Review: Law & Order: SVU Episode, 1518, Downloaded Child

By Joan Akalaonu

True to its reputation for storylines ripped from the headlines, the show Law & Order: Special Victims Unit’s episode Downloaded Child was largely based on the story of a young woman known as “Amy.” A victim of one of the “most widely distributed child pornography series in the world” as well as the victim in Paroline v. United States, a recently decided Supreme Court case on criminal restitution for victims of child pornography. Aired right before the Supreme Court gave its decision on the case, Downloaded Child brought further public attention to the devastating impact of child pornography on its victims and highlighted the benefits of the Mandatory Victims Restitution Statute, while also showcasing its limitations as it currently stands, particularly after the Paroline decision, in helping victims of child pornography.

The episode begins with Sergeant Bensen and her team of detectives rescuing a six-year-old girl, Maddie, who has been left alone in the apartment by her mother, Jenny. When questioning Jenny, the detectives quickly begin to suspect that Jenny is a victim of domestic violence and sexual exploitation. Bensen takes Jenny to be evaluated by her psychologist who says he thinks Jenny may have been sexually victimized as a child and shows signs of repressed trauma. To jog Jenny’s memory about her childhood, the detectives track down her mother, Tammy, and obtain photos from her. These photos were taken by Jenny’s stepfather and contain images of her around the age of six, dressed in a bikini and striking sexualized poses.

Disturbed by the content of the photos, the detectives reach out to a Federal Bureau of Investigation (“F.B.I.”) special agent who works for the National Center for Missing and Exploited Children. The agent recognizes the photos of Jenny immediately and states that these images have been named “Lacey Unknown” and that there are thousands of photos and videos of Jenny, as a child, being tied up, raped, and sodomized by her stepfather. The agent informs them that despite the fact that there are hundreds of men in prison for downloading her images, there are even more still out there worldwide, who continue every day to download, distribute, and collect her images on the internet.

District Attorney (“DA”) Raban suggests that there may be a possibility of restitution for Jenny if she is able to first identify herself as “Lacey Unknown.” Once satisfied that Jenny has identified herself as Lacey Unknown, the DA later explains to the detectives how he plans to use Mandatory Victims Restitution Statute in the Violence Against Women Act to go after men who have been convicted for possessing images of Jenny’s abuse. He explains that the statute mandates convicted sexual abusers to pay restitution to their victims and that those who possessed Jenny’s images are also guilty of her abuse. He also explains that legally, Jenny could receive restitution for medical costs, therapy, lost wages, and even foregone future earnings.

The detectives meet with Jenny to inform her of the DA’s plan to seek restitution. After hearing that her stepfather shared the videos and photos of her abuse online, Jenny becomes so visibly upset and paranoid that she must be hospitalized. A week later, when the detectives check in on Jenny, they tell her of an upcoming sentencing hearing for a
defendant convicted of possessing child pornography, including images of Jenny. Jenny insists on attending the hearing, and afterwards, the detectives inform her that because of her appearance and powerful statement, the defendant apologized and agreed to give her twenty thousand dollars in restitution. While glad for this victory, Jenny becomes distressed and discouraged when she learns that she will have to pursue each defendant for restitution for all her losses.

Soon thereafter, the DA meets with the detectives to inform them that he has identified another defendant who possessed Jenny’s images and that this defendant is a Chief Executive Officer worth twenty million dollars. The DA states that the statute is written in such a way that an offender could be mandated to pay the victim for all her losses. A forensic team has estimated Jenny’s losses to be around four million dollars; the DA argues that he will go after this wealthy defendant for it all through joint and several liability, leaving it then on the defendant, rather than Jenny, to go after the rest of Jenny’s online abusers for the rest of the money. The DA meets with this defendant and his attorney and convinces him to pay the full restitution amount for a lesser charge and less prison time. The episode concludes with the detectives talking with Jenny, who is astonished and grateful to have gotten all the money from one man and happy to now be reunited with Maddie who has been placed back in her care.

The conclusion of Downloaded Child incorporated the legal theory that Amy’s counsel actually put forth in Paroline: (1) that every defendant convicted of child pornography should be held jointly and severally liable for the full amount of the victim’s losses, and (2) that the burden of collection should be shifted from the innocent victim to the guilty defendants by allowing defendants to seek contribution from other defendants. In reality, the Supreme Court, in a split decision, held the opposite, rejecting Amy’s legal theory and instead holding that a criminal defendant must pay restitution only in the amount that coincides with the “the defendant’s relative role in the causal process that underlies the victim’s general losses.”

Throughout the episode, Downloaded Child highlighted the often life-long, damaging psycho-social and emotional effects that child pornography can have on the lives of its victims. When being questioned by the police, Jenny demonstrates hypervigilance and distorted thinking about social and sexual interactions, normalizing the abuse she received from her stepfather; she discloses engaging in high-risk behaviors as a teenager—drugs, alcohol, and forced sexual experiences with an older “boyfriend.” Throughout the episode, Jenny has flashbacks, dissociates, or attempts to block out memories of her abuse. The detectives at one point say that Jenny shows symptoms of Post-traumatic Stress Disorder (“PTSD”). These symptoms are only compounded when Jenny learns that her abuse has been recorded, shared, and viewed repeatedly online. Jenny displays shock and shame as she exclaims, “everywhere I go, men on the bus, on the street, they’ve all seen me like Lacey.”

Jenny’s history and symptoms not only mirror those of Amy, who herself was diagnosed with depression and PTSD, dropped out of college, and became involved in a domestic violence relationship, but also those of many victims of child pornography. Victims of child pornography tend to experience a higher risk for depression, guilt, anger, withdrawal, hypervigilance, delinquency, substance abuse, PTSD, and other
psychological disorders than even child sex abuse victims whose abuse was not recorded and shared. They also tend to have a greater difficulty forming healthy relationships with others. The psycho-social and emotional harm suffered by victims of child pornography is exacerbated by the powerlessness that they experience from knowing that images of their abuse continue to be viewed online. Their abuse is ongoing. The Supreme Court in Paroline even recognized these undeniable harms when they noted that “every viewing of child pornography is a repetition of the victim’s abuse.”

Downloaded Child also showcased some of the benefits of utilizing the Mandatory Victims Restitution Statute for victims of child pornography. One of the prime benefits has been in helping victims, who often struggle to pay for services, access the resources they need to recover and try to live a regular life. In this episode, Jenny is hospitalized after learning that her images of her abuse are being viewed online. She tells the police how her Medicaid will not let her stay in the treatment facility for much longer, and she has no means to pay rent to support herself and Maddie who still remains in foster care. The detectives inform her that seeking restitution from those convicted of possessing her images could help her to pay for treatment, housing, and childcare, and indeed by the end of the episode, after receiving restitution, Jenny is able to get Maddie back and pay for their care and for continued counseling and medication. Much like Jenny, over the last several years, many victims of child pornography have increasingly sought to utilize this federal statute to obtain restitution to help “put their lives back together” and as one victim put it to receive “the help we desperately need to heal.” Amy, whom Jenny’s character is based on, has used restitution to pay for therapy, transportation, bills, and “just to try to create some kind of normal life” in the midst of the ongoing abuse she suffers from images of her abuse continually being viewed and shared online.

Another benefit to using the Mandatory Victims Restitution Statute, illustrated in Downloaded Child, is that it confronts the misconception that possession of child pornography is a victimless crime. In the episode, rather than writing a victim impact statement, Jenny insists on attending and making a statement at the sentencing hearing of a defendant who possessed her images. At the hearing, she looks the defendant in the eye as she states, “Look at me. I want you to see how what you enjoyed watching has ruined my life. . . . You told the judge that what you did didn’t hurt anyone, I want you to know that it did. I want you to see that I am a person.” This powerful portrayal of Jenny confronting this defendant is on point with what actually took place when Amy appeared at the sentencing hearing of Alan Hesketh, a prominent defendant found with one of her images. Amy also wanted to face her fear and make a point to Hesketh, who, through his attorney, argued that he had a committed a victimless crime. This is a common defense put forth by those convicted of possessing child pornography and one that the courts have emphatically rejected. In United States v. Norris, the Court reasoned that a child’s victimization does not end when the pornographer’s camera is put away, that consumers of child pornography contribute to the victimization of the child, invading the child’s privacy, and also promoting the continued creation and distribution of child pornography. And in Paroline, the Court noted that one of the reasons necessitating mandatory
restitution for possession of child pornography was to “impress upon offenders that their conduct produces concrete and devastating harms for real, identifiable victims.”

Despite these benefits, the episode also points out the limitations of the Mandatory Victims Restitution Statute to meaningfully and effectively help those victimized by child pornography recover and heal. In the episode, Sergeant Bensen points out that one of the drawbacks is that in pursuing restitution, Jenny would have to keep finding out about the men who are watching her get raped and abused online. When the detectives explain to Jenny that the F.B.I. are required to notify her of each individual arrest of those found with her images, Jenny asks incredulously how many there are and is taken into a room filled with over seven hundred notification letters. After the police tell her that she will have to pursue each defendant for restitution for her losses, Jenny with a look of distress, sobs “every time . . . so I’m gonna be dealing with this for the rest of my life. . . . I can’t. I just can’t do it. I just can’t.”

This portrayal of the restitution process, as it currently stands, and Jenny’s reaction to it, highlights a major limitation and drawback to the Mandatory Victims Restitution Statute. With victims being held responsible for pursuing each defendant to obtain the full amount of their losses, they are often, as Chief Justice Roberts, Scalia, and Thomas note in their dissent in Paroline, “stuck litigating for years to come” obtaining at best “piecemeal restitution” and “trivial restitution orders.” Most restitution amounts are small, Amy herself at times received amounts of just a hundred dollars and sometimes nothing at all. With the burden, post-Paroline, remaining on victims to collect restitution from each defendant, victims must continue to go through the “immense amount of time and work investment . . . without any promise of closure” including receiving notifications, often “multiple court notifications each week informing them that their images have been recovered from child pornography offenders.”

Years of litigation and notifications are triggering physical reminders to victims that their victimization is ongoing as their images continue to be viewed online. While the notification system was designed to help victims track and pursue offenders, it can also have the unintended effect of re-victimizing the victim by reminding them of the continual circulation of the images of their abuse and so compound the psycho-social and emotional harms that the victims are already suffering through. A young woman, “Vicky,” who like Amy, was also a victim of child pornography, put it best when she stated,

With each case in which the victim seeks restitution . . . there is an emotional cost just for being involved in the case. It brings up the painful reality of the victim’s situation of never-ending humiliation and puts it right in the victim’s face one again. . . . It leaves victims with the choice between not pursuing restitution to pay for the help we need or continuing to have this painful part of our lives in our face on a regular basis for several more years, if not decades. . . . I worry that the emotional toll may not be adequately compensated for in the end.
Ultimately, *Downloaded Child*, in its accurate portrayal of this issue involving child pornography, emphasizes the need to continue to develop more meaningful remedies for child pornography victims to access resources and receive services in a manner that does not contribute to their ongoing trauma. Two weeks after the Supreme Court’s decision in *Paroline*, The Amy and Vicky Child Pornography Victim Restitution Improvement Act of 2014 was introduced to Congress. Taking on board Justice Sotomayor’s advisement in her dissent in *Paroline*, the Act incorporates an aggregate causation standard that would allow a victim of child pornography to hold defendant possessors jointly and severally liable for the full amount of the victim’s losses or at least for significant amounts (in the thousands) based on charges for production, distribution, or possession. The Act would furthermore shift the burden from innocent victims onto the guilty defendants to identify and pursue other defendants to seek contribution. Hopefully, if this bill is made law, the ending Jenny experienced in *Downloaded Child* might actually become a reality for real life victims like Amy.

**Sources**


*Prepared Statement of Dr. Sharon Cooper, Adjunct Professor, Pediatrics, Univ. of N.C.-Chapel Hill Sch. of Med., to the Comm’n*, at 7 (Feb. 15, 2012).


*United States v. Norris*, 159 F.3d 926 (5th Cir. 1998).