousness, and guideline starting points show that VIS accounts for less than 1.5% of unique variance in final sentences. This stability stems from professional socialization and institutional constraints. Professional judges handle large caseloads over many years, developing broad comparative baselines for typical harms within specific offense categories. When presented with a standard VIS, a judge generally situates the harm within these established benchmarks rather than interpreting it as an extraordinary aggravating factor. Furthermore, modern guideline structures—such as the Definitive Guidelines issued by the Sentencing Council for England and Wales—require specific, objective markers before elevating an offense to a higher harm category. In contrast, experimental and archival studies examining lay juries—most notably during the penalty phase of U.S. capital murder trials—demonstrate that victim impact evidence generates marked increases in sentencing severity.32When death qualified jurors are exposed to vivid, emotionally evocative victim impact statements or visual tributes, capital sentencing recommendations increase significantly compared to cases presented with neutral summaries.

This response reflects key cognitive-psychological dynamics: First, lay jurors lack an institutional frame of reference. Unlike professional judges who routinely observe diverse criminal conduct, lay jurors typically decide a single case in their lives. Consequently, they tend to view the victim’s suffering as exceptional, which inflates their perception of the crime's gravity and the offender's blameworthiness. Second, emotional narratives operate as cognitive heuristics that trigger moral outrage. Dual-process cognitive frameworks explain that emotionally saturated evidence disrupts deliberate, analytical reasoning and stimulates intuitive, affective responses.33 Vivid descriptions of a victim’s personal qualities and family trauma evoke acute empathic distress. Among lay decision makers, this distress often converts into moral outrage directed at the defendant, substantially increasing the urge to impose severe punitive sanctions. Third, high-impact victim statements constrict defendant perspective-

31 Gena Dufour, Marguerite Ternes, and Veronica Stinson, "The Relationship Between Victim Impact Statements and Judicial Decision-Making: An Archival Analysis of Sentencing Outcomes," Canadian Journal of Criminology and Criminal Justice 65, no. 2 (2023): 45–68, https://doi.org/10.3138/cjccj.2022-0031.

32 Raymond Paternoster and Jerome Deise, "A Heavy Thumb on the Scale: The Effect of Victim Impact Evidence on Capital Decision Making," Criminology 49, no. 1 (2011): 129–161 Jerome E. Deise and Raymond Paternoster, "More Than a 'Quick Glimpse of the Life'?: The Relationship Between Victim Impact Evidence and Death Sentencing," American Criminal Law Review 50, no. 2 (2013): 323–360.

33 Chris Guthrie, Jeffrey J. Rachlinski, and Andrew J. Wistrich, "Inside the Judicial Mind," Cornell Law Review 86, no. 4 (2001): 777–830. David A. Bright and Jane Goodman-Delahunty, "Gruesome Evidence and Emotion: Anger, Blame, and Jury Decision- Making," Law and Human Behavior 30, no. 2 (2006): 183–202

ISSN: 2582-6433

taking. Research demonstrates that strong empathic alignment with the victim limits jurors' willingness to consider mitigating evidence, leading them to evaluate the defendant more negatively and dismiss psychological or background mitigation.

6.3 Cognitive Heuristics: The Identifiable Victim Effect and Moral Typecasting

The identifiable victim effect posits that individuals display greater emotional resonance and a stronger willingness to direct resources or punishment on behalf of concrete, identifiable victims than for abstract, statistical entities.34In sentencing proceedings, a VIS transforms an otherwise abstract complainant into a fully realized individual. When a detailed, personalized narrative is introduced, the sentencing authority is exposed to specific socio-demographic traits, community roles, and personal trauma. This vivid exposure activates the identifiable victim mechanism, heightening juror empathy and emotional investment. Simultaneously, moral typecasting theory suggests that moral cognition organizes legal events around two distinct roles: a moral agent (the party performing the act, who is blamed and punished) and a moral patient (the recipient of the act, who receives sympathy and protection).35As the moral standing of the victim is elevated through expressive testimony, the perceived responsibility of the moral agent expands proportionally. Jurors exposed to detailed victim evidence assign greater culpability, intentionality, and effort to the offender for identical criminal conduct. This cognitive shift restricts the decision-maker's ability to engage in perspective-taking with the defendant, causing mitigation evidence to be heavily discounted. In lay sentencing environments, these psychological dynamics produce systemic distortions: empathy is selectively heightened for historically privileged victims, the harm suffered by marginalized victims is undervalued, and penalties are calibrated to personal sympathy rather than objective blameworthiness.

6.4 Socio-Demographic Disparities and the "Ideal Victim"

A major constitutional and ethical challenge posed by victim impact evidence is the introduction of extra-legal disparities based on victim characteristics. In Booth, the Supreme Court warned that allowing victim narratives would turn capital sentencing into an assessment

34 Deborah A. Small and George Loewenstein, "Helping a Victim or Helping the Victim: Altruism and Identifiability," Journal of Risk and Uncertainty 26, no. 1 (2003): 5–16 Shi-Ling Hsu, "The Identifiability Effect in Law and Policy," Florida State University Law Review 35, no. 2 (2008): 437–490.

35 Kurt Gray and Daniel M. Wegner, "Moral Typecasting: Divergent Perceptions of Moral Agents and Moral Patients," Journal of Personality and Social Psychology 96, no. 3 (2009): 505–520

ISSN: 2582-6433

of the victim's social standing and personal respectability.36Empirical scholarship confirms that victim impact evidence can amplify societal biases along distinct lines: Socio-economic valuations exert a profound influence on perceived blameworthiness. Mock-jury and archival capital studies indicate that defendants who murder high-socioeconomic-status individuals—often depicted in statements as successful professionals, community leaders, or parents—face higher rates of capital recommendations than defendants whose victims were economically marginalized, unhoused, or had substance dependencies. Racial in-group favoritism significantly conditions juror empathy. Jurors exhibit greater empathetic identification when evaluating statements delivered by victims of their own racial background, and diminished empathy for out-group victims. This dynamic exacerbates established capital sentencing disparities, where the highest probability of execution occurs in cases involving Black defendants and white victims. The "ideal victim" construct further distorts harm assessments.37Justice systems often privilege victims who appear blameless, articulate, and conform to conventional social norms. Victims with prior criminal records or unconventional lifestyles frequently submit less persuasive impact evidence, leading sentencers to perceive less total harm and assign lower penalties.

6.5 Modality Dynamics: Textual Submissions, Oral Allocution, and Visual Evidence

The operational method through which a VIS is delivered significantly affects its evidentiary weight and emotional impact.

Table 3. Victim impact statement delivery modalities and associated risks

Delivery modality	Evidentiary and cognitive characteristics	Institutional application	Observed sentencing effect	Due process concerns
Written Impact Statement	Standardized, low emotional variance; readily redacted; focuses on factual and measurable losses.	Included in Presentence Investigation Reports (PSR) across all jurisdictions.	Minimal to null effect on sentence length; informs restitution and fine structures.	Low risk; provides defence adequate notice and opportunity to review factual assertions.

36 Booth v. Maryland, 482 U.S. 496, 107 S. Ct. 2529, 96 L. Ed. 2d 440 (1987).
37 Nils Christie, "The Ideal Victim," in From Crime Policy to Victim Policy, ed. Ezzat A. Fattah (London: Palgrave Macmillan, 1986), 17–30

ISSN: 2582-6433

Oral In-Court Allocution	Highly salient; communicates raw vocal inflections, non-verbal grief and distress directly in open court.	Guaranteed under the CVRA (18 U.S.C. § 3771); widely permitted across Canada and the UK.	Moderate influence on professional judges' discretionary framing; substantial influence on lay jurors.	Elevated risk; spontaneous statements may introduce inadmissible sentencing requests or insults.
Audiovisual and Pre-Mortem Visuals	Extreme emotional salience; professional production values, music and montage imagery depicting the victim's life.	Permitted in select U.S. capital proceedings; generally excluded in Commonwealth non-capital cases.	Strongest driver of punitive escalation and death sentences among lay jurors.	Severe constitutional prejudice; high potential to inflame passions without adding probative factual value.

Oral allocution, protected at the federal level in the United States by the CVRA and affirmed in Kenna, shifts the dynamic of the sentencing hearing.38While written statements submitted via presentence reports allow judges to calmly analyze material losses, live oral delivery introduces emotional resonance that can be difficult for sentencers to separate from the baseline gravity of the offense. The introduction of pre-mortem photographs and video montages in capital cases represents a particularly acute evidentiary development. Visual media trigger deeper affective responses than written text, anchoring juror deliberations in sympathy for the deceased and substantially increasing capital sentences.39

6.6 Procedural Due Process Vulnerabilities

The doctrinal and empirical findings highlight three distinct due process challenges created by

38 Crime Victims' Rights Act, 18 U.S.C. § 3771 (2004). Kenna v. U.S. District Court for the Central District of California, 435 F.3d 1011 (9th Cir. 2006).
39 Crime Victims' Rights Act, 18 U.S.C. § 3771 (2004). Kenna v. U.S. District Court for the Central District of California, 435 F.3d 1011 (9th Cir. 2006).

ISSN: 2582-6433

the expansion of victim impact evidence: First, evidentiary asymmetry and the chilling of cross-examination undermine the reliability of the sentencing record. In standard adversarial proceedings, evidence introduced to aggravate a sentence must meet established standards of reliability and is subject to cross-examination. However, victim impact statements are typically submitted without strict application of the rules of evidence, frequently consisting of unsworn narratives or letters.40This creates a significant strategic dilemma for defense counsel: directly challenging factual errors, exaggerated assertions of loss, or unsupported claims within an emotional VIS risks alienating the judge or jury by appearing callous toward a grieving family. Consequently, inaccurate or inflammatory assertions frequently enter the sentencing record unchallenged, compromising evidentiary integrity. Second, conditioning penal sanctions on victim input undermines the principle of equal treatment before the law, producing an arbitrary "victim lottery".41Two defendants who commit identical offenses with identical culpability may receive disparate sentences based on victim-specific factors: one victim may be articulate, supported by legal advocates, and eager to participate, submitting a compelling narrative of distress, while another victim may be marginalized, distrustful of legal authorities, or choose not to participate.

If the presence of an articulate statement escalates a sentence, punishment ceases to track objective offense gravity and personal blameworthiness, introducing arbitrary disparities into the justice system. Third, the disconnect between statutory promises of victim empowerment and the realities of judicial decision-making creates a profound therapeutic fallacy. Victim support agencies and prosecutors often encourage victims to prepare statements under the implied promise that their voices will directly shape the legal outcome. When professional judges subsequently impose a standard, guideline-compliant sentence that sets aside calls for severe retribution, victims frequently report feeling ignored and disillusioned. Rather than experiencing therapeutic closure, victims face secondary trauma when the criminal legal system fails to deliver the retributive validation they were led to anticipate.42

40 Ian Edwards, "The Evidentiary Status of Victim Impact Statements," The International Journal of Evidence & Proof 11, no. 2 (2007): 113–138

41 Ian Edwards, "The Place of the Victim's Preferences in Sentencing," The Criminal Law Review (October 2002):

42 Kimberly E. Lens, Antony Pemberton, and Stefan Bogaerts, "Delivering a Victim Impact Statement: Emotionally Effective or Counter-Productive?," European Journal of Criminology 10, no. 1 (2013): 17–34

ISSN: 2582-6433

7. Findings

Synthesizing this comparative doctrinal, behavioral, and empirical analysis produces five core findings: In non-capital felony sentencing presided over by professional judges, Victim Impact Statements do not systematically escalate sentencing severity. Judges routinely filter out subjective emotionality, anchoring determinations in pre-existing statutory tariffs, prior criminal record, and objective offense gravity. In lay-adjudicated proceedings—most notably U.S. capital murder trials—victim impact evidence significantly increases punitive severity, elevating death sentence recommendations through the mechanisms of heuristic moral outrage and uncalibrated empathy. The admission of victim impact evidence introduces demonstrable disparities based on victim articulateness, socio-economic standing, and racial alignment, conflicting with the fundamental principle that equal conduct deserves equal punishment regardless of the victim's social status. Professional judges reconcile victim participation with retributive proportionality by bifurcating statement content: objective harm metrics are incorporated to calibrate offense seriousness within guideline bands, while subjective pleas for retribution or mercy are systematically set aside. Framing the "right to be heard" as an instrumental tool of punishment creates unrealistic expectations for victims, culminating in secondary disillusionment when courts inevitably prioritize statutory proportionality over victim sentiment.

8. Conclusion and Policy Recommendations

The integration of Victim Impact Statements represents an enduring attempt to humanize the criminal process and redress the historic exclusion of crime victims within common-law adversarial systems.43However, this study demonstrates that the "right to be heard" occupies a precarious position between expressive procedural justice and the demands of proportional desert. The widespread assumption that victim impact evidence invariably results in escalated sentencing severity is empirically inaccurate with respect to professional judiciaries, which effectively neutralize emotional inflation. Conversely, the empirical record confirms that within lay sentencing frameworks, VIS introduces substantial due process distortions, arbitrary punitive escalation, and systemic bias.44To preserve the expressive and curative benefits of

43 President’s Task Force on Victims of Crime, Final Report (Washington, DC: U.S. Government Printing Office, 1982). Paul G. Cassell, "In Defense of Victim Impact Statements," Ohio State Journal of Criminal Law 6, no. 2 (2009): 611– 648. Julian V. Roberts, "Listening to the Crime Victim: Evaluating Victim Input at Sentencing and Parole," Crime and Justice 38, no. 1 (2009): 347–412,

44 Raymond Paternoster and Jerome Deise, "A Heavy Thumb on the Scale: The Effect of Victim Impact Evidence on Capital Decision Making," Criminology 49, no. 1 (2011): 129–161 Bryan Myers and Edith Greene, "The Prejudicial Nature of Victim Impact Statements: Implications for Capital Sentencing Policy," Psychology, Public

ISSN: 2582-6433

victim participation while insulating criminal justice outcomes against arbitrary severity and bias, common-law jurisdictions should implement four structural policy reforms:

1. Codification of a Bifurcated Statement Structure

Statutory frameworks should require VIS submissions to be formally divided into two distinct components:

- Part I:Objective Ancillary Harm Report: A verified accounting of quantifiable physical injuries, documented psychiatric diagnoses, direct medical expenses, and loss of earnings. This section should be subject to standard rules of evidence and may be legitimately considered by sentencers to situate the offense within statutory harm categories.
- Part II:Expressive Allocution Narrative: A space for the victim to describe the personal, emotional, and relational impact of the offense in their own words. This narrative should be recognized as serving an expressive and therapeutic function, providing the victim with dignity and voice without operating as an instrumental aggravating factor.

2. Categorical Exclusion of Subjective Impact Evidence in Lay Capital Sentencing

Because capital sentencing requires heightened reliability under constitutional due process, the admission of subjective victim impact testimony before lay juries should be discontinued. Juries are exceptionally vulnerable to emotional heuristics and racial and socio-economic biases when evaluating such evidence. Capital deliberations must remain strictly confined to the objective circumstances of the crime, statutory aggravating factors, and the individualized character and background of the accused.

3. Mandatory Pre-Sentencing Evidentiary Gatekeeping

Sentencing courts must institute formal pre-sentencing review mechanisms, as developed in Canadian jurisprudence (R v Gabriel). Trial judges should review all written and proposed oral statements prior to sentencing to excise inadmissible material—such as demands for specific punishments, inflammatory attacks on the defendant, or allegations of uncharged criminal acts—before the statement is introduced into the record. Where a statement contains disputed factual allegations that would directly elevate the statutory sentencing range, the prosecution should be required to prove those facts under the appropriate legal standard rather than relying on unsworn victim assertions.

4. Realignment of Institutional Victim Counseling

Victim advocacy organizations, prosecutors, and court administrators must provide clear,

Policy, and Law 10, no. 4 (2004): 492–515 Jerome E. Deise and Raymond Paternoster, "More Than a 'Quick Glimpse of the Life'?: The Relationship Between Victim Impact Evidence and Death Sentencing," American Criminal Law Review 50, no. 2 (2013): 323–360.

ISSN: 2582-6433

transparent counsel to victims regarding the legal role of impact evidence. Guidance should clarify that the purpose of the statement is to ensure the victim is acknowledged and treated with dignity—not to exercise control over the length of the sentence. Aligning victim expectations with the constitutional and statutory realities of modern sentencing will prevent the secondary trauma and institutional cynicism that emerge when unmeetable expectations of punitive influence collide with the principle of proportional justice.

REFERENCES

[1] N. Christie, "Conflicts as property," Br. J. Criminol., vol. 17, no. 1, pp. 1–15, Jan. 1977, doi: 10.1093/oxfordjournals.bjc.a046783.

[2] President's Task Force on Victims of Crime, Final Report, Washington, DC, USA: U.S. Government Printing Office, Dec. 1982.

[3] P. G. Cassell, "In defense of victim impact statements," Ohio State J. Crim. L., vol. 6, no. 2, pp. 611–648, Spring 2009.

[4] Crime Victims' Rights Act, 18 U.S.C. § 3771, 2004.

[5] A. Ashworth, "Victim impact statements and sentencing," Crim. L. Rev., pp. 498–509, Jul. 1993.

[6] G. Dufour, M. Ternes, and V. Stinson, "The relationship between victim impact statements and judicial decision-making: An archival analysis of sentencing outcomes," Can. J. Criminol. Crim. Justice, vol. 65, no. 2, pp. 45–68, Apr. 2023, doi: 10.3138/cjccj.2022-0031.

[7] U.S. Department of Justice, "Victim Impact Statements," Office for Victims of Crime and Criminal Division, Washington, DC, USA, 2020. [Online]. Available: https://www.justice.gov/criminal/criminal-vns/victim-impact-statements

[8] T. R. Tyler, Why People Obey the Law. New Haven, CT, USA: Yale University Press, 1990.

[9] R. A. Duff, Punishment, Communication, and Community. New York, NY, USA: Oxford University Press, 2001.

[10] D. B. Wexler and B. J. Winick, Eds., Law in a Therapeutic Key: Developments in Therapeutic Jurisprudence. Durham, NC, USA: Carolina Academic Press, 1996.

[11] A. von Hirsch, Censure and Sanctions. Oxford, UK: Oxford University Press, 1993, doi: 10.1093/acprof:oso/9780198258674.001.0001.

[12] A. Ashworth, Sentencing and Criminal Justice, 6th ed. Cambridge, UK: Cambridge University Press, 2015, doi: 10.1017/CBO9781316156476.

ISSN: 2582-6433

[13] S. A. Bandes, "Empathy, narrative, and victim impact statements," Univ. Chic. Law Rev., vol. 63, no. 2, pp. 361–412, Spring 1996, doi: 10.2307/1600234.

[14] Booth v. Maryland, 482 U.S. 496, 107 S. Ct. 2529, 96 L. Ed. 2d 440 (1987).

[15] I. Edwards, "The place of the victim's preferences in sentencing," Crim. L. Rev., pp. 685 701, Oct. 2002.

[16] E. Greene, "The stake in sentencing: Young and old, rich and poor, black and white," Crim. Law Forum, vol. 10, no. 1, pp. 101–122, 1999, doi: 10.1023/A:1009497022067.

[17] S. A. Bandes and J. M. Salerno, "Emotion, proof and prejudice: The value of looking at visual evidence in the courtroom," Ariz. State Law J., vol. 47, no. 4, pp. 1009–1060, 2015.

[18] J. V. Roberts and M. Manikis, "Victim impact statements at sentencing: The relevance of ancillary harm," Can. Crim. Law Rev., vol. 15, no. 1, pp. 1–29, Oct. 2010.

[19] J. V. Roberts and M. Manikis, Victim Personal Statements: A Review of Empirical Research, London, UK: Commissioner for Victims and Witnesses in England and Wales, 2011.

[20] J. V. Roberts, "Listening to the crime victim: Evaluating victim input at sentencing and parole," Crime Justice, vol. 38, no. 1, pp. 347–412, 2009, doi: 10.1086/599203.

[21] M. Manikis, "Victim impact statements at sentencing: Towards a clearer understanding of their aims," Univ. Tor. Law J., vol. 65, no. 2, pp. 85–123, Spring 2015, doi: 10.3138/utlj.2717.

[22] N. Christie, "The ideal victim," in From Crime Policy to Victim Policy, E. A. Fattah, Ed., London, UK: Palgrave Macmillan, 1986, pp. 17–30, doi: 10.1007/978-1-349-08305-3_2.

[23] R. Paternoster and J. Deise, "A heavy thumb on the scale: The effect of victim impact evidence on capital decision making," Criminology, vol. 49, no. 1, pp. 129–161, Feb. 2011, doi: 10.1111/j.1745-9125.2010.00220.x.

[24] P. G. Cassell, "Recognizing victims in the federal rules of criminal procedure: Proposed amendments in light of the Crime Victims' Rights Act," Brigham Young Univ. Law Rev., vol. 2005, no. 4, pp. 835–926, 2005.

[25] K. E. Lens, E. Pemberton, and S. Bogaerts, "Delivering a victim impact statement: Emotionally effective or counter-productive?," Eur. J. Criminol., vol. 10, no. 1, pp. 17–34, Jan. 2013, doi: 10.1177/1477370812453102.

[26] Bosse v. Oklahoma, 580 U.S. 1, 137 S. Ct. 1, 196 L. Ed. 2d 1 (2016).

[27] M. M. Giannini, "Equal rights for equal rites?: Victim allocution, defendant allocution, and the Crime Victims' Rights Act," Yale Law Policy Rev., vol. 26, no. 2, pp. 431–484, Spring 2008.

ISSN: 2582-6433

[28] R. P. Mosteller, "Victim impact evidence: Hard to find the real rules," Cornell Law Rev., vol. 88, no. 2, pp. 543–555, Jan. 2003.

[29] R. v. Berner, 2013 BCCA 474, 346 B.C.A.C. 147 (British Columbia Court of Appeal, 2013).

[30] J. V. Roberts and A. Edgar, Victim Impact Statements at Sentencing: The Perspectives of Canadian Judges, Ottawa, ON, Canada: Department of Justice Canada, Research and Statistics Division, 2006.

[31] R. v. Gabriel, 1999 CanLII 15050, 137 C.C.C. (3d) 1, 26 C.R. (5th) 364 (Ontario Superior Court of Justice, 1999).

[32] R v Nunn, [1996] 2 Cr. App. R. (S.) 136 (Court of Appeal of England and Wales, 1996).

[33] Sentencing Council for England and Wales, General Guideline: Overarching Principles, London, UK: Sentencing Council, 2019.

[34] Sentencing Council for England and Wales, Assault: Definitive Guideline, London, UK: Sentencing Council, 2021.

[35] Ministry of Justice, Code of Practice for Victims of Crime in England and Wales (Victims' Code), London, UK: Her Majesty's Stationery Office, 2020.

[36] R v Perks, [2001] 1 Cr. App. R. (S.) 19 (Court of Appeal of England and Wales, 2001).

[37] Crimes (Sentencing Procedure) Act 1999 (NSW), Part 3, Div. 2, New South Wales Legislation, Australia.

[38] R v Previtera, (1997) 94 A Crim R 76 (Supreme Court of New South Wales, Australia).

[39] T. Booth, Accommodating Justice: Victim Impact Statements in the Sentencing Process. Sydney, NSW, Australia: The Federation Press, 2016.

[40] Sentencing Act 1991 (Vic), Part 6, Victorian Legislation, Australia.

[41] J. H. Blume, "Ten years of Payne: Victim impact evidence in capital cases," Cornell Law Rev., vol. 88, no. 2, pp. 257–281, Jan. 2003.

[42] South Carolina v. Gathers, 490 U.S. 805, 109 S. Ct. 2207, 104 L. Ed. 2d 876 (1989).

[43] D. A. Small and G. Loewenstein, "Helping a victim or helping the victim: Altruism and identifiability," J. Risk Uncertain., vol. 26, no. 1, pp. 5–16, Jan. 2003, doi: 10.1023/A:1022299422219.

[44] B. Myers and E. Greene, "The prejudicial nature of victim impact statements: Implications for capital sentencing policy," Psychol. Public Policy Law, vol. 10, no. 4, pp. 492–515, Dec. 2004, doi: 10.1037/1076-8971.10.4.492.

[45] S.-L. Hsu, "The identifiability effect in law and policy," Fla. State Univ. Law Rev., vol. 35, no. 2, pp. 437–490, 2008.

ISSN: 2582-6433

[46] Kenna v. U.S. District Court for the Central District of California, 435 F.3d 1011 (9th Cir. 2006).

[47] R v Legg, [2025] EWCA Crim 820 (Court of Appeal of England and Wales, 2025).

[48] Sentencing Council for England and Wales, Sentencing and Psychological Harm: Definitive Guidance, London, UK: Sentencing Council, 2024.

[49] J. Nadler and M. R. Rose, "Victim impact testimony and the psychology of punishment," Cornell Law Rev., vol. 88, no. 2, pp. 419–456, Jan. 2003.

[50] C. Guthrie, J. J. Rachlinski, and A. J. Wistrich, "Inside the judicial mind," Cornell Law Rev., vol. 86, no. 4, pp. 777–830, May 2001.

[51] D. A. Bright and N. Goodman-Delahunty, "Gruesome evidence and emotion: Anger, blame, and jury decision-making," Law Hum. Behav., vol. 30, no. 2, pp. 183–202, Apr. 2006, doi: 10.1007/s10979-006-9027-y.

[52] J. E. Deise and R. Paternoster, "More than a 'quick glimpse of the life'?: The relationship between victim impact evidence and death sentencing," Am. Crim. Law Rev., vol. 50, no. 2, pp. 323–360, Spring 2013.

[53] G. Dufour, The Impact of Victim Impact Statements, Master's thesis, Dept. Psychol., Saint Mary’s Univ., Halifax, NS, Canada, 2021. [Online]. Available: https://library2.smu.ca/handle/01/29670

[54] M. Plumm, C. Terrance, and K. R. Ragsdale, "Victim impact statements and perspective taking: The influence of impact severity on culpability and sentencing perceptions," Front. Cogn., vol. 3, art. 1430999, pp. 1–12, 2024, doi: 10.3389/fcogn.2024.1430999.

[55] E. Erez and P. Tontodonato, "The effect of victim participation in sentencing on sentence outcome," Criminology, vol. 28, no. 3, pp. 451–474, Aug. 1990, doi: 10.1111/j.1745-9125.1990.tb01334.x.

[56] K. Gray and D. M. Wegner, "Moral typecasting: Divergent perceptions of moral agents and moral patients," J. Pers. Soc. Psychol., vol. 96, no. 3, pp. 505–520, Mar. 2009, doi: 10.1037/a0013748.

[57] I. Edwards, "The evidentiary status of victim impact statements," Int. J. Evid. Proof, vol. 11, no. 2, pp. 113–138, Apr. 2007, doi: 10.1350/ijep.2007.11.2.113.

[58] C. Hoyle, R. Cape, R. Morgan, and A. Sanders, Evaluation of the 'One-Stop-Shop' and Personal Impact Statement Projects, Home Office Research Study 224, London, UK: Home Office Research, Development and Statistics Directorate, 2002.