

The Amy and Vicky Child Pornography Victim Restitution Improvement Act

A federal statute (18 U.S.C. §2259) requires that, in child sexual exploitation cases, a defendant must pay restitution for “the full amount of the victim’s losses.” That works for crimes in which a defendant directly causes specific harm to a victim, but child pornography crimes are different. A child pornography victim was harmed by the initial abuse, then harmed by the distribution and possession of images of that abuse. The Supreme Court has recognized that victims are harmed by the ongoing “trade” and “the continuing traffic” in those images. “In a sense,” the Court said, “every viewing of child pornography is a repetition of the victim’s abuse.” On the Internet, that abuse never ends.

Each step in the child pornography process – production, distribution, and possession – increases the harm to a victim but makes more difficult identifying those responsible. But victims of this kind of crime are especially in need of restitution to help put their lives back together. Meeting that challenge is the purpose of the ***Amy and Vicky Child Pornography Victim Restitution Improvement Act of 2014***.

“Amy” and “Vicky” are the victims in two of the most widely-distributed child pornography series in the world. In *Paroline v. United States*, which reviewed Amy’s case, the Supreme Court on April 23 said that the existing restitution statute is not suited for cases like theirs because it requires proving the impossible: how one person’s possession of particular images concretely harmed an individual victim. That standard puts the burden on victims to forever chase defendants and recover next to nothing.

The ***Amy and Vicky Act*** creates an effective, balanced restitution process for victims of child pornography that also responds to the Supreme Court’s decision in *Paroline v. United States*. It does three things that reflect the nature of these crimes. First, it considers the total harm to the victim, including from individuals who may not yet have been identified. Second, it requires real and timely restitution. Third, it allows defendants who have contributed to the same victim’s harm to spread the restitution cost among themselves.

- A victim’s losses include medical services, therapy, rehabilitation, transportation, child care, and lost income
- If a victim was harmed by a **single defendant**, the defendant must pay full restitution for all her losses
- If a victim was harmed by **multiple individuals**, including those not yet identified, a judge can impose restitution on an individual defendant in two ways depending on the circumstances of the case
 - the defendant must pay “the full amount of the victim’s losses” or, if less than the full amount,
 - at least \$250,000 for production, \$150,000 for distribution, or \$25,000 for possession
- Federal law already provides a mechanism for creating a restitution payment schedule
- Multiple defendants who have harmed the same victim and have paid at least those minimum amounts may sue each other to spread the restitution cost (the Supreme Court said in *Paroline* that this is important)

Those who continue a victim’s abuse should not be able to hide in the crowd; there should be no safety in numbers. Victims should not be abused again by putting the burden on them to prove the impossible. Instead, the ***Amy and Vicky Act*** creates a practical process, based on the unique kind of harm from child pornography, that both puts the burden on defendants where it belongs and provides actual and timely restitution for victims.

For more information about victims of child pornography – including Amy’s story – and the restitution issue, see last year’s *New York Times Magazine* story “The Price of a Stolen Childhood” at <http://bit.ly/stolenchildhood>