

1994

Implications of process control and decision control in victim mediation and restitution

F. L. Cefalo
Edith Cowan University

Follow this and additional works at: https://ro.ecu.edu.au/theses_hons



Part of the [Law and Psychology Commons](#)

Recommended Citation

Cefalo, F. L. (1994). *Implications of process control and decision control in victim mediation and restitution*. Edith Cowan University. https://ro.ecu.edu.au/theses_hons/625

This Thesis is posted at Research Online.
https://ro.ecu.edu.au/theses_hons/625

Edith Cowan University

Copyright Warning

You may print or download ONE copy of this document for the purpose of your own research or study.

The University does not authorize you to copy, communicate or otherwise make available electronically to any other person any copyright material contained on this site.

You are reminded of the following:

- Copyright owners are entitled to take legal action against persons who infringe their copyright.
- A reproduction of material that is protected by copyright may be a copyright infringement. Where the reproduction of such material is done without attribution of authorship, with false attribution of authorship or the authorship is treated in a derogatory manner, this may be a breach of the author's moral rights contained in Part IX of the Copyright Act 1968 (Cth).
- Courts have the power to impose a wide range of civil and criminal sanctions for infringement of copyright, infringement of moral rights and other offences under the Copyright Act 1968 (Cth). Higher penalties may apply, and higher damages may be awarded, for offences and infringements involving the conversion of material into digital or electronic form.

**Implications of Process Control and Decision Control
in Victim Offender Mediation and Restitution**

**F. L. Cefalo
B. A. of Arts (Psychology) Honours
1994**

USE OF THESIS

The Use of Thesis statement is not included in this version of the thesis.

**Implications of Process Control and Decision Control in
Victim Offender Mediation and Restitution**

By

F. L. Cefalo

**A Thesis Submitted in Partial Fulfilment of the Requirements
For the Award of Bachelor of Arts (Psychology) Honours
at the Faculty of Health and Human Sciences,
Edith Cowan University**

RUNNING HEAD: VICTIM OFFENDER MEDIATION AND RESTITUTION

Date of Submission:

31st October 1994

Abstract

This study examines the perceptions of victims and non-victims towards legal procedures which provide a hypothetical victim of property crime varying opportunities to actively participate in the justice process. Some of the variations of victim participation in the procedures examined are comparable to opportunities for victim participation in the procedure victim offender mediation. Other variations represent court procedures in which participation in the justice process by victims of crime is not required. In an experimental scenario study, the first part of this study examines perceptions of fairness of different variations of victim participation in the justice process. The second part of this study assesses the amount of additional punishment (imprisonment and fines) allocated to a hypothetical offender who was described as having to pay a hypothetical victim a specified restitution amount. The variations or levels of victim participation were operationalised according to Thibaut and Walker's (1975) concepts of process control and decision control, from their theory of procedural justice. Process control was defined as the opportunity for a hypothetical victim of crime to express their views to a hypothetical offender during the justice process, and decision control was defined as the opportunity for a hypothetical victim to decide an amount of restitution that a hypothetical offender was required to pay to compensate for the crime. Thirty five, male, university students, aged 17-49 years ($M = 21.2$ years), and 86 female, university students, aged 17-42 years ($M = 23.7$ years), ($N = 121$), were administered a questionnaire which contained eight scenarios describing a hypothetical property offence/offender, and legal procedures which presented varied opportunities for victim process control and victim decision control. Prior to data analyses, respondents were categorised into four groups based on their reported victimization experiences. There were 24 victims of house break-ins, 29 victims of crimes other than house break-ins, 27 victims of both house

break-ins and other crimes, and 41 non-victims of crime. No directional hypotheses for the groups were predicted however, hypotheses were made concerning the within-subjects factors pending no significant interactions between the groups and within-subjects factors. Using a split plot design, repeated measures analyses of variance (ANOVA) were used to examine the three dependent variables, individually. For the first part of the study, the three victim groups and one non-victim group were assessed for perceptions of fairness towards four variations of victim participation; victim process control, victim decision control, victim process and decision control, and no victim control. Data analyses indicated no significant interactions, however a significant main effect was found for the within-subjects factor, victim participation. Initial post hoc comparisons showed that the procedure in which the hypothetical victim was provided both process and decision control was perceived as more fair than the procedure which completely excluded the victim from the justice process. Further comparisons revealed that the procedure in which the victim was only able to express their opinion to the offender was perceived as more fair than the procedure in which the victim could only decide the offender's restitution. For the second part of the study, the same groups were examined to determine whether the allocation of additional punishment for a hypothetical offender was influenced by the hypothetical victim's opportunity to participate in the justice process and/or by a specified restitution amount. For the dependent variable fines, data analysis revealed a significant interaction between the within-subjects factors, victim participation and restitution. Post hoc comparisons, with Scheffé correction, indicated that the amount of fines allocated to the victim offender mediation procedure were consistent, regardless of the amount of restitution specified. The amount of fines allocated to the victim offender mediation procedure were significantly lower than the amount of fines allocated to the court procedure with \$250 restitution, but not significantly higher than the court

procedure with \$500 restitution. The latter procedure was allocated the lowest level of fines. For the dependent variable imprisonment, data analysis indicated a significant interaction between the groups and restitution (\$250; \$500). Post hoc comparisons with Scheffé correction, showed that the interaction was only significant for the \$250 restitution amount. Further comparisons indicated there were significant differences in the amount of imprisonment allocated between the groups; victims of other crimes other than house break-ins, and victims of both house break-ins and other crimes, for the within-subjects factor, restitution, especially for the lower restitution amount of \$250. This study has implications for the extent to which the opportunity for victim participation in the justice process, through victim offender mediation, is seen as fair by both victims and non-victims, and the effects of victim participation in the justice process and restitution, on the punishment of property offenders.

DECLARATION

"I certify that this thesis does not incorporate without acknowledgement any material previously submitted for a degree or diploma in any institution of higher education; and that to the best of my knowledge and belief it does not contain any material previously published or written by another person except where due reference is made in the text."

Signature: _____

Date

: 11 - 11 - '94 ✓

ACKNOWLEDGEMENTS

I would like to express my gratitude to my first supervisor Dr. Brian Thomas-Peter for his encouragement during the first year of my honours project. I am also sincerely grateful to Neil Drew for taking over the major part of my supervision and for assisting me to make sense of my data, statistical techniques, and the writing up of my draft copies. I would also like to thank Dr. Amanda Blackmore who was a tremendous help to me during these stages and always offered me support, encouragement and logic. Finally I would like to express my appreciation to Professor Don Thompson and Brian English for taking the time to read and comment on my draft and analyses. Thank you also to the staff at the Psychology department, especially Sue Haunold, who always asked how I was going.

I would also like to thank all the university department heads, co-ordinators and lecturers who gave me permission to administer surveys to students during their valuable class time. To those who participated in the survey, thank you for taking the time and patience to read and fill out the answers to the questions. I am also indebted to David Indermaur of the Crime Research Centre, Margaret Wauchope, Manager of the Victim Offender Mediation Unit, Community Corrections Division and Peter Blurton of the Margaret and Shane Foundation for granting me interviews.

Finally a huge thanks to my family, friends and fellow students who supported and encouraged me. Special thanks go to Claire, James, Michael, Patricia, and Michele Connolly for their ongoing support and assistance in things like photocopying and proof reading. My thanks also go to Melissa Finucane for her advice on all kinds of matters. Finally, I want to thank my friend and house-mate, Cass Douglas, not only for photocopying, but also for having to put up with my mess, my stress, and a house that was littered with paperwork, books and junk.

Table of Contents		Page
Abstract		2
Declaration		5
Acknowledgements		6
List of Tables		8
Chapter		
1	INTRODUCTION	9
2	LITERATURE REVIEW	16
3	METHOD	42
4	RESULTS	50
5	DISCUSSION	63
	REFERENCES	76
	APPENDICES	
	Appendix A	84
	Appendix B	93
	Appendix C	95

List of Tables	Page
Table 1: Group Means and Standard Deviations for Fairness in Relation to Levels of Victim Participation	52
Table 2: Group Means and Standard Deviations for Fines (Dollars) Towards Two Levels of Victim Participation and Two Levels of Restitution.	56
Table 3: Overall Means for both Victim Offender Mediation Conditions Combined and Observed Overall Means for the Court Conditions with \$500 and \$250 Restitution.	58
Table 4: Group Means and Standard Deviations for Imprisonment (Months) Towards Two Levels of Victim Participation and Two Levels of Restitution.	59
Table 5: Combined Means and Standard Deviations for Imprisonment, for Victims of Other Crimes and Victims of Both House Break-ins and Other Crimes, for the Within-Subjects Factor, Restitution.	60
Table 6: Demographic Data for Victim Groups Experiencing House Break-ins (See Appendix C)	96
Table 7: Demographic Data for Victim and Non-Victim Groups (See Appendix C)	97

List of Figures

Figure 1: Collapsed group means for the dependent variable fines, for the interaction between the two levels of the within-subjects factors, victim participation and restitution	57
Figure 2: Collapsed means for the interaction between the within-subjects factor, restitution and the between-subjects factor, victim type, for the dependent variable imprisonment.	61

Chapter 1

The opportunity for meaningful, active participation for the victim of property crime in criminal justice decision-making processes is rare. The presence of the victim during the criminal justice process, except perhaps as witness or information provider in serious cases, is rarely required in the courts, as their case is generally represented by the state which acts as a surrogate victim (Freiberg, 1988). The courts have traditionally opposed the involvement of the victim in the criminal justice process for a number of reasons (Corns, 1988). These reasons centre around notions of fairness and justice including, preventing the victim from seeking vengeance through excessive punishment for the offender (Rubel, 1986). As Walsh (1986, p. 1139), explained "one of the primary functions of the law is to mitigate the natural urge for vengeance by subjecting personal grievances to evaluation by disinterested third parties and formalized rules." However, there are concerns that a lack of victim participation in the justice process will result in a lack of co-operation in the reporting of crime by victims in the future (Rubel, 1986). Moreover, it has been well documented in research investigating the attitudes of crime victims, that victims are dissatisfied with the lack of recognition of their status, and the absence of information, involvement, and participation provided by the criminal justice system both before and during the criminal justice process (Kelly, 1984; 1990; Shapland, Willmore, & Duff, 1985; Umbreit, 1989).

Active participation by the victim in the criminal justice process can be defined as the opportunity for the victim to provide input into the decision-making processes of the courts; whether it is an opportunity for the victim to voice their personal circumstances to the courts or, to voice their opinion as to what type and duration of punishment the offender should receive for the offence committed. According to

Umbreit (1989), criminal justice systems in western countries currently operate from a retributive justice paradigm which has led to a strong focus on the offender and his or her punishment by the criminal justice system, with little attention directed to the rights and needs of the other party to the crime, the victim. As a result, there has been increasing attention and debate on the attitudes and experiences of victims of crime within the criminal justice system, both in the research literature and the sociopolitical arena. The crux of the debate for both victims and their advocates is the belief that the victim of crime experiences victimization twice. The first victimization experience is through the criminal act itself, and the second victimization experience occurs through the indifferent attitude of the criminal justice system towards the victim's circumstances (Martin, 1982; Elias, 1992).

Concern for the experiences of crime victims has led to a steadily growing victims' movement and the introduction of a range of services and schemes available to victims and their families (Elias, 1992). Examples of currently available victim service programmes are; victim support services, victim criminal injuries compensation by the state, victim impact statements, and court-mandated offender restitution. Victim support services provide counselling for victims or the families of victims, support during court trials, assistance with procuring information concerning their case, and crisis intervention (Davis & Henley, 1990). Victims of serious crime or their relatives can also apply for financial compensation from the state. Compensation is available for medical and/or funeral costs, or loss of earnings due to physical injuries sustained from the criminal event (Villmow, 1991). However, Villmow pointed out that state compensation to the victim for property losses is rarely available.

When a victim of crime is given the opportunity to provide a victim impact statement, the victim can describe in writing, the losses he or she has suffered as a

direct result of the crime. These statements may then be taken into account by the presiding judge when determining the offender's sentence (Corns, 1983). Finally, offender restitution, which is controlled and decided by the courts, involves financial compensation to the victim by the offender rather than by the state (Mason, 1992). These victim services have been developed in an attempt to alleviate the victim's circumstances however, with the exception perhaps of the victim impact statements which offers indirect victim participation, none of the services provide an opportunity for the victim to legally and directly participate in the decision-making procedures concerning their case, during the criminal justice process.

Since the early seventies, a comparatively new legal procedure, victim offender mediation, which does provide an opportunity for the victim of crime to participate directly in the justice process, has been operating in many western countries, including Australia. This procedure is predominantly available to victims of non-violent, minor, property crimes such as breaking and entering (burglary), fraud, and theft (Galaway, 1989). During victim offender mediation the crime victim and the offender are presented with an opportunity to meet each other in the presence of a trained, neutral, third party mediator. During the meeting, the victim and the offender are encouraged to discuss the crime, express their views and feelings to each other, and to eventually reach a consensus agreement concerning the restitution or reparation that the offender will repay to restore the victim's losses (Coates & Gehm, 1989). The difference between offender restitution and victim offender mediation with restitution, is that the latter procedure is usually achieved through voluntary face-to-face negotiations between the victim and the offender, whereas the former procedure is usually court mandated with little or no input from the victim (Mason, 1992). .

Restitution agreements achieved through victim offender mediation can involve a range of methods including; monetary repayment by the offender to replace the cost of the

goods stolen; some form of community service performed either directly to the victim or to an agency of the victim's choice; the repairing of damaged goods; the return of the stolen property or simply an apology, either written or verbal from the offender (Umbreit, 1989).

One of the issues with victim offender mediation, is the participative role of the victim in decision-making processes which have traditionally been reserved for the courts. From the consensus perspective, it has been argued that members of the courts and criminal justice officials in general, are perceived as representatives of society who uphold and maintain the laws which govern society's beliefs and values (Gottfredson, Warner, & Taylor, 1988; Hollin, 1989). The decision-making processes made by the courts are aided by laws and statutes which symbolise normative morality and ensure that justice is served on behalf of society (Bussman, 1992).

The conflict concerning the victim's role relates to the victim's capacity, as an individual, to represent social group values and to uphold normative morality. In light of the consensus perspective which argues that justice should be sought on behalf of society, there is some concern about participation by individual victims in the justice process. The issue of victim participation in the justice process becomes of greater concern when it is understood that firstly, victims are frequently perceived to be demanding severe punishment for offenders (Rubel, 1986) and secondly, that the justice system seeks to achieve justice or fairness (Umbreit, 1989) in its judicial decisions. The question is, how fair is it for a potentially vindictive victim to not only participate in the justice process but also to contribute to judicial decision-making?

Studies of victims who have participated in victim offender mediation, have identified that victims' perceptions of fairness are strongly linked to their opportunity to participate in the justice process and decision-making (Umbreit, 1989; Coates & Gehm, 1989). Although a study by Umbreit (1989) clearly identified that victim

offender mediation involved separate dimensions of victim participation in the justice process, a review of the victim offender mediation literature revealed little evidence of research which had further investigated the participative dimensions of victim offender mediation. However, by examining the social justice research, in particular the theory of procedural justice (Thibaut & Walker, 1975; Lind & Tyler, 1988), it was theorised that victim offender mediation could be conceptualised as an opportunity for procedural fairness and that the dimensions of victim participation in victim offender mediation, could be operationalised according to concepts already identified in the procedural justice literature.

In their experimental research investigating procedural fairness, Thibaut and Walker (1975) examined perceptions of fairness towards different legal conflict resolution procedures. By varying the distribution of control of disputing parties during legal conflict resolution procedures, Thibaut and Walker found that, when disputing parties were given the opportunity to participate in the justice process, perceptions of fairness heightened towards both the procedure implemented to resolve the dispute, and the final outcome of the dispute. Based on their findings, Thibaut and Walker argued that there were two elements which influenced perceptions of procedural fairness. The first element was process control, or the opportunity for disputing parties to present evidence and information concerning their case, and the second element was decision control, or the opportunity for disputants to influence or actively decide the outcome of the dispute.

By examining victim offender mediation from the framework of procedural justice theory, the present study conceptualised the dimensions of victim participation in victim offender mediation as opportunities for victim process control and victim decision control. Victim process control was defined as the opportunity for a victim to express their views to the offender during the mediation procedure. For the same

procedure, decision control was defined as the opportunity for a victim to decide the offender's restitution. The dimensions of victim participation, victim process control and victim decision control, were depicted by a series of short scenarios that described hypothetical legal procedures in which a hypothetical victim of property crime was provided with the different opportunities to participate in the justice process. The first part of the study assessed perceptions of fairness of victims and non-victims towards the variations of victim participation in legal procedures, while the second part of the study, again through scenarios, examined whether non-victim and victim groups were influenced in their allocation of additional punishment by the presence or absence of victim participation in the justice process and/or by the level of monetary restitution that a hypothetical offender was required to pay.

Outline of the study

The first part of the literature review examined the origins of victim offender mediation and the issues which currently surround this procedure, especially from the perspective of contemporary criminal justice practices. The review continued with an examination of the victim offender mediation research which predominantly focused on public acceptance of victim offender mediation and monetary restitution as an alternative sanction for property offenders. Although an investigation of a study by Umbreit (1989) revealed that perceptions of fairness and active victim participation in the justice process were strongly correlated, a review of the victim offender mediation literature as a whole, did not show clear evidence of research experimentally investigating the dimensions of victim participation in victim offender mediation from a theoretical framework, such as procedural justice theory.

In linking the dimensions of victim participation in victim offender mediation to the concepts of procedural justice, a second literature review was conducted to examine the procedural justice research findings. This research clearly indicated that

procedural fairness was related to active participation, and that the opportunity for disputant process control, or the opportunity for disputants to present evidence and information, was more strongly related to procedural fairness than the opportunity for decision control, the opportunity to influence the final outcome of the dispute. The review then proceeds to clarify the links between victim participation in victim offender mediation and the procedural justice concepts of process control and decision control and the hypotheses are presented. In the next chapter, the advantages and disadvantages of using scenarios are highlighted and the experimental scenario design used for the present study is explained. Finally, the results of data analyses are presented and a discussion of the findings and conclusions are reported.

Chapter 2

Literature Review

Victim Offender Mediation and Restitution

A basic principle of western law is to redress the inequity that has occurred as a result of a criminal act (Law Reform Commission of Canada, 1976). The justice paradigms used by the courts however, consistently focus on the role of punishment for the individual offender and the impact on society as a whole, and fail to address the rights and needs of the other party to the crime, the victim (Klein, 1988; Sumner, 1987; Whitrod, 1986). In contemporary criminal justice practice, four main justice paradigms or sentencing rationales have been used to justify the punishment of offenders; incapacitation, retribution, deterrence, and rehabilitation. The emphasis that sentencing officials place on any of these sentencing rationales will depend on the individual characteristics of the offender and the nature of the offence (McFatter, 1978). All of the rationales have the overarching objective of reducing crime whether through the removal of the offender for the purpose of protecting the community (incapacitation); imposing upon the offender a punishment that is in proportion to the severity of the crime committed (retribution); dispensing a punishment that is sufficiently severe so as to deter the offender from re-offending (individual deterrence) or other potential offenders from offending (public deterrence); or attempting to improve the character of the offender through corrective measures (rehabilitation) (Hogarth, 1971; McFatter, 1978).

In contrast to the current justice paradigms, the restorative justice paradigm, from which victim offender mediation derives, places consideration of the victim foremost (Umbreit, 1989). The restorative justice paradigm emphasises reconciliation and restitution as key components in restoring the inequity that has resulted from a criminal act (Umbreit, 1989; Coates & Gehm, 1989). The

restorative concepts of restitution and reconciliation are not new, being practiced as early as 2,100 B.C. (Klein, 1988). In early Anglo-Saxon law, restitution was a common practice where the offender was required to pay a "bot" or payment to the victim for the damage done. In later years, the offender was also required to pay a "wite" (in addition to the "bot") which represented payment for the king or his representatives for the reconciliation services rendered. By the 12th century, the "wite" superseded the "bot" and over time, direct restitution to the victim diminished and participation by the victim in the justice process was replaced by state representation (Jacobs, 1974; Duckworth, 1980).

According to Christie (1977), the replacement of the victim by the state severed the victim from any meaningful role in the justice process. The main loss for the victim, far beyond any material loss or physical and mental pain due to the criminal offence, was the loss of the victim's right to participate in the resolution of his or her own conflicts. Christie argued that victims felt angry and frustrated because of their perceived lack of power that was due to the lack of participation in the justice process. The restorative justice movement, which began in the early seventies as a result of growing disillusionment with traditional penal practices, grew from a belief that individual citizens involved in minor interpersonal disputes and petty crime, needed to have meaningful opportunities to resolve their own conflicts, in order to reconcile the differences between the parties to the dispute (Messmer & Otto, 1992; Mason, 1992). As a result, informal justice procedures such as small claims courts, neighbourhood justice centres, and victim offender mediation programmes, were implemented to create opportunities for ordinary citizens to actively participate in the justice process and to have easier access to the law (Messmer & Otto, 1992).

Christie's arguments are frequently cited as the underlying rationale supporting the use of victim offender mediation because the victim's role in mediation is active

rather than passive and allows both the victim and the offender to clarify their positions and participate directly in conflict resolution (Grönfers, 1992). The philosophical aims of victim offender mediation consist of returning the focus of criminal justice to the victim, and the need for victims to be directly recompensed for the violation of their rights as citizens (Mason, 1992). By meeting the offender, the victim gains insight into the offender's circumstances which may help to allay their fear of the offender, overcome any anger arising from the offence, and challenge their stereotypes of offenders (Mason, 1992). By meeting the victim, it is thought that offenders are given the opportunity to see that their victim is human and hurting and that by participating in the resolution of the conflict and agreeing to pay restitution to the victim, an offender can take responsibility for his or her actions (Heslop, 1989).

A frequent additional aim of victim offender mediation programmes is to reduce the use of imprisonment as a sanction for a range of non-violent offences (Galaway, 1984; 1992; Umbreit, 1989). Chan (1986), however, has pointed out that offenders can receive a non-custodial sanction in conjunction with a custodial sentence. Therefore mediation and restitution to the victim, coupled with incarceration is a sentence that can be imposed upon an offender (Coates & Gehm, 1989). By participating in victim offender mediation however, offenders can demonstrate to the courts that they have been willing to make amends for the damages and/or losses caused by their offending behaviour. Magistrates may, in turn, take into consideration the offender's willingness to make amends to the victim and reduce additional penalties, if any, accordingly (Coates & Gehm, 1989).

Although the philosophical aims of victim offender mediation and restitution may appeal to some, there are issues with the procedure which also need to be considered, especially in the context of the victim's role in justice process. For example, from the consensus perspective, the justice process and subsequent sentencing and punishment

is carried out on behalf of society, not individual victims. In direct conflict with this perspective, victim offender mediation provides the *individual* victim the opportunity to control the justice process and to make punishment/restitution decisions. This conflict of interests leads to questions concerning the capacity of the victim to represent the appropriate values at a societal level and is further compounded by a common assumption among laypeople that, due to their personal experience with crime, victims will be more punitive than non-victims (Hough & Moxon, 1988). These unresolved issues question the capacity of an individual victim to be an impartial representative of society in a process which has traditionally been conducted by an impartial court which has ostensibly sought justice on behalf of the community. In support of victim participation in the justice process however, it must be pointed out that research has indicated that victims are no more punitive than non-victims (van Dijk & Steinmetz, 1988). and that the victim is also a member of society who due to their proximity of having directly suffered the injustice of the crime, should be entitled to represent society in the justice process (Galaway, 1989; Rubel, 1986).

A further issue surrounding victim offender mediation is that the procedure itself and the subsequent restitution penalty may be perceived as an inadequate response to the seriousness of the offence committed (Galaway, 1989). Although victim offender mediation is frequently conceived as an opportunity for reconciliation and restoration, victims and offenders have also indicated that offender participation is perceived in part, as a form of offender punishment (Coates & Gehm, 1989). However, although victims and offenders who participated in victim offender mediation viewed mediation and restitution as a form of punishment, Galaway (1989) argued that the public, both victims and non-victims, may believe that the sanction is inadequate and that the offender deserves additional punishment. Alternatively, victims themselves, may reason that restitution is only that what is due (Mason, 1992) and again may perceive

victim offender mediation and restitution as a penalty that inadequately represents the seriousness of their victimization experience. These issues lead to concerns that victims and non-victims may not perceive victim offender mediation as an adequate response to the crime committed. It is possible that, as the offender has violated social rules, that victims and non-victims may require the offender to repay his or her debt to society as well as the debt to the individual victim.

Further issues with victim offender mediation concern the use of monetary restitution as a penalty for offenders and the potential net widening effect of victim offender mediation with restitution. For example, Schafer (1960), was concerned that wealthy offenders could buy their way out of their punishment and that restitution would discriminate against the offender who was less financial. However, Galaway (1988) suggested that Schafer had not envisioned restitution as a service which could be performed by the offender. Nonetheless, an offender may be incapable of performing restitutive services due to physical and or mental problems which could again discriminate against various categories of offenders. Finally, Coates and Gehm raised the issue of net widening when they found that offenders who agreed to participate in victim offender mediation were also placed on probation, whereas offenders who did not participate were merely required to serve the probation. The authors questioned whether offenders who participated in victim offender mediation with restitution would perceive this as extra punishment. If this perception among offenders is evident, then because participation is voluntary, the rate of participation by offenders in victim offender mediation may be affected.

In a review of research which examined victim offender mediation with monetary restitution, Hudson (1992) noted that research measures fell into three broad categories. Approximately one third of the research reviewed by Hudson examined the appropriateness of restitution as a sanction for a broad range of offences. The second

category of research reviewed by Hudson, examined public acceptance of victim offender mediation and restitution as an alternative to imprisonment or other forms of punishment, for a range of offences including property offences, while the final category investigated the fairness of restitution and the satisfaction of victims and offenders with the restitution order. Overall, Hudson reported firstly that victim offender mediation and restitution was perceived as more appropriate for non-violent property offences than for personal, violent crimes against the person. The second research category indicated a widespread public acceptance for restitution as an alternative to imprisonment for minor property offenders and finally the majority of studies which examined the views of victims indicated overall, that victims were satisfied with the restitution order and perceived it as fair.

In one of the studies reviewed by Hudson (1992), Boers and Sessar, (1991) surveyed the German public of Hamburg for their acceptance of victim offender mediation and monetary restitution by rank ordering five alternative sanctions according to 38 separate, hypothetical, offence descriptions. The first three sanctions involved variations of victim offender mediation and restitution such as; a private agreement between the offender and the victim, mediation with the help of a mediator, and court ordered victim offender mediation. The final two sanctions involved a reduction in additional punishment, if the offender provided restitution, and no reduction in additional punishment, even if the offender provided restitution. For over 50% of the offences, including residential burglary, restitution and reconciliation through private processes between the victim and the offender (and with the help of a third party, if required) were advocated most strongly by the German public. In particular, Boers and Sessar noted public acceptance for victim offender mediation with restitution in place of additional punishment and the formal justice process, for most of the offences. There were only five offence descriptions (four of which

described rape incidents), in which the majority of the public indicated a need for further punishment, regardless of whether the offender made restitution.

In order to further understand the sentencing attitudes of the Hamburg public, and in particular restitutive attitudes, Boers and Sessar investigated a range of sociodemographic variables, including fear of crime, age, gender, and level of education. While restitutive attitudes appeared to diminish with older age groups, punitive attitudes did not proportionally increase with age. Younger age groups (18-21 years) however, were consistently less punitive than older age groups. Women were found to be more supportive of restitution than men, and respondents with higher education levels were less punitive, and more restitutive than those with lower levels of education. Studies which have examined public attitudes towards the punishment of offenders but which have not included mediated restitution as a sanction, also indicated that respondents with less formal education were more punitive than those who received a more formal education (Walker, Collins, & Wilson, 1988).

In the same study, Boers and Sessar (1991) found a direct relationship between preferences for restitution as a sanction and fear of crime suggesting that for those who reported less fear of crime, restitution was more preferable. The authors also found a positive correlation between fear of crime and punitiveness, especially for males. Although the sentencing literature has similarly indicated that males may be more punitive than females, the finding that fear of crime is correlated with increases in levels of punitiveness is not always supported. For example, Ouimet and Coyle (1991), and Brillon (1988), found no association between public fear of crime and punitiveness, which suggests that fear of crime does not necessarily play a consistently strong role in attitudes towards the punishment of offenders.

In additional research which examined public acceptance of restitution as an alternative to imprisonment and other sanctions, Galaway (1984), surveyed 1, 872

citizens of New Zealand, for their acceptance of non-custodial sanctions, including monetary restitution instead of imprisonment, for property offenders. It is important to note that in Galaway's study the survey did not clearly indicate that for the restitution sanction that the restitution amount would be decided by the victim and the offender through victim offender mediation. Instead, it stated that the offender would pay the victim so many dollars (to be decided by the respondent) in restitution to compensate for the crime committed. In a mail survey utilising vignettes, respondents from experimental and control groups were asked to select imprisonment or some other non-custodial sentence (ie., community service; week-end community work; fines; probation) to indicate the duration or amount of penalty to be served by the offender described in the vignettes. For the experimental group, of which there were 960 respondents, there was the additional choice of restitution as a non-custodial sanction.

Based on the social demographic factors of age, gender, and victimization experiences, the results of Galaway's study indicated that there were no significant differences in the amount or type of sanction selected by the control and restitution groups, across the vignettes. This suggested that social demographic factors did not play a role in the acceptance of restitution as an alternative sanction. Of those respondents who could choose restitution as an alternative sanction (experimental group), 65% did so however, the level of acceptance of non-custodial penalties was also dependent on whether the offender was described as employed. The fact that respondents failed to support restitution as a sanction when offenders were unemployed perhaps indicated public concern for the means with which the offender had to repay the victim.

In a replication of Galaway's (1984), study, Bae (1992), investigated 1,799 citizens, both victims and non-victims, and 135 justice officials from Minnesota,

USA, for their acceptance of restitution as an alternative sanction to imprisonment for property offenders. Across five of the six crime vignettes, citizens from the control group (ie., no restitution option provided) selected the imprisonment sanction more frequently than those from the experimental group (ie., restitution option provided). This indicated perhaps that when given a range of non-custodial sanctions to choose from, people may opt for less punitive measures, a point which is supported elsewhere (eg., Roberts & Doob, 1989).

In same study by Bae (1992), findings indicated that gender played a role in the choice of sanction and that male respondents from both control and restitution groups selected the imprisonment sanction more frequently than females, indicating that males were perhaps more punitive than females. Additional findings indicated that within the control group (ie., those who did not have the restitution option), non-victims consistently selected imprisonment more frequently than victims, indicating that when the restitution sanction was not available, non-victims appeared to be more punitive than victims (Bae, 1992). In contrast, although there were no significant differences between victims and non-victims in the restitution group, Bae found that victims appeared less punitive than non-victims but also less supportive of the restitution sanction than non-victims. It is possible that victims perceived imprisonment for property offenders as too severe and monetary restitution as too lenient, which suggests that restitution coupled with some other form of punishment other than imprisonment, for property offenders, may be more acceptable to victims of crime.

In comparing the restitution group with justice officials, who also had the option of choosing restitution as a sanction, Bae's study found that overall, justice officials selected imprisonment more often than the restitution group. This indicated that the public group were not only less punitive than justice officials, but also more

willing to accept restitution as an alternative sanction for property offenders. Bae found that there was considerable ignorance among justice officials concerning public opinion towards sentencing and punishment issues, and that the justice officials frequently overestimated the magnitude of public punitiveness towards offenders, a finding which has also been supported by other research on the sentencing attitudes of justice officials and the public (eg., Riley & Rose, 1980; Gottfredson & Taylor, 1984).

Research has clearly indicated public acceptance of alternative sanctions to imprisonment such as victim offender mediation and restitution, for a range of property offences. However, in his review of the research, Hudson (1992) noted that the final category of research in restitution focused on the fairness of, and satisfaction with restitution by victims and offenders. Despite consistent perceptions that victims are angry, vindictive people who seek excessive punishment for the offender, the primary motives or goals for victims participating in victim offender mediation, have not focused exclusively on the need for punishment and revenge (Umbreit, 1989). In fact, according to Coates and Gehm (1989, p. 256), definitions of justice, for both victims and offenders, ranged from "making things right, holding the offender accountable for his or her actions, fairness, and equality in settling disputes". Moreover, the three most important goals for victims participating in victim offender mediation were; restitution/compensation for their losses, help or rehabilitation for the offender, and an opportunity for a meaningful, participative role in the justice process (Coates & Gehm, 1989; Umbreit, 1989).

In a study by Umbreit (1989), the perceived fairness and satisfaction of victims of burglary, participating in victim offender mediation, was investigated. Of the fifty victims who were referred to the victim offender mediation programme, 31 (62%) volunteered to participate in this procedure, while the remaining 19 chose not to

(38%). In his initial qualitative assessment, Umbreit found that for both groups of victims (participants and non-participants), there were essentially three distinct meanings for fairness. The most important meaning of fairness for both groups represented victims' desires for offender rehabilitation (participants = 100%; non-participants = 90%). The second most important meanings of fairness for both groups were compensation for losses (both groups = 94%) and the opportunity to participate in the decision-making processes concerning the amount of restitution to be paid by the offender (participants only = 84%).

The final but least important dimension of fairness perceived by the victims was offender punishment. According to Umbreit, when the victims referred to punishment, the victims spoke of accountability, deterrence, justice, monetary restitution, rehabilitation as well as incarceration. Umbreit's subsequent typology of victims' views of fairness revealed that overall, the predominant fairness dimension for all victims was *active* rather than passive participation in the justice process. Umbreit found a distinct difference in perceptions of fairness between victims who participated in victim offender mediation and those who did not participate. A greater percentage of victims who participated in victim offender mediation experienced fairness (80%) when compared to those victims who chose not to participate (38%). Of those who participated in the victim offender mediation, 93% felt that the restitution agreement was fair and 86% felt that mediation had been helpful.

Umbreit's identification of the opportunity for active versus passive participation for victims in the justice process is of considerable importance because there is evidence that for victims, whose cases have gone to court, (i.e., their participation is necessarily required) treatment and involvement by the courts has been unsatisfactory. Victims have felt disempowered as a result of their lack of participation and involvement in the justice process (Kelly, 1984; 1990; Shapland,

et al., 1985; Wilkie, Ferrante, & Susilo, 1992). Therefore, opportunities for active victim participation through victim offender mediation may reduce victim dissatisfaction with their treatment by the criminal justice system. The type of active victim participation preferred by victims in Umbreit's study varied from meeting the offender, expressing their feelings to the offender, being able to ask the offender questions relating to the offence (62%); and being able to participate in the restitution decision-making (86%).

Overall Umbreit (1989), argued that the more predominant theme underlying victims' goals for participation in the criminal justice process centred on a desire for justice and fairness, rather than a desire for revenge and punishment. The importance of achieving justice and fairness for individuals and groups, involved in social decision-making situations, has been acknowledged and well researched by social psychologists for the past three decades (Cohen & Greenberg, 1982). Many of the underlying assumptions and arguments which have been put forward in support of the implementation of victim offender mediation would appear to be substantiated by research findings which have investigated the specific rules and conditions in which social decision-making situations contribute to an individual's perceptions of justice and fairness.

Procedural justice theory

There are a number of theories in the social psychological literature which attempt to explain the principles which influence perceptions of social and interpersonal justice (Cohen & Greenberg, 1982). The theories predominantly focus on the allocation of costs and benefits among two or more individuals or groups and subsequent perceptions towards outcome distribution, or distributive justice. According to Homans (1982), the manner in which available resources are allocated will depend on the weight attached to three competitive rules; the perceived need of an

individual (need); the level of contribution made by each participating individual (proportionality or equity) and; the equal distribution of outcomes among group members (equality).

Cohen and Greenberg (1982), reviewed a number of social justice theories, including the theory of equity by Walster, Walster, and Berscheid (1973; 1978). According to Walster et al. (1973; 1978), the underlying assumption of equity theory is that man seeks to gain what he can in life, for himself, with minimum costs and maximum benefits. According to Walster, et al. (1973), distributive justice was achieved when the outcomes of a social exchange between individuals or groups equalled the contributions or input made by those same individuals or groups. As members of social groups, we attempt to ensure that the allocation of outcomes or rewards is equitable for all contributing group members. However, what is perceived as an equitable distribution of costs and benefits is in the eye of the individual beholder, therefore consensus concerning the distribution of outcomes will not always be evident among all group members (Walster et al., 1973).

The major focus of distributive justice theories is on the distribution of outcomes; that people are mostly concerned with the end result or outcome of social exchange or, the level of benefits and/or costs a person receives as a result of the relationship they have with others. In contrast to distributive justice theories, Thibaut and Walker (1975), examined the fairness of the decision-making processes used to determine the distribution of those outcomes or, procedural fairness. It was argued that when group members disputed the allocation of outcomes, concern would arise over the decision-making procedures used to achieve the outcome distribution (Thibaut & Walker, 1975). Under these circumstances, distributive justice would only be achieved by allowing group members to contribute to the decision-making processes used to resolve the dispute concerning outcome distribution.

Thibaut and Walker (1978) theorised that, in general, participants to a dispute pursued an overall objective of "truth" or "justice". In the scientific arena, disputes were predominantly cognitive in nature and the objective of "truth" was sought through empirical research. When disputes became conflicts of interest however, disputing parties were motivated to maximise their benefits or outcomes, minimise their costs, and seek the objective of "justice" (Thibaut & Walker, 1978). The authors argued that a majority of participants involved in disputes concerning conflicts of interest, were able to pursue a fair or just distribution of outcomes through dispute resolution procedures provided by the legal system.

In a number of experiments, Thibaut and Walker (1975) examined perceived fairness and preference for varying distributions of citizen participation in legal procedures used to resolve hypothetical disputes. Although the legal procedures and settings investigated were simulated, Thibaut and Walker (1975) argued that the procedural dimensions examined were comparable to the procedural dimensions available in contemporary courts. Through their research, Thibaut & Walker (1975; 1978), suggested there were two predominant criteria for evaluating the fairness of procedures used to resolve legal disputes. Firstly, there was the opportunity to present evidence or information which could contribute to the resolution of the dispute and secondly, there was the final decision-making concerning the subsequent distribution of outcomes. The two procedural dimensions were labelled *process control* and *decision control*, respectively. Process control was defined as the opportunity for disputing parties to present information or evidence concerning their case during legal proceedings. Decision control was defined as the extent to which disputing parties, or a third party (ie., a magistrate or judge), could actively decide or influence the final outcome of the dispute.

Although Thibaut and Walker (1975), essentially identified and experimentally

investigated five different legal procedures (bargaining, mediation, moot, adversary, and inquisitorial), a substantial part of their research examined the adversary procedure, which was typical of American and British courts, and the inquisitorial procedure, more commonly found in the courts of Europe (eg., France). During the adversarial procedure, the disputing parties or their representatives (ie., lawyers) were provided the opportunity for process control however, it was the third party (ie., a judge) who was responsible for the final decision-making. Disputants had little control over the third party decision which was usually binding. That is, once the third party decision was reached, disputants were required to accept that decision. In the inquisitorial procedure both the presentation of evidence and the final decision-making was entirely in the hands of the third party. According to Thibaut & Walker (1975), there was neither the opportunity for disputants to present their arguments or evidence (although the judge could question witnesses) nor the opportunity for disputants to influence the final decision concerning the outcome of the dispute.

By experimentally manipulating the opportunity for disputant and third party process and decision control in the different legal procedures, not only was the adversary procedure perceived by disputants as more fair but the adversary outcome decision was also perceived as more fair, than all other legal procedures and outcomes (Thibaut & Walker, 1975). Thibaut and Walker (1975) argued that perceived fairness was greater in the adversary procedure because disputants were provided the opportunity to present information and evidence (ie., process control) concerning their case. The process control effect was further interpreted as disputants recognising that process control was an indirect means to influence the third party outcome decision that would ultimately affect them (Thibaut & Walker, 1975). In other words, the opportunity for process control indirectly contributed to, and enhanced disputants' perceptions of distributive justice.

The effect of process control on perceptions of procedural fairness has been replicated in numerous studies (eg., LaTour, 1978; Lind, Kurtz, Musante, Walker, & Thibaut, 1980; Walker, Lind, & Thibaut, 1979) however, additional process control effects have also been established. For example, in a study by Walker et al. (1979), disputants and observers to legal proceedings, which varied in opportunities for disputant process and decision control, were implemented to determine their influence on the acceptance of final decision outcomes. For the disputants, the presence of process control greatly increased their acceptance of decision outcomes. Although observers indicated a preference for procedures which offered the disputant process control, they did not accept the outcome decision to the same degree as the disputants. Walker et al. concluded that as observers were not personally invested in the outcomes of the dispute, that actual participation by subjects (rather than mere observation) was a necessary factor for process control to influence a greater acceptance of outcomes.

In a study by Lind et al. (1980), an unexpected effect was detected in which the opportunity for disputant process control increased perceptions of fairness, despite an unfavourable third party outcome decision for the disputant. This finding suggested that the outcome of a dispute was perceived as more fair when a disputant was able to have their say during a procedure, than when a disputant was unable to have that opportunity. Although Thibaut and Walker (1975), argued that the function of disputant process control was as an instrumental means to control the outcome of a dispute, numerous studies, in a both legal and political settings, have consistently found that process control effects were independent of disputants' desires to directly or indirectly control the outcome decision-making (Tyler, 1984; Lind, Lissak, & Conlon, 1983; Tyler, Rasinski, & Spodick, 1985; Tyler, 1987; Lind & Tyler, 1988). Tyler (1987), argued that the opportunity for "voice" alone for disputants,

was of far greater value than the opportunity for disputants to instrumentally influence outcome decisions made by a third party. Tyler (1987) further established that the effect of process control increased considerably when participants perceived that their opinions were genuinely taken into account by the decision-making authorities, suggesting that there were other extraneous factors which were also influencing perceived fairness towards the opportunity for process control.

More convincing evidence of the independent effects of process control from decision control on perceived fairness was confirmed in a recent study by Lind, Kanfer, and Earley (1990). In this experiment, subjects were assessed for perceived fairness towards a performance goal-setting procedure. Subjects were informed that they were to perform a specified number of tasks within a set time frame. Some subjects however, were provided the opportunity to express their opinions and concerns (process control) about the number of tasks to be performed, while others were not (no process control). The opportunity for subjects to express opinions about the task at hand was provided either before ('pre-decision voice'), or after ('post-decision voice') the performance goal decision had been made (Lind et al., 1990, p. 953).

Of the three groups, subjects who were provided the opportunity to express their opinions *before* the performance goal decision-making indicated the highest fairness judgements. Of more interest however, is that subjects who were provided the opportunity for process control *after* the performance goal decision-making, also indicated levels of perceived fairness that were higher than those who were not able to express their opinions at all (Lind et al., 1990). This finding suggests that procedural fairness will be more evident in decision-making procedures which at the least provide, at some stage, an opportunity for people to voice their views, than procedures which fail to provide such opportunities.

Although Walker and Thibaut (1975) predominantly concentrated on the adversary and inquisitorial procedures which involved binding third party decisions, non-binding dispute resolution procedures have also been investigated in which disputants are able to influence the final outcome decision. For example, in bargaining and mediation procedures, the disputing parties have access to both process and decision control, that is both parties can present their evidence and contest the outcome decision that is reached. The difference between the two procedures is the presence and absence of a third party. In bargaining, there is no third party and dispute resolution, is the responsibility of two or more disputing parties. In mediation, the role of a third party is to recommend dispute solutions and to facilitate communication between the disputing parties however, the third party does not control the outcome decision, this is the responsibility of the disputing parties only (Thibaut & Walker, 1975).

Interestingly, research findings indicated that in procedures which offered non-binding decisions, disputing parties preferred *some* level of third party decision control, when compared to procedures which offered *complete* third party or *complete* disputant decision control (LaTour, Houlden, Walker, & Thibaut, 1976; Houlden, LaTour, Walker, Thibaut, 1978). This finding suggested that although disputants preferred to have the opportunity to present their evidence *and* influence the final decision outcome, disputants also preferred the third party to partially control the final outcome decision-making. This perhaps indicates that disputants desire a neutral party to assist them in outcome decision-making. Sheppard (1985), called this effect the *efficacy* principle which suggested that a dispute resolution procedure may be perceived as more fair when control of the different aspects of the procedure was in the hands of the most qualified person. Essentially he argued "Who better to decide how to present one's point of view than oneself? Who better to seek clarification or evidence than the individual needing that clarification or evidence to

make a decision?" (Sheppard, 1985, p. 960).

In their examination of legal procedures which offered binding and non-binding decision outcomes, Thibaut and Walker (1975), also examined conflicts of interest that varied in their intensity. Essentially conflicts of high interest were non-negotiable disputes in which one dissenting party would win the dispute and the other would inevitably lose. Conflicts of low interest were disputes in which disputants could negotiate the outcome. In examining mediation, Thibaut and Walker (1975) concluded that disputants involved in conflicts of high interest failed to achieve an equitable decision outcome because mediation, as a procedure, did not provide a neutral third party to control the final decision-making. Folger (1986) however, pointed out that Thibaut and Walker failed to examine perceptions of fairness and preference for mediation as a dispute resolution procedure and instead, only measured the likelihood of dispute resolution through mediation.

In examining preferences for five dispute resolution procedures (bargaining, mediation, moot, adversary, and inquisitorial) Heuer and Penrod (1986), experimentally investigated, among other variables, preferences for procedures by disputing parties involved in negotiable and non-negotiable conflicts. The initial results of their study found that disputants involved in both negotiable and non-negotiable conflicts, preferred procedures which allowed them to present their evidence and information, or process control. When examining preferences for decision control in negotiable conflicts however, the authors found that disputants preferred the procedure which offered *some* level of third party decision control rather than *complete* disputant decision control.

According to the Heuer and Penrod, this finding was somewhat surprising because it was assumed by the authors that as negotiable conflicts were open to compromise, the disputing parties would not require any third party intervention and would

therefore, prefer the bargaining procedure. However both bargaining and inquisitorial procedures were the least preferred procedures suggesting that disputants did not desire either *complete* third party control (inquisitorial) or *complete* disputant control (bargaining). Instead, the most preferred procedures for negotiable conflicts were the mediation, moot, and adversary procedures. Mediation with the lowest levels of third party intervention (no third party decision control) was the most preferred procedure, while moot, which required the disputing parties and the third party to agree on the outcome decision, was the next most preferred procedure. The third most preferred procedure was the adversary procedure in which the outcome decision rested with the third party. These findings suggested that for even for negotiable disputes, dissenting parties preferred to have lower levels of third party decision control (i.e., mediation and moot), than to have the third party completely control the outcome decision-making (i.e., adversary).

In a comparison of the adversary and mediation procedures in small claims courts, McEwen and Maiman (1984), found that disputing parties perceived the outcome decision in mediation as only slightly more fair than outcomes achieved through adversary procedures. In addition, participants were also more willing to comply with the outcomes generated through mediation, than those judgements which were handed down by the third party. McEwen and Maiman argued that the interpersonal interaction in mediation served to increase the pressure and incentive to comply with agreements by allowing both parties to "save face" and to re-establish control over their own dispute and subsequent resolution. Overall however, it was the opportunity for control over process that McEwen and Maiman (1984), attributed to disputants' satisfaction with mediation and eventual compliance with the final mutually agreed upon decision.

In order to explain the effects of process control, Lind and Tyler (1988).

postulated that procedural justice effects were contingent upon the value that people placed on group membership. Groups ranged from family and work groups to large, impersonal organisations such as the legal system. In order to affiliate with groups, individuals required access to procedures which established and maintained harmonious group relations. According to Tyler (1989), access to group procedures were highly valued because they secured perceived benefits, such as social status, emotional support, material resources, and a sense of belonging. However, when the social processes that sustained intragroup and intergroup relations were perceived as unfair by individual group members then group membership became devalued (Lind & Tyler, 1988).

A strong consistent theme throughout the procedural justice research was that the opportunity for direct participation by disputing parties could influence disputants' perceptions of fairness towards dispute outcomes, dispute resolution procedures, and the legal system in general (Lind & Tyler, 1988). Participation by group members in group decision-making processes, particularly the opportunity for process control, was perceived to be of great value and importance (Lind & Tyler, 1988; Tyler, 1989). Comparably, the issues of participation and the fairness of such participation in the justice process for victims, has also been identified as a consistent theme by proponents of restorative justice and victim offender mediation (Umbreit, 1989; Coates & Gehm, 1989).

Despite Umbreit's (1989), conclusions that victims' perceptions of fairness were fundamentally related to their active participation in the justice process, research in the area of victim offender mediation and restorative justice indicated little evidence that the participative processes of victim offender mediation had been examined from the theoretical framework and concepts already identified by Thibaut and Walker (1975) in their theory of procedural justice. Therefore, it is suggested here that the

participative processes that occur in victim offender mediation are comparable to Thibaut and Walker's (1975; 1978), concepts of process control and decision control. Evidence of process and decision control in victim offender mediation can be supported by examining the research conducted by Umbreit (1989), in which victims of crime clearly distinguished two separate, yet important opportunities; meeting and communicating with the offender and; contributing to the restitution decision-making.

In order to investigate Umbreit's findings that there were two distinct opportunities for victim participation in victim offender mediation, the present study operationalised the participation opportunities found in victim offender mediation by applying Thibaut and Walker's concepts of process control and decision control. By using scenarios an examination of people's perceptions towards the participative concepts identified by Umbreit (1989) was effected, that is the opportunity for a victim of crime to communicate to the offender and the opportunity to contribute to the restitution decision-making. The scenarios presented variously modified, hypothetical accounts of a victim of property crime participating in victim offender mediation. The concept of process control was described as the opportunity for a hypothetical victim to express their opinion to the offender during the justice process. The concept of decision control was described as the opportunity for a hypothetical victim to decide the offender's restitution during the justice process. It was thought that by experimentally manipulating victim process control and victim decision control via scenarios, that the underlying participative dimensions of victim offender mediation could be assessed to determine their impact on the perceptions of victims and non-victims.

Consistent with the procedural justice research and research by Umbreit (1989) on victim offender mediation, the first part of this study assessed the perceptions of fairness of victim and non-victim groups towards four variations of victim

participation. Three scenarios presented a description of a procedure comparable to victim offender mediation, that portrayed a hypothetical victim of property crime as having the opportunity for process control, decision control, and process and decision control combined. In other words, three of the four levels of victim participation represented three variations of the participative dimensions available in victim offender mediation to victims of crime. The fourth scenario described a procedure in which a hypothetical victim was not required to participate in the justice process. This procedure was comparable to the court procedures customarily implemented in the legal system for non-serious offences which in essence, deal only with the offender and ignore the victim. Like Thibaut and Walker's (1975) simulated legal procedures, the procedures operationalised in the present study, both victim offender mediation and the court procedure, are not exact replicas of the procedures carried out by contemporary courts. However, it is argued that opportunities for victim participation in the present study, are similar to the opportunities for victim participation in contemporary victim offender mediation programmes and the lack of any opportunity for victim participation is similar to contemporary court procedures which deal with minor property offenders.

Based on the literature that suggested that victims in general were frequently portrayed as angry, vindictive people (Umbreit, 1989), seeking more punishment for offenders than non-victims (Hough & Moxon, 1988), and contrasting research which indicated that victims and non-victims were equally punitive (van Dijk & Steinmetz, 1988), it was reasoned that a directional hypothesis concerning any interactions between groups and within-subjects variables for both parts of the study, would be difficult to determine. As a result, although interactions between the non-victim and victim groups and the within-subjects variables were expected, no hypotheses were made concerning the directions of those differences. Moreover, the following

hypotheses were made for the within-subjects variables only, pending no interactions between the groups and the same within-subjects variables. However, if omnibus analyses indicated significant interactions, then post hoc comparisons would be conducted to determine the meaning of the interactions and the findings reported.

Based on findings by Heuer and Penrod (1986), which indicated that mediation was the most preferred procedure for disputants involved in negotiable disputes, and research which indicated that the opportunity for process control or "voice" was perceived as more fair than the opportunity for decision control (Tyler, 1987; Lind et al., 1983; Tyler, et al., 1985; Lind & Tyler, 1988), it was believed that overall, procedures which provided opportunities for a hypothetical victim to participate in the justice process, especially the opportunity to "voice" their views, would be perceived as more fair than procedures which did not provide such opportunities. By examining data through post hoc comparisons, it is expected that;

1. A procedure which provides a hypothetical victim with the opportunity to express their views to the offender *and* the opportunity to decide the offender's restitution (ie., victim process and decision control), will be perceived as more fair than a procedure which completely alienates the victim from the justice process (ie., no victim control).

2. A procedure which provides a hypothetical victim with the opportunity to *only* express their views to the offender (ie., victim process control), will be perceived as more fair than a procedure which provides a victim with the opportunity to *only* decide the offender's restitution (victim decision control).

Based on procedural justice research which suggested that low to moderate levels of disputant decision control were preferred to complete third party decision control (LaTour, et al., 1976; Houlden, et al., 1978), it was thought that procedures which offered a hypothetical victim *some* opportunity for participation in the justice

process, in the form of decision control, would be perceived as more fair than a procedure which completely excluded the victim from the justice process. More formally, it is expected that;

3. A procedure which provides a hypothetical victim with the opportunity to *only* decide the offender's restitution, will be perceived as more fair than a procedure which completely alienates the victim from the justice process.

For the second part of the study, the adequacy of victim offender mediation as an alternative sanction for property offenders was examined by assessing the amount of imprisonment, in months, and the amount of fines, in dollars, that victim and non-victim groups allocated to a description of a hypothetical property offence and offender. The hypotheses were based on the research which found public support for victim offender mediation (Boers & Sessar, 1991) and monetary restitution, as an alternative sanction to a range of penalties, especially imprisonment (Bae, 1992; Galaway, 1984). For this part of the study, the scenarios depicted the victim participation, by describing two hypothetical procedures, in which only one procedure allowed a victim to participate in the justice process while the other did not (ie., victim offender mediation vs the court procedure). For all the scenarios in this part of the study, there were also two variations on an amount of restitution that the hypothetical offender was required to pay. For the latter variable, restitution, it was assumed that when procedures indicated a greater amount of restitution for the victim, that this would result in proportionately fewer months of imprisonment and fewer dollars in fines. Again the intention was to use post hoc comparisons to examine the data for the following differences;

4. A procedure which provides a hypothetical victim with the opportunity to express their views to the offender and the opportunity to decide the offender's restitution, will result in lower levels of imprisonment and fines, than a procedure

which completely alienates the victim from the justice process.

5. The procedure which describes the greater amount of restitution will also reflect lower levels of imprisonment and fines, than the procedure which describes the lower amount of restitution.

Chapter 3

Method

Subjects.

A convenience sample of 121 volunteers, both male and female tertiary students (aged 18-44 years) were recruited from Edith Cowan University in Perth, Western Australia. Of the 121 respondents recruited, 86 (71%) were females with a mean age of 23.7 years (SD : 5.96), and 35 (29%) were males with a mean age of 21.2 years (SD : 6.10). Respondents were sought from a range of disciplines including, nursing (18.2%), the performing arts (23.1%), applied sciences (14.8%), sport and recreational studies (24.8%), and education (14%). The remaining 5% of participants were enrolled in media studies, history and politics. Due to the nature of the study investigating perceptions of fairness and legal proceedings, and in an attempt to minimise potential bias, students from psychology and law disciplines were excluded from the sample. Based on their responses to demographic questions concerning their victimization experiences at the end of the questionnaire, respondents were categorised into non-victim and victim groups. From the sample, 24 (19.7%) indicated they had been victims of house break-ins, 29 (23.9%) indicated they had been the victims of crimes other than house break-ins, 27 (22.3%) indicated that they had been both victims of house break-ins as well as victims of other types of crime and 41 (33.8%) indicated that they had not been victims of any form of crime (See Appendix C for further demographic data on groups).

Design.

An experimental scenario study was conducted for both parts of the study. Although a considerable proportion of procedural justice research implemented the scenario approach (Lind & Tyler, 1988) there are a number of limitations to this approach which must be considered. For example, the measurement of attitudes or perceptions

based on hypothetical events may not necessarily be a good predictor of future behaviour (Neff, 1979). Moreover, Lind and Tyler (1988), warned that if hypothetical events described in the scenario were unfamiliar, then respondents would fail to make relevant evaluations or judgements. As victim offender mediation is a comparatively new legal procedure, it is unlikely that many people would be familiar with the extent of the victim's role during this procedure, let alone the victim's role during usual court procedures. A final consideration is that results may be weak due to the hypothetical nature of scenario. Both Neff (1979) and Lind and Tyler (1988) found stronger effects in simulated or field settings, respectively, where subjects were either able to interact with others or, had already established group membership.

Despite the limitations of the scenario approach, there are some clear advantages. For example, scenarios give the experimenter the opportunity to present information in a standardized way, across all subjects (Alexander & Becker, 1978), thus enabling tighter control of influential, extraneous factors, which may otherwise be present and uncontrollable in field settings. In addition, the variables of interest, as described in the scenarios, can be systematically and precisely manipulated in an experimental design.

The first part of the study employed a 4 X 4 split plot repeated measures design: 4 (Victim Type) X 4 (Victim Participation: Process Control; Decision Control; Process and Decision Control; No Control), with the first variable as the between-subjects factor and the second variable as the repeated within-subjects factor. The dependent variable was fairness. In the second part of the study, two 4 X 2 X 2 split plot repeated measures analyses were used to analyse data. The between-subjects variable, with four groups, was victim type. The first within-subjects factor was victim participation with two levels: victim offender mediation and the court procedure. The second within-subjects factor, restitution, also had two levels: \$500 and \$250. The

dependent variables were fines measured in dollars and imprisonment measured in months.

Materials.

Data were gathered via a questionnaire which consisted of eight pages. The middle pages contained a series of eight scenarios which described variations victim participation in legal decision-making procedures emulating victim offender mediation and a court procedure. The first page of the questionnaire contained a brief explanation of the purpose of the study, the identity of the student researcher, a formal statement that all responses to the questionnaire would be kept confidential and anonymous and a consent form that all participants were required to sign and date. The last page of the survey contained questions which provided demographic data on age, gender, discipline currently being studied, and whether the respondent had received any prior tertiary education. Additional questions were also included in order to categorise respondents into different groups of victims and non-victims. A final question asked respondents if, in the future, they would be willing to participate in victim offender mediation (See Appendix A for a copy of the questionnaire).

The second and third pages of the survey consisted of the first four scenarios which represented the first part of the study, while the fourth and fifth pages consisted of an additional four scenarios which represented the second part of the study. The presentation of the scenarios was randomly ordered to reduce confounding due to order effects. The directions for the questionnaire required respondents to read all the stories in Part A before answering the questions that followed each scenario. At the end of the first part of the questionnaire there was an additional reminder to respondents to go back and answer the questions for each scenario. The same instructions were repeated for Part B of the questionnaire. It was assumed that respondents would naturally compare each condition with the others, and the instructions were designed to

ensure that all participants read all the scenarios, in order to allow a comparison of the different dimensions of victim participation in the legal procedures.

The first four scenarios represented the four different levels of the within-subjects factor, victim participation: (a) victim process control, (b) victim decision control, (c) victim process and decision control and, (d) no victim control-courts. All the scenarios began with the following description:

X has admitted guilt to breaking into someone's house and stealing goods to the value of \$250. The offence was committed during daylight and the victim was not at home. X has not been arrested or convicted for any other offences.

By describing some offender and offence characteristics in the scenarios, it was intended that respondents would be prevented from assuming the stereotyped image of the violent and serious offender (Indermaur, 1990). It was also felt however, that any surplus descriptions of the offender or the offence would take the focus away from the main emphasis of the scenarios, victim participation. Therefore, these characteristics were kept to a minimum.

These offender and offence characteristics depicted in the scenarios sought to present to the respondent that the offender/offence committed was non-violent. The offender was described as having no prior record of previous offences which was intended to indicate that he or she was not a known or repeat offender (although it could be interpreted as the offender not having been caught until now). The Criminal Code of Western Australia makes a distinction between breaking and entering during day and night hours, with the former considered as less serious (Williams & Weinberg, 1986). Since most people are more likely to be home at night and confrontation between the offender and the victim is more likely, the fact that the offender in the scenario committed the offence during daylight hours, was intended to suggest to

respondents that the offence was less serious, especially when coupled with the knowledge that the victim was not at home, at the time of the offence.

After the offender and offence characteristics were presented, the scenarios continued to describe one of the four victim participation conditions. Three of the scenarios indicated that the victim was about to participate in a mediation procedure with the offender, and a neutral third party. Each scenario varied in the type of control presented to the victim by either presenting the victim as having both process and decision control; just process control; or just decision control. An example of the process control condition is as follows:

The victim has been asked to participate in mediation with X and a neutral third party. In this procedure, the victim will be able to express their views to X but they will not be able to say what amount of restitution X should repay. The court will decide what the punishment will be.

The fourth vignette which stated that the offender would go to court and that the victim would not be required to participate, represented the no victim control condition. An example of this condition is as follows:

X will be going to court. In this procedure, the victim will not be required to participate in the court proceedings and the court will decide what the punishment will be for X.

After each scenario, a nine-point Likert scale assessing perceived fairness was presented. The nine-point fairness scale was one of the most common scales used in procedural justice research (Lind & Tyler, 1988). Respondents were asked to rate how fair they considered each procedure to be. For example;

Question: On the following scale please rate how fair you consider the above procedure to be

Not Fair								Very
At All	1	2	3	4	5	6	7	Fair

Each scenario in the second part of the study again began with the same standardized offender and offence information as presented in the first four scenarios (See Appendix A). For this part of the study, the scenarios presented only two different conditions of victim participation. The victim offender mediation condition represented complete victim participation because the victim had the opportunity to express their view to the offender *and* to decide the offender's restitution (i.e., victim process and decision control). The second condition was the court procedure which represented no victim participation because the victim was not required to participate in the justice process.

These scenarios also presented information on two different amounts of restitution, either \$500 or \$250. Therefore, there were two victim offender mediation conditions with two different amounts of restitution, as well as two court conditions with two different amounts of restitution. In the victim offender mediation conditions the hypothetical victim was depicted as deciding the restitution amount, and in the court conditions the courts were depicted as deciding the restitution amount. At the end of each scenario there were two open scales, in which respondents were asked to allocate additional years and months for the imprisonment sanction, and additional dollars for fines sanction, to the offence described in the preceding scenario. An example of the scenario portraying the victim offender mediation with \$250 restitution and the imprisonment scale is as follows;

X has admitted guilt to breaking into someone's house and stealing property to the value of \$250. The offence was committed during daylight and the victim was not at home. X has not been arrested or convicted for any other offences. The victim has been asked to participate in mediation with X and a neutral, third party. In this procedure the victim will be able to express their views to X and to state the amount of restitution X should repay. The victim has stated that the restitution amount to be repaid is \$250.

Question: If Imprisonment were the only other form of punishment, how much imprisonment would you add, if any, in addition to the restitution, for the above offence?

Imprisonment.....years.....months

The questionnaire was piloted using a convenience sample of 15 volunteer tertiary students. Respondents were required to comment or criticize on any aspect of the questionnaire which they did not understand or make suggestions that would improve and ease the administration of the questionnaire. Respondents indicated that the questionnaire was, in general, easy to understand and that the scenarios were relatively unambiguous. Some participants desired additional offender characteristics such as age and gender, however as mentioned previously, these variables were deliberately kept to a minimum. Only minor aesthetic changes were made to the presentation of the questionnaire. The actual scenario descriptions and the scales remained the same. As the changes to the questionnaire were minimal, the students used in the pilot test were retained as part of the overall sample.

Procedure.

Subjects were recruited by approaching the co-ordinators and lecturers of various

university departments and permission was gained to enter lecture rooms and seek tertiary students to voluntarily complete a "Justice Survey" which assessed 'attitudes' towards legal procedures. Once volunteers had been recruited, a brief description was given concerning the nature of the study in terms of assessing perceptions of legal procedures. Those who volunteered to participate were then instructed to fill in the consent form on the front of the questionnaire, and to read the directions carefully. For the most part, questionnaires were administered at the beginning of the lecture and took approximately 15 minutes to complete. At the completion of the survey, students were given a debriefing letter which provided more details on the purpose of the questionnaire, names and telephone numbers as to who to contact for information on the progress of the research, and the suggestion that students experiencing any adverse effects due to the nature of the questionnaire, to seek counselling (See Appendix B).

Chapter 4

ResultsPerceived fairness.

A 4 x 4 (Victim Type X Victim Participation) split plot repeated measures analysis of variance (ANOVA) was performed on one dependent variable: fairness. The between-subjects variable, victim type, had four levels (non-victims; victims of house break-ins; victims of other crimes; and victims of both house break-ins and other crimes) and the within-subjects repeated factor, victim participation, also had four levels (victim process control; victim decision control; victim process and decision control and no victim control-courts). Group means and standard deviations for each level of the repeated within-subjects factor, victim participation, for the dependent variable, fairness, are shown in Table 1.

There were no missing data and no univariate outliers ($N = 121$). Results of evaluation of assumptions for normality were satisfactory for eleven cells, with five remaining cells indicating non-normality. Due to difficulties in interpretation when transforming some variables and not others, and the relative robustness of ANOVA to violations of normality, it was decided that data would be left as they were and caution exercised in interpretation. Assumptions for univariate homogeneity of variance and variance-covariance were met however the assumptions for homogeneity of covariance were unsatisfactory. Repeated measures ANOVA from the Statistical Package for the Social Sciences (SPSS) was used for the analyses, with the sequential method of adjustment for nonorthogonality due to unequal cell sizes, as recommended by Tabachnick and Fidell (1989).

The results indicated no interactions between the groups factor, victim type and the within-subjects factor, victim participation, $F(9, 117) = 0.44$, $p > .05$. However a main effect was found for the within-subjects factor, victim participation, $F(3,$

351) = 32.81, $p < .05$. According to Tabachnick and Fidell (1989), when the homogeneity of covariance test is unsatisfactory, one solution is to perform a set of single degree of freedom contrasts. These contrasts allowed an examination of mean differences in perceived fairness, for each of the levels of the within-subjects factor, victim participation. Results indicated that two of the three hypotheses were confirmed. The first hypothesis stated that the procedure which depicted a hypothetical victim as having both process and decision control, would be perceived as more fair than the procedure which excluded the victim from direct participation in the justice process; no victim control (courts). Pairwise post hoc comparisons indicated that there was a significant difference for perceived fairness between the victim process and victim decision control condition and the no victim control (courts) condition; $t(117) = 5.32$, $p < .05$. The overall means, shown in Table 1, indicated that the mean for perceived fairness for the victim process and decision control condition ($M = 6.36$) was greater than the no victim control condition ($M = 4.77$), thus confirming the first hypothesis.

The second comparison was conducted to determine differences in perceived fairness for the victim process control only condition and the victim decision control only condition. It was hypothesised that a procedure which depicted a hypothetical victim as having only the opportunity to express their opinion to the offender (victim process control only) would be perceived as more fair than a procedure which portrayed a victim as having only the opportunity to decide the offender's restitution (victim decision control only). Comparisons indicated that there was a significant difference in the means for perceived fairness for these two conditions, $t(117) = 9.60$, $p < .05$. By examining Table 1, it is evident that the means for the victim process control condition ($M = 6.31$) are greater than the means for the victim decision control condition ($M = 4.50$) suggesting that the procedure which presented only victim

process control was perceived as more fair than the procedure which only presented victim decision control.

Table 1

Group Means and Standard Deviations for Fairness in Relation to Levels of Victim Participation.

Victim type	Victim participation			
	Process control	Decision control	Process and decision control	No control
	M (SD)	M (SD)	M (SD)	M (SD)
NV (n =41)	6.21 (1.79)	4.47 (1.96)	5.98 (2.10)	4.75 (1.95)
VHB (n =24)	6.23 (1.74)	4.17 (1.95)	6.34 (2.12)	4.71 (2.22)
VOC (n =29)	6.22 (1.65)	4.71 (1.89)	6.77 (2.28)	4.53 (1.88)
VOB (n =27)	6.59 (1.48)	4.65 (1.82)	6.37 (2.06)	5.10 (2.26)
Overall				
M (SD)	6.31 (1.66)	4.50 (1.90)	6.36 (2.14)	4.77 (2.07)
(N = 121)				

Note. VHB: victims of house break-ins; VOC: victims of other crimes other than house break-ins; VOB: victims of both house break-ins and other crimes; NV: non-victims.

For the third hypothesis it was stated that the procedure which described a hypothetical victim as having only the opportunity to decide the offender's restitution (victim decision control only) would be perceived as more fair than a procedure which excluded the victim from direct participation in the justice process (no victim control - courts). This hypothesis was not confirmed as there was no significant difference

between the means for the victim decision control only condition and the no victim control (court) condition, $t(117) = 1.05$, $p > .05$.

Although no other hypotheses were stated, additional post hoc pairwise comparisons, with Scheffé adjustment for familywise error, were conducted to examine the differences in perceived fairness between victim process and decision control, with victim process control only, and victim decision control only, respectively. The comparisons indicated that there were no significant differences between the means for the victim process control only and victim process *and* decision control, $t(120) = -.12$, $p > .05$, however there were significant differences between victim decision control only and victim process *and* decision control, $t(120) = -9.61$, $p < .05$. This suggests that perceived fairness for victim process control only and victim process *and* decision control are approximately on par with each other, and that victim decision control only is seen as significantly less fair than the victim process and decision control condition.

Fines and Imprisonment.

For the second part of this study, two separate $4 \times 2 \times 2$ (Victim Type X Victim Participation X Restitution) split plot repeated measures analyses of variance (ANOVA) were used to determine the effects for the between-groups factor, victim type, and the two within-subjects repeated measures factors; victim participation and restitution for the two dependent variables, fines and imprisonment. Fines were the amount of dollars a person could assign to each of the four procedures described and imprisonment was the number of years/months a person could assign to the same procedures.

Data screening revealed that assumptions of normality were violated for both dependent variables, imprisonment and fines. The Bartlett-Box and Cochran univariate homogeneity of variance tests for the dependent variable fines were

satisfactory however, only the Cochran test was satisfactory for the dependent variable imprisonment. Transformation of data was not conducted as Tabachnick and Fidell (1989), have indicated that transformation increases the difficulty of interpretation when scales of measurement (such as dollars and months) are meaningful.

There was a total of five cases with missing numerical data for both dependent variables. Three respondents had written that the offender should be fined for court costs and/or damages. The missing data for these cells did not indicate a pattern, and since it was impossible to estimate what court costs or damages would have been, a decision was made to exclude these cases from both the fine and imprisonment analyses, reducing the sample total from 121 to 116 for both analyses. In addition, according to an inspection of *z* scores, there were five cases that registered as univariate outliers for each of the dependent variables. Demographic information could not indicate whether these cases were from the intended population, therefore the decision was made to alter the raw scores for each of the cases, to one unit larger than the next most extreme score, as recommended by Tabachnick and Fidell (1989). For the outliers on the dependent variable fines, scores were altered to \$1.00 above the next most extreme score, and for outliers on the dependent variable imprisonment, the scores were altered to one month above the next most extreme score.

Homogeneity of variance-covariance tests for both dependent variables were also unsatisfactory as indicated by significant results for the Box's *M* tests. When heterogeneity of variance-covariance is present in the data, and cell sizes are unequal, Tabachnick and Fidell (1989) recommend random deletion of cases in order to equalize cell sizes. In order to adjust the cell sizes in this study, at least eleven cases would need to be deleted from the non-victims group. Although this was examined, it made no difference to the Box's *M* tests, which continued to be significant, therefore, the decision was made to retain all cases and to proceed with the analysis.

Due to the tendency for the smaller cell sizes to produce the larger variances and covariances, the subsequent significance tests may be too liberal, and therefore, although null hypotheses can be accepted with confidence, any mean differences should be interpreted with caution (Tabachnick & Fidell, 1989).

Once again SPSS repeated measures ANOVA was used to analyse data. Because of the unequal cell sizes, a sequential method of adjustment for nonorthogonality was applied, as recommended by Tabachnick and Fidell (1989). Group means and standard deviations for the dependent variable, fines, are presented in Table 2, and for the dependent variable imprisonment, group means and standard deviations are shown in Table 4.

The hypotheses for this part of the study stated firstly, that a procedure which provided the victim the opportunity to express their views to the offender and to decide the offender's restitution (process *and* decision control), would result in lower levels of imprisonment and fines than a procedure which excludes the victim from direct participation in the justice process. Secondly, it also was hypothesised, that the higher amount of restitution would result in lower levels of imprisonment and fines, than the lower amount of restitution.

The results indicated that there was a significant main effect for the within-subjects factor, restitution, $F(1, 112) = 6.72, p < .05$, as well as a significant interaction for the two within-subjects factors, participation by restitution, for the dependent variable fines, $F(1, 112) = 48.02, p < .05$. There was no significant main effect for the within-subjects factor, victim participation $F(3, 112) = .16, p > .05$, neither were there any other significant two-way interactions: victim type by participation: $F(3, 112) = .94, p > .05$; victim type by restitution: $F(3, 112) = .86, p > .05$; nor significant three-way interactions; victim type by participation by restitution: $F(3, 112) = .18, p > .05$.

Table 2

Group Means and Standard Deviations for Fines (Dollars) Towards Two Levels of Victim Participation and Two Levels of Restitution

Victim type	Victim participation and restitution			
	VOM \$500	VOM \$250	CRT \$500	CRT \$250
	<u>M</u>	<u>M</u>	<u>M</u>	<u>M</u>
	(<u>SD</u>)	(<u>SD</u>)	(<u>SD</u>)	(<u>SD</u>)
NV (<u>n</u> =40)	718.75 (1154.63)	713.80 (752.33)	598.80 (666.18)	863.77 (1156.57)
VHB (<u>n</u> =23)	739.13 (1425.17)	693.52 (860.13)	532.69 (671.46)	817.39 (1183.95)
VOC (<u>n</u> =29)	567.27 (972.76)	675.89 (683.55)	501.76 (560.62)	787.96 (1015.81)
VOB (<u>n</u> =24)	860.46 (1399.19)	768.83 (866.85)	604.25 (715.97)	925.00 (1365.09)
Overall (<u>N</u> =116)	721.40 (1237.94)	713.01 (790.71)	559.37 (653.56)	848.53 (1180.35)

Note. VHB: victims of house break-ins; VOC: victims of other crimes other than house break-ins; VOB: victims of both house break-ins and other crimes; NV: non-victims.

VOM \$250: victim participation with \$250 restitution; VOM \$500: victim participation with \$500 restitution; CRT \$250: no victim participation with \$250 restitution; CRT \$500: no victim participation with \$500 restitution.

Based on the data presented in Figure 1, which depicts the significant interaction between participation and restitution, a series of post hoc pairwise comparisons, with

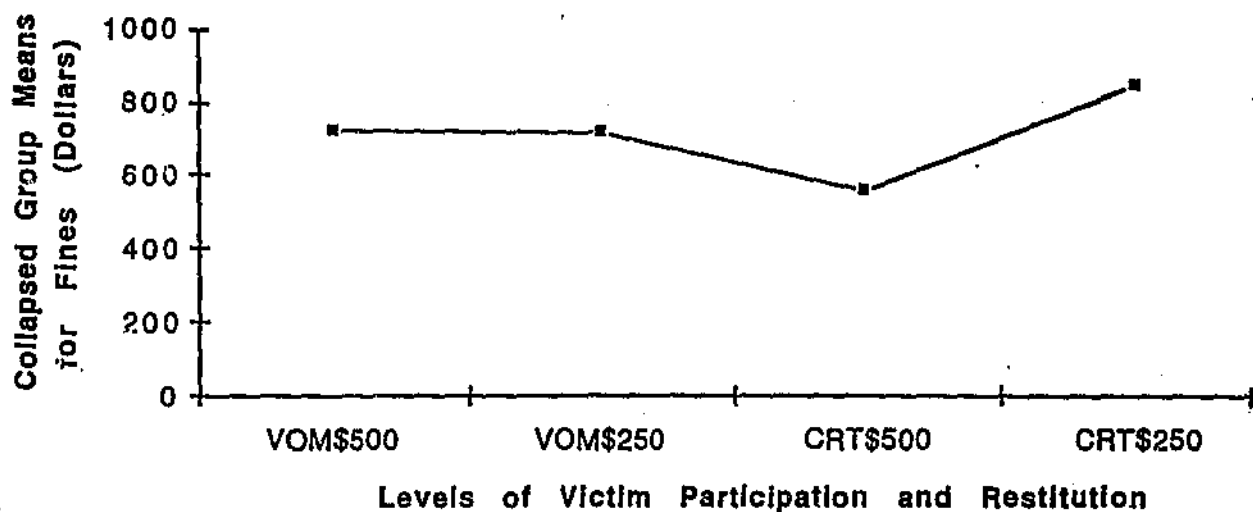


Figure 1. Collapsed group means for the dependent variable fines, for the interaction between the two levels of the within-subjects factors, victim participation and restitution.

Note. VOM\$250: victim participation with \$250 restitution; VOM\$500: victim participation with \$500 restitution; CRT\$250: no victim participation (courts) with \$250 restitution; CRT\$500: no victim participation (courts) with \$500 restitution

Scheffé adjustment for familywise error, were conducted. Comparisons indicated that the combined means for both victim offender mediation conditions were significantly different in the amount of fines allocated to the court \$250 condition;

$t(114) = 4.84, p .05$, however there were no significant differences in fines

Table 3

Overall Means for both Victim Offender Mediation Conditions Combined and Overall Observed Means for the Court Conditions with \$500 and \$250 Restitution

	Victim participation		
	VOM	CRT\$500	CRT \$250
<u>M</u>	717.20	559.37	848.53
<u>(SD)</u>	(1014.32)	(653.56)	(1180.35)

Note. VOM: Victim offender mediation \$500 and 250 (combined); CRT: Court procedure.

between the combined victim offender mediation conditions ($M = 717.20$) and the court \$500 condition ($M = 559.37$): $t(114) = -2.43, p < .05$. The means for the two court conditions however, were significantly different, $t(114) = -4.41, p < .05$. By examining Table 3, it can be seen that the combined mean for the victim offender mediation conditions ($M = 717.20$) is lower than the mean for the court \$250 condition ($M = 848.53$). In other words, the amount of fines allocated to the court \$250 condition were significantly higher than the amount of fines allocated for all other conditions.

For the dependent variable imprisonment, there was a significant main effect for the within-subjects factors, victim participation, $F(1, 112) = 9.34, p < .05$ and

Table 4

Group Means and Standard Deviations for Imprisonment (Months) Towards Two Levels of Victim Participation and Two Levels of Restitution

Victim type	Victim participation and restitution			
	VOM \$500	VOM \$250	CRT \$500	CRT \$250
	M (SD)	M (SD)	M (SD)	M (SD)
NV ($n = 40$)	4.55 (5.75)	5.35 (6.57)	5.22 (6.44)	5.95 (7.03)
VHB ($n = 23$)	5.02 (6.32)	5.48 (7.26)	6.46 (8.40)	4.83 (6.88)
VOC ($n = 29$)	4.83 (5.32)	6.41 (6.75)	6.52 (7.11)	7.45 (7.86)
VOB ($n = 24$)	3.29 (3.23)	3.63 (3.62)	3.79 (4.40)	3.50 (3.60)
Overall	4.42	5.22	5.49	5.43
($N = 116$)	(5.15)	(6.05)	(6.58)	(6.34)

Note. VHB: victims of house break-ins; VOC: victims of other crimes other than house break-ins; VOB: victims of both house break-ins and other crimes; NV: non-victims.

VOM \$250: victim participation with \$250 restitution; VOM \$500: victim participation with \$500 restitution; CRT \$250: no victim participation with \$250 restitution; CRT \$500: no victim participation with \$500 restitution.

restitution, $F(1, 112) = 5.05$, $p < .05$. There was a significant interaction for the between-subjects factor, victim type, and the within-subjects factor, restitution, for

the dependent variable imprisonment, $F(1, 112) = 3.48, p < .05$). There were no other significant two-way interactions, victim type by victim participation, $F(3, 112) = 1.25, p > .05$; participation by restitution, $F(1, 112) = 3.52, p > .05$; or three-way interactions, participation by restitution by victim type, $F(3, 112) = 1.13, p > .05$).

Based on the data presented in Figure 2 for the significant interaction, a series of post hoc comparisons, using the Scheffé adjustment for familywise error, were conducted among the four group means and the combined means for the restitution factor. Only one comparison achieved significance, and this indicated that there was a significant difference between the victim groups; victims of other crimes and victims of both house break-ins and other crimes $t(42.1) = 2.24, p < .05$ in the amount of imprisonment allocated for the \$250 restitution condition. By examining the combined means for restitution on Table 5, it can be seen that victims of other crime

Table 5

Combined Means and Standard Deviations for Imprisonment, for Victims of Other Crimes and Victims of Both House Break-ins and Other Crimes, for the Within-Subjects Factor Restitution

	Restitution	
	\$250	\$500
	M (SD)	M (SD)
VOC	6.93 (7.31)	5.67 (6.22)
VOB	3.56 (3.61)	3.54 (3.82)

Note. VOC: victims of other crimes other than house break-ins; VOB: victims of both house break-ins and other crimes.

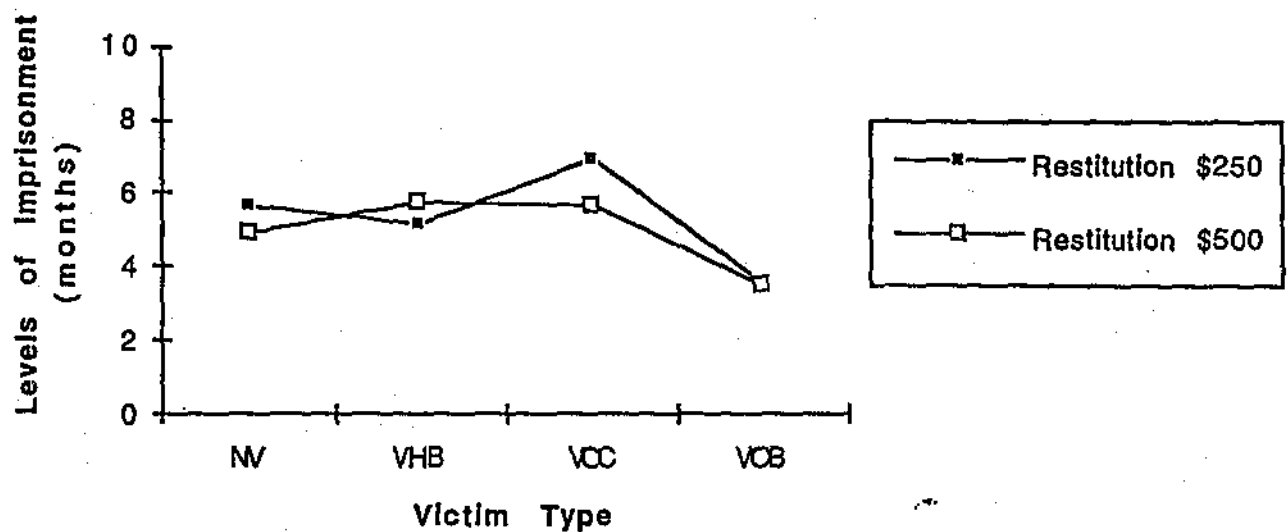


Figure 2. Collapsed means for the interaction between the within-subjects factor, restitution and the between subjects factor, victim type for the dependent variable imprisonment.

Note. VHB: victims of house break-ins; VOC: victims of other crimes other than house break-ins; VOB: victims of both house break-ins and other crimes; NV: non-victims.

($M = 6.93$) allocated a significantly greater amount of fines, than victims of both house break-ins and other crimes ($M = 3.56$) for the \$250 restitution condition.

Chapter 5

Discussion

Discussion of the results for the first part of the study centres on the hypotheses that were made concerning perceived fairness towards different levels of victim participation and the specific findings of the analyses. This is followed by a review of the hypotheses for the second part of the study, and a discussion of the meaning of the interactions found for the dependent variables, fines and imprisonment. The discussion continues with a review of the limitations in the present study and finally concludes with a summary which highlights the findings of interest and suggestions for future research.

Perceived fairness.

Although interactions were expected, data analysis indicated that there were no interactions between non-victim and victim groups towards the different levels of victim participation, for the dependent variable fairness. One explanation for the absence of interactions is that it is possible, that like the research which found no differences between victims and non-victims on punitiveness (van Dijk & Steinmetz, 1988), the victim and non-victim groups in the present study differed little in perceived fairness towards victim participation in the justice process. However, it is also quite likely that the procedures described were unfamiliar to both non-victim and victim groups. Given the recent implementation of victim offender mediation programmes, it is unlikely that respondents were familiar with such procedures, let alone knowledgeable about the extent to which a victim of crime is able to participate in traditional justice processes. Therefore the absence of group interactions may be an artifact of the procedures described. As previously discussed, Lind and Tyler (1988) warned that scenarios would be ineffective in measuring subjective evaluations, if subjects were unfamiliar with the events described.

Lind and Tyler also pointed out that an absence of strong effects was more likely to occur in scenario studies than in field studies because the latter examined subjects who had formed attachments to real-life individuals, groups, and organisations. A final explanation could be that, like the observers in the study by Walker et al. (1979), the respondents in the present study did not actively participate in the described legal procedures. Therefore, they were not as committed to the hypothetical scenario events as they would perhaps be to actual participation in legal settings with real victims and offenders. Overall, the abstract nature of the scenario approach may have contributed to an absence of strong group differences in perceived fairness.

The hypotheses concerning differences in perceived fairness towards different levels of victim participation were examined through post hoc pairwise comparisons. The first hypothesis stated that the procedure which provided the victim the opportunity to express their views to the offender *and* to decide the offender's restitution (victim process and decision control), would be perceived as more fair than a procedure which excluded the victim from direct participation in the justice process (no victim control).

The results indicated that this hypothesis was confirmed, suggesting that the opportunity for a victim to have a say to the offender and to participate in the restitution decision-making, was seen as more fair by respondents than traditional justice processes which do not provide such avenues for victim participation. Therefore, it can be said that perceived fairness towards victim participation increased, when compared to no victim participation in the justice process. This raises issues concerning the value of contemporary criminal justice practices and sentencing paradigms which focus on the offender. One of the main objectives of the legal system is fairness however, one must question fairness for whom? These findings suggest that the degree of perceived fairness towards contemporary justice

processes can be improved by providing opportunities for victims of crime to participate in the justice process.

This finding can perhaps be partly explained in terms of procedural justice research which investigated differences in perceived fairness towards the inquisitorial and adversary styles of adjudication. It is argued that the court procedure described in the present study, which did not require the hypothetical victim to participate, was comparable to Thibaut and Walker's (1975), inquisitorial procedure. During the inquisitorial procedure, disputant participation was not required and the entire procedure (both process and decision control) was controlled by a third party. Similarly in the present study, the court procedure indicated that the victim was not required to participate and that control over both process and final outcome decision-making was in the hands of a third party, the courts.

As previously discussed, Thibaut and Walker (1975), consistently found that disputants perceived the adversary procedure as more fair than the inquisitorial procedure because, according to the authors, it allowed disputants the opportunity to present their evidence and information. In their group value model, Lind and Tyler (1988), proposed that individuals perceived social processes as important avenues to establishing effective group relations and receiving benefits. In a similar vein, it is suggested that respondents perhaps perceived that the court procedure denied the hypothetical victim access to important social processes and benefits. However, which social processes were perceived as more fair could not be established in this comparison. Therefore a second comparison was made to determine whether victim process control or victim decision control was perceived as more fair.

In the second hypothesis, perceived fairness towards victim process control was expected to be higher than perceived fairness towards victim decision control. The results indicated that this hypothesis was also confirmed, indicating that the

opportunity for a hypothetical victim to have a say to the offender, was perceived as more fair than the opportunity for a hypothetical victim to participate in the restitution decision-making. These findings appear to be congruent with the procedural justice research which found that process control alone, significantly enhanced perceived fairness towards dispute resolution procedures and dispute outcome decisions (Tyler, 1987).

Although the findings of this second comparison suggest that once again people's perceptions of fairness increased with victim participation, the specific dimension of victim participation which influences procedural fairness is limited to the opportunity for victims to voice their views to the offender, or victim process control. The notion of a hypothetical victim making restitution decisions was perceived as less fair, indicating that if opportunities for outcome decision-making were provided to a victim of crime, it would lower people's perceptions of fairness towards victim participation in the justice process. It is suggested that the lower levels of procedural fairness for victim decision control were a result of respondents perceiving the hypothetical victim as someone who would be excessively punitive, and who could not make impartial or fair punishment or restitution decisions.

Despite the lower levels of perceived fairness towards victim decision control, it is important to note that in practice, victim offender mediation allows both victims and offenders opportunities for process control and decision control. The role of the mediator is as an active facilitator of communication between the two parties and the final restitution/outcome decision reached by the offender and the victim is also subject to approval from an authoritative body, such as a criminal justice official. Perhaps a limitation of the present study, is the depiction of three victim participation conditions which portrayed a hypothetical victim in a position of power that is, as the only restitution decision-maker. Although a mediator was present, he or she was

merely depicted as a "neutral" third party. This perhaps implied that there was little or no room for an appropriate, authoritative body to oversee the victim's restitution decision-making and to ensure that it wasn't excessive. Therefore it is possible that perceptions of fairness towards the victim decision control condition may have been higher if the scenario had indicated that the restitution decision was subject to final approval from an impartial, third party such as a magistrate.

The third hypothesis for the dependent variable perceived fairness, stated that a procedure which provided a hypothetical victim with only the opportunity to decide the offender's restitution, would be perceived as more fair than a procedure which excluded the victim from direct participation in the justice process. Although post hoc comparisons did not reveal significant differences between these two conditions, the means were contrary to the stated predictions. It is suggested that had the mean differences achieved significance, then it may have been an indication that victim and non-victim groups preferred the final outcome decision-making to be the responsibility of an experienced, authoritative, and impartial third party such as the courts, rather than a potentially angry victim of crime.

The final post hoc comparisons conducted for perceived fairness compared the means for victim process control with victim process *and* decision control and found no significant differences. The means for victim decision control were also compared with victim process and decision control and it was found that perceived fairness was significantly lower for victim decision control than victim process and decision control. These findings further confirm that procedural fairness will be greater for those procedures which provide victims of crime the opportunity to express their views during the justice process, and that the opportunity for victim process control influences perceptions of fairness more than the opportunity for victim decision control.

Firstly, the most relevant findings for this study were that the procedure which provided the opportunity for the victim to express their opinion to the offender *and* to decide the offender's restitution enhanced people's perceptions of fairness of legal procedures, more than procedures which offered no opportunity for victim participation in the justice process. Secondly and more importantly, the particular dimension of victim participation in legal procedures which significantly influenced perceptions of fairness, was the opportunity for victims to voice their views to an offender. One implication of these findings is that by allowing a victim to express their opinions to an offender during the justice process, perceptions of fairness towards legal procedures and the legal system in general, may improve. This implication is supported by procedural justice research which indicated that the opportunity for process control for disputants, led to more favourable attitudes towards the legal procedure, the outcome decision, and the legal institution (Lind & Tyler, 1988).

A further implication of the effect of victim process control is that procedures which allow the victim both process and decision control, such as victim offender mediation, may perhaps be unnecessary. This is supported by the present study's finding, that there were no significant differences in perceived fairness between victim process control and victim process *and* decision control, suggesting that victim process control was the most influential factor in determining procedural fairness judgements. Although improbable, it is suggested that by designing courtroom procedures to allow the victim of crime to actively participate through the verbal expression of their opinions and asking the offender questions, victims will be provided with an opportunity for their inequitable circumstances to be recognised by society, an opportunity to be acknowledged as a valued member of the group, and an opportunity to participate meaningfully in the justice process. In turn, victim

participation through process control, may also improve victim satisfaction with their treatment by the courts and by the criminal justice system in general.

As there were no differences between the non-victim and victim groups in their perceptions of fairness towards victim process control, an additional implication is that public satisfaction with the criminal justice system may increase, when it is seen that the law attempts to address the inequitable circumstances of the victim, by providing a meaningful and fair opportunity for victims to seek justice. Despite the traditional opposition to victim participation in the justice process (Corns, 1988), by including the victim in the justice process, the courts will be seen to be considering not only the characteristics of the offender and his or her offence but also directly considering the needs and rights of the victim. This argument has been similarly supported by others (Rubel, 1986; Indermaur, 1990).

However, it is unlikely that contemporary courts would have the necessary resources to implement a procedure which provides victims of less serious crime, such as property offences, the opportunity to express their opinions and question the offender during the justice process. Therefore, procedures such as victim offender mediation, which do provide opportunities for victims of less serious crimes to participate in the justice process, may be an essential component of any legal system if perceptions towards legal procedures, decision outcomes and legal institutions are to improve.

Imprisonment and fines .

The second part of this study assessed amounts of punishment allocated to an offender, based on two different levels of victim participation with two different amounts of restitution. The first hypothesis stated that the procedure which provided a victim with the opportunity to express their views to the offender and decide the offender's restitution (victim offender mediation) would result in lower levels of

imprisonment and fines than the procedure which completely excluded the victim from the justice process (courts). The second hypothesis stated that the procedures which stated the greater restitution amount would result in lower levels of imprisonment and fines, than procedures offering the lower restitution amount. In essence, it was expected that victim offender mediation with \$500 restitution would result in the least amount of punishment.

For the dependent variable imprisonment, a review of the overall means before the omnibus test suggested that the allocation of imprisonment in months was the lowest for the victim offender mediation with \$500 restitution. The amount of imprisonment appeared to increase across procedures where the court procedure with \$250 restitution attracted the highest levels of imprisonment. Initially this appeared to be consistent with the hypothesised expectations because it was theorised that lower levels of punishment would be allocated to the condition which depicted victim offender mediation, with the high restitution amount.

For the dependent variable fines however, the pattern of the overall means was not as straightforward. The mean for the court condition with \$250 restitution was the highest mean for fines, suggesting that this condition caused the greatest amount of punishment. Surprisingly, however, it was the court condition with \$500 restitution that indicated the lowest mean for fines, which suggested that the absence of opportunities for victim participation and the greater restitution amount caused respondents to select lower levels of punishment. However, for both the dependent variables there were significant interactions and subsequent analyses of the interactions clarified the limitations concerning the interpretation of the pattern of the overall means.

For the dependent variable fines, the results of the analyses indicated that there was a significant interaction for victim participation and restitution. Firstly, the graph in

Figure 1 clearly indicates that the level of fines allocated to both victim offender mediation conditions were almost the same, regardless of the restitution amount described in the scenarios. Subsequent comparisons revealed that there were no significant differences between these two conditions, confirming that the amount of restitution did not influence the allocation of fines for the victim offender mediation conditions. However, the graph in Figure 1 also indicates that for both the court procedures, the amount of restitution did play a role in the allocation of fines.

Although the mean for the court procedure with \$500 restitution was lower than both the victim offender mediation procedures, post hoc comparisons revealed that there were no significant mean differences between this procedure and the victim offender mediation conditions, in the allocation of fines. A further comparison revealed that the level of fines for the court procedure with \$250 restitution was the only condition which was significantly influenced by the amount of restitution. Overall, the findings suggest that the level of victim participation and restitution did not influence the allocation of fines for those conditions in which the victim could participate in the justice process or the court condition which offered the greater amount of restitution. Therefore, due to the greater amount of fines allocated to the court procedure with low levels of restitution, it is concluded that this procedure was not perceived as an adequate sanction for property offenders, that perhaps the restitution amount was too lenient. Alternatively, it is suggested that perhaps there was a greater need for respondents to ensure that the offender in this same procedure, also repaid his or her debt to society (i.e., fines), as well as the victim. Overall, the results of the interactions for fines indicate that the opportunity for victim participation in the justice process may not influence the manner in which additional punishment is allocated to a property offender, however it appears that the amount of monetary restitution does have an impact upon whether additional punishment is

allocated to a property offender.

For the dependent variable imprisonment, data analysis indicated that the interaction between victim type and restitution was significant. A series of post hoc pairwise comparisons suggested that the interaction was significant for only the lower restitution amount, for the victim groups; victims of other crimes, and victims of both house-break-ins and other crimes. In essence, the findings suggested that those who had been victims of other crimes other than house break-ins, tended to allocate more months of imprisonment when the restitution amount was low, than those who had been victims of *both* house break-ins and other crimes.

Two partial suggestions can be given for these outcomes. Firstly, the differences in the victimization experiences between the two groups may have influenced the allocation of imprisonment. Unfortunately the range of "other" crimes experienced by either group is not known and perhaps this is a limitation of the present study. Secondly, due to their previous experiences with house break-ins, it is possible that victims of both house break-ins and other crimes, found the description in the scenarios about a house break-in, more relevant to their experiences than the second group who had experienced other types of crimes, but not specifically house break-ins. Future research would need to more clearly identify whether different victimization experiences influence perceptions concerning the punishment of minor, property offenders.

Limitations of the study.

Further limitations to this study lie with the nature and design of the research, the representativeness and size of the sample, violations of several statistical tests of assumptions as well as the absence of victimization characteristics. A particular criticism directed towards the second part of the study which assessed allocation of imprisonment and fines, was the limited choice of additional penalties. Roberts and

Doob (1989), indicated that people appeared to be less punitive when there was a greater range of non-custodial sanctions to choose from. The current study perhaps should have included a greater range of alternative sanctions, including probation and community service orders. It is possible that the results of punishment allocation for this study, were merely a reflection of the type of sanctions provided in the questionnaire.

Ideally, the groups in the present study would be randomly selected, representative samples of the victim and non-victim population. Instead the sample consists of tertiary students who are predominantly female. Research has indicated that individuals with higher levels of education were less likely to be as punitive as those with lower levels of education and that males were more likely to be punitive than females (Walker et al., 1988). Bae (1992) also indicated that females were more accepting of restitution than males. Therefore the results of the present study cannot accurately represent the perceptions of victims and non-victims from the broader community.

The absence of equal cell sizes, normally distributed data and the violation of statistical tests of assumptions (eg., Mauchly's sphericity test; Box's M) contributed to problems with statistical interpretation. The results of this study may have been more reliable if equal cell sizes had been achieved and/or if a between-subjects design had been implemented. In a between-subjects design, respondents from the various groups would be presented with only one scenario assessing fairness and one scenario assessing punishment, thus also reducing the potential for order effects.

Finally, it is also acknowledged that the crime experiences for the different groups of victims may have varied in intensity and frequency, with respondents suffering differing degrees of losses and/or injuries. Hough and Moxon (1988) stated that the experiences of crime victims were not homogenous, even for those who experienced

the same category of crime. (The authors do note however, that there may be greater homogeneity among victims of residential burglary.) Results in the aggregate concerning individual victims' perceptions may therefore, be misleading.

Demographic questions in the present study, perhaps should have included measures concerning the nature, intensity, and frequency of the crimes experienced by respondents, so that groups and victimization experiences could be clearly identified. An additional factor may also be the length of time that passed since respondents in the victim groups were victimized and the administration of the questionnaire. Therefore, perceptions of fairness and levels of punishment may have been differentially influenced by very different crime experiences.

Conclusions and future research.

This study has linked the dimensions of victim participation in victim offender mediation to the procedural justice concepts of process control and decision control. In the procedural justice research, it was found that the disputant's opportunity for "voice" influenced perceptions of fairness beyond the need to control the final outcome decision-making. Similarly, the main finding of the present study was that the opportunity for a hypothetical victim to voice their opinion to the offender was perceived as more fair than the opportunity for the victim to decide the offender's restitution. Like the procedural justice findings, the inclusion of the victim in the justice process has strong implications for increasing the satisfaction of both victims and non-victims towards legal procedures, and the justice system. Further research is required to determine the strength of the relationship between the dimensions of victim participation and the perceived fairness of victims and non-victims towards victim participation in the justice process. Future research could investigate the effects of process control and decision control on perceived fairness and satisfaction of actual offenders and victims who have, or are about to participate in victim offender

mediation. Moreover, it would be important to clarify if the opportunity for participation by both victims and offenders in victim offender mediation, would influence the attitudes of victims and non-victims towards the punishment of the offender.

According to victims and victim advocates, the criminal justice system fails to acknowledge the rights and needs of the victim, and focuses solely on the rights and needs of the offender. It is unacceptable to ignore the rights and needs of the offender however, it is also unacceptable to ignore the rights and needs of the victim. If we are to accept a restorative justice paradigm which recognizes the role of the victim in the criminal justice process, then it is necessary to examine public acceptance of victim participation in the criminal justice process. From a consensus perspective, if victim offender mediation is to be continued as an alternative sanction to imprisonment for some offenders, then it is necessary to establish the extent to which people are willing to accept a restorative justice paradigm within the criminal justice system. Failure to do so may result in a reluctance by criminal justice officials to refer offenders to victim offender mediation, increased victim dissatisfaction with the justice process, and a lack of co-operation and support for the criminal justice system by members of the public and future victims of crime.

References

- Alexander, C., & Becker, H. (1978). The use of vignettes in survey research. Public Opinion Quarterly, 42, 93-104.
- Bae, I. (1992). A survey on public acceptance of restitution as an alternative to incarceration for property offenders in Hennepin County, Minnesota, U.S.A. In H. Messmer & H.-U. Otto (Eds.), Restorative justice on trial: Pitfalls and potentials of victim-offender mediation - International research perspectives (pp. 291-307). Dordrecht: Kluwer Academic Publishers.
- Boers, K., & Sessar, K. (1991). Do people really want punishment? On the relationship between acceptance of restitution, needs for punishment and fear of crime. In K. Sessar & H.-J. Kerner (Eds.), Developments in crime and crime control research: German studies on victims, offenders and the public (pp. 126-149). New York: Springer-Verlag.
- Brillon, Y. (1988). Punitiveness, status and ideology in three Canadian provinces. In N. Walker & M. Hough (Eds.), Public attitudes to sentencing: Surveys from five countries (pp. 84-110). Aldershot: Gower.
- Bussman, K-D. (1992). Morality symbolism, and criminal Law: Chances and limits of mediation programs. In H. Messmer & H.-U. Otto (Eds.), Restorative justice on trial: Pitfalls and potentials of victim-offender mediation - International research perspectives (pp. 317-326). Dordrecht: Kluwer Academic Publishers.
- Chan, J. (1986). The limits of sentencing reform. In I. Potas (ed.), Sentencing in Australia: Issues, policy, and reform: Proceedings of a seminar "Sentencing: Problems and Prospects". March 1986 (pp. 445-483). Canberra, ACT: Australian Law Reform Commission.

- Christie, N. (1977). Conflicts as property. British Journal of Criminology, 17, 1-15.
- Coates, R. B., & Gehm, J. (1989). An empirical assessment. In M. Wright & B. Galaway (Eds.), Mediation and criminal justice: Victims, offenders, and community (pp. 251--263). London: Sage Publications.
- Cohen, R. L. & Greenberg, J. (1982). The justice concept in social psychology. In J. Greenberg & R. L. Cohen (Eds.), Equity and justice in social behavior (pp. 1-41). New York: Academic Press
- Corns, C. (1988). Offenders and victims. In D. Biles (Ed.), Current Australian trends in corrections (pp. 204-216). Selected papers from the Australian Bicentennial International Congress on Corrective Services Sydney: The Federation Press in association with The Australian Institute of Criminology.
- Davis, R. C., & Henley, M. (1990). Victim service programs. In A. J. Lurigio, W.G. Skogan, & R. C. Davis (Eds.), Victims of crime: Problems, policies, and programs (pp. 157-171). Newbury Park, CA: Sage Publications.
- Duckworth, A. M. (1980). Restitution, an analysis of the victim-offender relationship: Towards a working model in Australia. Australian and New Zealand Journal of Criminology, 13, 227-240.
- Ellas, R. (1992). Community control, criminal justice and victim services. In E. A. Fattah (Ed.), Towards a critical victimology (pp. 372-397). Hampshire: The Macmillan Press.
- Folger, R. (1986). Mediation arbitration and the psychology of procedural justice. In R. Lewicki, M. Bazerman, & B. Sheppard (Eds.), Research on negotiation in organizations: Vol. 1 (283-298). Greenwich, CT: JAI Press.

- Freiberg, A. (1988). The state as a victim of crime. Australian and New Zealand Journal of Criminology, 21, 20-30.
- Galaway, B. (1984). A survey of public acceptance of restitution as an alternative to imprisonment for property offenders. Australian and New Zealand Journal of Criminology, 17, 108-117.
- Galaway, B. (1989). Informal justice: Mediation between offenders and victims. In P.-A. Albrecht & O. Backes (Eds.), Crime prevention and intervention: Legal and ethical problems (pp. 103-116). Berlin: Walter de Gruyter.
- Galaway, B. (1992). The New Zealand experience implementing the reparation sentence. In H. Messmer & H.-U. Otto (Eds.), Restorative justice on trial: Pitfalls and potentials of victim offender mediation - international research perspectives (pp. 55-79). Dordrecht: Kluwer Academic Publishers.
- Gottfredson, S. D., & Taylor, R. B. (1984). Public policy and prison populations: Measuring opinions about reform. Judicature, 68, 190-201.
- Gottfredson, S. D., Warner, B. D., & Taylor, R. B. (1988). Conflict and consensus about criminal justice in Maryland. In N. Walker & M. Hough (Eds.), Public attitudes to sentencing: Surveys from five countries (pp. 16-55). Aldershot: Gower House.
- Grönfors, M. (1992). Mediation - A romantic ideal or workable alternative. In H. Messmer & H.-U. Otto (Eds.), Restorative justice on trial: Pitfalls and potentials of victim offender mediation - International research perspectives (pp. 419-429). Dordrecht: Kluwer Academic Publishers.
- Heslop, J. (1989). Diverting young offenders from the formal justice system: Juvenile mediation/reparation scheme. In J. Vernon & S. McKillop (Eds.), Preventing Juvenile Crime: Proceedings of a Conference, 17-19 July, (pp. 81-87). Canberra, ACT: Australian Institute of Criminology.

- Heuer, L., & Penrod, S. (1986). Procedural justice as a function of conflict intensity. Journal of Personality and Social Psychology, 51, 700-710.
- Hogarth, J. (1971). Sentencing as a human process. Toronto: University of Toronto Press.
- Hollin, C. R. (1989). Psychology and crime: An introduction to criminological psychology. London: Routledge.
- Homans, G. C. (1982). Foreword. In J. Greenberg & R. L. Cohen (Eds.), Equity and justice in social behavior (pp. xi-xviii). New York: Academic Press.
- Hough, M., & Moxon, D. (1988). Dealing with offenders: Popular opinion and the views of victims in England and Wales. In N. Walker & M. Hough (Eds.), Public attitudes to sentencing: Surveys from five countries (pp. 134-148). Aldershot: Gower House.
- Houlden, P., LaTour, S., Walker, L., & Thibaut, J. (1978). Preferences for modes of dispute resolution as a function of process and decision control. Journal of Experimental Social Psychology, 14, 13-30.
- Hudson, J. (1992). A review of research dealing with views on financial restitution. In H. Messmer & H.-U. Otto (Eds.), Restorative justice on trial: Pitfalls and potentials of victim offender mediation - International research perspectives (pp. 419-429). Dordrecht: Kluwer Academic Publishers.
- Indermaur, D. (1990). Crime seriousness and sentencing: A comparison of court practice and the perceptions of a sample of the public and judges. Doubleview, WA: Western Australian College of Advanced Education.
- Jacobs, B. R. (1974). Reparation or restitution by the criminal offender to his victim: Applicability of an ancient concept in the modern correctional process. In I. Drapkin, & E. Viano (Eds.), Victimology (pp. 215-220). Lexington, MA: Lexington Books.

- Kelly, D. P. (1990). Victim participation in the criminal justice system. In A. J. Lurigio, W.G. Skogan, & R. C. Davis (Eds.), Victims of crime: Problems, policies, and programs (pp. 172-187). Newbury Park, CA: Sage Publications.
- Kelly, D.P. (1984). Delivering legal services to victims: An evaluation and prescription. Justice System Journal, 9, 62-86.
- Klein, A. R. (1988). Alternative sentencing: A practitioner's handbook. Cincinnati: Anderson Publishing.
- LaTour, S. (1978). Determinants of participant and observer satisfaction with adversary and inquisitorial modes of adjudication. Journal of Personality and Social Psychology, 36, 1531-1545.
- LaTour, S., Houlden, P., Walker, L., & Thibaut, J. (1976). Some determinants of preference for modes of conflict resolution. Journal of Conflict Resolution, 20, 319-356.
- Law Reform Commission of Canada. (1976). Community participation in sentencing: Working papers. Canada: Minister of Supply and Services.
- Lind, E. A., Kanfer, R., & Earley, P. C. (1990). Voice, control, and procedural justice: Instrumental and noninstrumental concerns in fairness judgements. Journal of Personality and Social Psychology, 59, 952-959.
- Lind, E. A., Kurtz, S., Musante, L., Walker, L., & Thibaut, J. W. (1980). Procedure and outcome effects on reactions to adjudicated resolution of conflicts of interests. Journal of Personality and Social Psychology, 39, 643-653.
- Lind, E. A., Lissak, R. I., & Conlon, D. E. (1983). Decision control and process control effects on procedural fairness judgements. Journal of Applied Social Psychology, 13, 338-350.
- Lind, E. A., & Tyler, T. R. (1988). The social psychology of procedural justice. New York: Plenum Press.

- Martin, A. (1982). A different kind of justice. Victimology: An International Journal, 7, 237-241.
- Mason, B. (1992). Reparation and mediation programmes: The perspective of the victim of crime. Criminal Law Journal, 16, 402-414.
- McEwen, C. A., & Maiman, R. J. (1984). Mediation in small claims court: Achieving compliance through consent. Law & Society Review, 18, 11-49.
- McFatter, R. M. (1978). Sentencing strategies and justice: Effects of punishment philosophy on sentencing decisions. Journal of Personality and Social Psychology, 36, 1490-1500.
- Messmer, H., & Otto, H.-U. (1992). Restorative justice: Steps on the way toward a good idea. In H. Messmer & H.-U. Otto (Eds.), Restorative justice on trial: Pitfalls and potentials of victim offender mediation - International research perspectives (pp. 105-130). Dordrecht: Kluwer Academic Publishers.
- Neff, J. A. (1979). Interactional versus hypothetical others: The use of vignettes in attitude research. Sociology and Social Research, 64, 105-125.
- Quimet, M., & Coyle, E. J. (1991). Fear of crime and sentencing punitiveness: Comparing the general public and court practitioners. Canadian Journal of Criminology, 33, 149-162.
- Riley, P. J., & Rose, V. (1980). Public vs elite opinion on correctional reform: Implications for social policy. Journal of Criminal Justice, 8, 345-356.
- Roberts, J. V., & Doob, A. N. (1989). Sentencing and public opinion: Taking false shadows for true substances. Osgoode Hall Law Journal, 27, 491-515.
- Rubel, H. C. (1986). Victim participation in sentencing proceedings. The Criminal Law Quarterly, 28, 226-250.
- Schafer, S. (1980). Restitution to victims of crime. London: Stevens Publishing.

- Shapland, J., Willmore, J., & Duff, P. (1985). Victims in the criminal justice system. Aldershot: Gower Publishing Company.
- Sheppard, B. H. (1985). Justice is no simple matter: Case for elaborating our model of procedural fairness. Journal of Personality and Social Psychology, 49, 953-962.
- Sumner, C. J. (The Hon.). (1987). Victim participation in the criminal justice system. Australian and New Zealand Journal of Criminology, 20, 195-217.
- Tabachnick B. G., & Fidell, L. (1989). Using multivariate statistics. (2nd ed.). New York: Harper & Row.
- Thibaut, J., & Walker, L. (1975). Procedural justice: A psychological analysis. Hillsdale: Erlbaum.
- Thibaut, J., & Walker, L. (1978). A theory of procedure. California Law Review, 66, 541-566.
- Tyler, T. R. (1984). The role of perceived injustice in defendants' evaluations of their courtroom experience. Law & Society Review, 18, 51-74.
- Tyler, T. R. (1987). Conditions leading to value-expressive effects in judgements of procedural justice: A test of four models. Journal of Personality and Social Psychology, 52, 333-344.
- Tyler, T. R. (1989). The psychology of procedural justice: A test of the group value model. Journal of Personality and Social Psychology, 57, 830-838.
- Tyler, T. R., Rasinski, K., & Spodick, N. (1985). The influence of voice on satisfaction with leaders: Exploring the meaning of process control. Journal of Personality and Social Psychology, 48, 72-81.
- Umbreit, M. S. (1989). Crime victims seeking fairness, not revenge: Toward restorative justice. Federal Probation, 53, (3), 52-57.

- Van Dijk, J. J., & Steinmetz, C. H. (1988). Pragmatism, ideology and crime control: Three Dutch surveys. In N. Walker & M. Hough (Eds.), Public attitudes to sentencing: Surveys from five countries (pp. 74-83). Aldershot: Gower House.
- Villmow, B. (1991). Victim compensation in some western countries. In K. Sessar and H-J Kerner (Eds.), Development in crime and crime control research: German studies on victims, offenders and the public (pp. 66-86). New York: Springer-Verlag.
- Walker, J., Collins, M., & Wilson, P. (1988). How the public sees sentencing: An Australian survey. In N. Walker & M. Hough (Eds.), Public attitudes to sentencing: Surveys from five countries (pp. 149-159). Aldershot: Gower House.
- Walker, L., Lind, E. A., & Thibaut, J. (1979). The relation between procedural and distributive justice. Virginia Law Review, 65, 1401-1420.
- Walsh, A. (1986). Criminology: Placebo justice: Victim recommendations and offender sentences in sexual assault cases. The Journal of Criminal Law and Criminology, 77, 1126-1141.
- Walster, E., Walster, G.W., & Berscheid, E. (1973). New directions in equity research. Journal of Personality and Social Psychology, 25, 151-176.
- Walster, E., Walster, G. W., & Berscheid, E. (1978). Equity: Theory and research. Boston, MA: Allyn and Bacon.
- Whitrod, R. (1986). Victim participation in criminal proceedings - A progress report. Criminal Law Journal, 10, 76-83.
- Williams, C. R., & Weinberg, M. S. (1986). Property offences (2nd ed.). Sydney, NSW: The Law Book Company.
- Wilkie, M., Ferrante, A., & Susilo, N. (1992). The experiences and needs of victims of crime in Western Australia: Report of the evaluation of the Crime Victims' Support Unit. University of Western Australia: Crime Research Centre.

Appendix A

JUSTICE SURVEY

Purpose of the Survey

I am a 4th year Psychology Honours student at Edith Cowan University conducting research towards my degree, in the area of Justice. This research is looking at attitudes towards different legal procedures. At no point do I require your name, therefore your responses will remain anonymous and will also be kept confidential. Although there is no requirement for you to answer all the questions, I would appreciate it if you could. I would also appreciate it if you could answer all questions as honestly as you can.

CONSENT FORM

I am willing to participate in the following survey entitled "Justice Survey" and willingly give my permission to Louise Cefalo to use the information that I provide in the survey for the purposes of research. My consent is given on the basis that I cannot be identified and will therefore remain anonymous. I understand that I may withdraw my consent to participate at any time.

SIGNATURE: _____

DATE: _____ 1993

THANK YOU VERY MUCH FOR YOUR PARTICIPATION

Student Researcher:

Louise Cefalo
[REDACTED]

Research Supervisor:

**Dr. Brian Thomas-Peter
Edith Cowan University
(Joondalup Campus)
Tel: 405- 5728**

Part A

Please read ALL four stories in Part A first BEFORE answering the questions. Answer all the questions by circling an the appropriate point on the scales provided.

Story # 1

X has admitted guilt to breaking into someone's house and stealing goods to the value of \$250. The offence was committed during daylight and the victim was not at home. X has no prior arrests or convictions. X will be going to court. In this procedure, the victim will not be required to participate in the court proceedings and the court will decide what the punishment will be for X.

Question: On the following scale please rate how fair you consider the above procedure to be.

Not Fair | | | | | | | | Very
At All 1 2 3 4 5 6 7 8 9 Fair

Story # 2

X has admitted guilt to breaking into someone's house and stealing goods to the value of \$250. The offence was committed during daylight and the victim was not at home. X has no prior arrests or convictions. The victim has been asked to participate in mediation with X and a neutral third party. In this procedure, the victim will be able to express their views to X and will be asked to say what amount of restitution X should repay.

Question: On the following scale please rate how fair you consider the above procedure to be .

Not Fair | | | | | | | | Very
At All 1 2 3 4 5 6 7 8 9 Fair

Story # 3

X has admitted guilt to breaking into someone's house and stealing some goods to the value of \$250. The offence was committed during daylight and the victim was not at home. X has not been arrested or convicted for any other offences. The victim has been asked to participate in mediation with X and a neutral third party. In this procedure, the victim will be able to express their views to X but they will not be able to say what amount of restitution X should repay. The court will decide what the punishment will be.

Question: On the following scale please rate how fair you consider the above procedure to be

Not Fair | | | | | | | | Very
At All 1 2 3 4 5 6 7 8 9 Fair

Story # 4

X has admitted guilt to breaking into someone's house and stealing goods to the value of \$250. The offence was committed during daylight and the victim was not at home. X has no prior arrests or convictions. The victim has been asked to participate in mediation with X and a neutral third party. In this procedure, the victim will be able to express their views to X and will be asked to say what amount of restitution X should repay.

Question: On the following scale please rate how fair you consider the above procedure to be

Not Fair | | | | | | | | Very
At All 1 2 3 4 5 6 7 8 9 Fair

Once you have read the stories through, please go back and answer the questions.

Part B

You have now completed all the questions in Part A. Now please read ALL the stories in Part B BEFORE you answer the questions that follow.

Story # 1

X has admitted guilt to breaking into someone's house and stealing property to the value of \$250. The offence was committed during daylight and the victim was not at home. X has not been arrested or convicted for any other offences. The victim has been asked to participate in mediation with X and a neutral third party. In this procedure the victim will be asked to express their views to X and to state the amount of restitution that X should repay. The victim has stated that the restitution amount to be repaid is \$500.

Question: If imprisonment were the only other form of punishment, how much imprisonment would you add, if any, in addition to the restitution, for the above offence?

Imprisonment.....years.....months

Question: If fines were the only other form of punishment, how much in fines would you add, if any, in addition to the restitution, for the above offence?

Fine.....dollars

Story # 2

X has admitted guilt to breaking into someone's house and stealing property to the value of \$250. The offence was committed during daylight and the victim was not at home. X has not been arrested or convicted for any other offences. The victim has been asked to participate in mediation with X and a neutral third party. In this procedure the victim will be able to express their views to X and to state the amount of restitution X should repay. The victim has stated that the restitution amount to be repayed is \$250.

Question: If imprisonment were the only other form of punishment, how much imprisonment would you add, if any, in addition to the restitution, for the above offence?

Imprisonment.....years.....months

Question: If fines were the only other form of punishment how much in fines would you add, if any, in addition to the restitution, for the above offence?

Fine.....dollars

Story # 3

X has admitted that he is guilty of breaking and entering into someone's house and stealing property to the value of \$250. X has not been arrested or convicted for any other offences. The offence was committed during daylight and the victim was not at home. X will be going to court. The victim will not be asked to participate in this procedure. The court has stated that the restitution amount to be repayed is \$250

Question: If imprisonment were the only other form of punishment how much imprisonment would you add, if any, in addition to the restitution, for the above offence?

Imprisonment.....years.....months

Question: If fines were the only other form of punishment how much in fines would you add, if any, in addition to the restitution, for the above offence?

Fine.....dollars

Story # 4

X has admitted that he is guilty of breaking and entering into someone's house and stealing property to the value of \$250. X has not been arrested or convicted for any other offences. The offence was committed during daylight and the victim was not at home. X will be going to court. The victim will not be asked to participate in this procedure. The court has stated that the restitution amount to be repayed is \$250

Question: If imprisonment were the only other form of punishment how much imprisonment would you add, if any, in addition to the restitution, for the above offence?

Imprisonment.....years.....months

Question: If fines were the only other form of punishment how much in fines would you add, if any, in addition to the restitution for the above offence?

Fine.....dollars

Please tick or fill in the following questions

1. Ageyears old

2. ☐ Female ☐ Male

3. What is the course you are currently enrolled in?

Major:.....Minor:.....

4. Other than what you are studying now, have you had any prior tertiary education?

☐ Yes ☐ No

5. Have you ever had your house broken into? ☐ Yes ☐ No

6. Was your house broken into between September 1992 - September 1993?

☐ Yes ☐ No

7. If yes, was anything stolen? ☐ Yes ☐ No

8. Were the goods that were stolen of sentimental value? ☐ Yes ☐ No

9. Were the goods that were stolen of monetary value? ☐ Yes ☐ No

10. How many times was your house broken into between September 1992-

September 1993?time(s)

11. Have you been the victim of any other crime(s)? ☐ Yes ☐ No

12. If you were the victim of a non-violent property crime (eg., someone broke into your house) would you be willing to participate in victim-offender mediation and restitution? This process involves voluntarily meeting with your offender in the presence of a trained third party mediator. ☐ Yes ☐ No

Appendix B

Letter Given to Participants on Completion of "Justice Survey" Questionnaire

September 15th 1993

Dear Participant,


Thank you for participating in the "Justice Survey". This survey examined attitudes towards Victim Offender Mediation (VOM) which is a legal procedure currently operating within the criminal justice system in W.A. The attitudes examined were perceived fairness and levels of punitiveness towards a non-serious property offender when both the victim and the offender have participated in VOM or when only the offender was involved in court proceedings (ie., the victim was not involved). The results of the survey will be available in June 1994. If you are interested please contact me on the number below.

If by doing this survey you are experiencing adverse reactions (perhaps as a result of having reminded you that you have been a victim of crime) it is suggested that you seek counselling. The university counselling service can advise you on what you can do.

Should you have any further enquiries about the survey please do not hesitate to contact me. Thank you once again for your co-operation.

Yours Sincerely



Louise Cefalo (Tel: 
4th year Psychology Honours

Appendix C

Table 6.

Demographic Data for Victim Groups Experiencing House Break-Ins.

	Victim type	
	VHB	VOB
	(n = 24)	(n = 27)
<hr/>		
House broken into '92-93		
Yes	7 (29.2%)	12 (44.4%)
No	17 (70.8%)	15 (55.6%)
<hr/>		
No. of times house broken into '92-'93		
once	4	10
more than once	2	2
<hr/>		
Goods stolen		
Yes	5	11
No	2	1
<hr/>		
Goods stolen of value		
Yes	4 (5)	7 (11)
No	1	4
Missing	2	
<hr/>		

Note. VHB: Victims of house break-ins; VOB: Victims of both house break-ins and other crimes. Other groups not applicable.

Table 7

Demographic Data for the Victim and Non-Victim Groups

	Victim type			
	VHB	VOC	VOB	NV
	(n = 24)	(n = 29)	(n = 27)	(n = 41)
Demographics	(19.7%)	(23.9%)	(22.3%)	(33.8%)
Age (years):				
M (SD)	24 (7.4)	22 (4.5)	24 (6.3)	22 (5.7)
range	17-49	18-33	18-38	17-42
Gender:				
females	16 (66.7%)	23 (79.3%)	19 (70.4%)	28 (68.3%)
males	8 (33.3%)	6 (20.7%)	8 (29.6%)	13 (31.7%)
Prior tertiary education:				
yes	9 (37.5%)	8 (27.6%)	6 (22.2%)	7 (17.1%)
no	14 (58.3%)	21 (72.4%)	20 (74.1%)	33 (80.5%)
missing	1		1	1
Willingness to participate in victim offender mediation:				
yes	21 (87.5%)	17 (58.6%)	17 (62.9%)	29 (70.7%)
no	2 (8.3%)	11 (37.9%)	8 (29.6%)	11 (26.8%)
missing	1		2	1

Note. VHB: Victims of house break-ins; VOC: Victims of other crimes other than house break-ins; VOB: Victims of both house break-ins and other crimes; NV: Non-victims.