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The Price of a Stolen Childhood

By EMILY BAZELON

The detective spread out the photographs on the kitchen table, in front of Nicole, on a December morning in 2006. She was 17, but in the pictures, she saw the face of her 10-year-old self, a half-grown girl wearing make-up. The bodies in the images were broken up by pixelation, but Nicole could see the outline of her father, forcing himself on her. Her mother, sitting next to her, burst into sobs.

The detective spoke gently, but he had brutal news: the pictures had been downloaded onto thousands of computers via file-sharing services around the world. They were among the most widely circulated child pornography on the Internet. Also online were video clips, similarly notorious, in which Nicole spoke words her father had scripted for her, sometimes at the behest of other men. For years, investigators in the United States, Canada and Europe had been trying to identify the girl in the images.

Nicole's parents split up when she was a toddler, and she grew up living with her mother and stepfather and visiting her father, a former policeman, every other weekend at his apartment in a suburban town in the Pacific Northwest. He started showing her child pornography when she was about 9, telling her that it was normal for fathers and daughters to "play games" like in the pictures. Soon after, he started forcing her to perform oral sex and raping her, dressing her in tight clothes and sometimes binding her with ropes. When she turned 12, she told him to stop, but he used threats and intimidation to continue the abuse for about a year. He said that if she told anyone what he'd done, everyone would hate her for letting him. He said that her mother would no longer love her.

Nicole (who asked me to use her middle name to protect her privacy) knew her father had a tripod set up in his bedroom. She asked if he'd ever shown the pictures to anyone. He said no, and she believed him. "It was all so hidden," she told me. "And he knew how to lie. He taught me to do it. He said: 'You look them straight in the eye. You make your shoulders square. You breathe normally.'"

When she was 16, Nicole told her mother, in a burst of tears, what had been going on at her father's house. Her father was arrested for child rape. The police asked Nicole whether he took pictures. She said yes, but that she didn't think he showed them to anyone. A few months later, while her father was out on bail, Nicole was using a computer he gave her to work on a

presentation for Spanish class when she came across a file with a vulgar name that she couldn't open. She showed it to her mother and stepfather, and they brought the computer to the police.

A search detected five deleted video files of child pornography, two of them showing Nicole and her father. In the spring of 2006, he was charged with a new crime — producing the videos — and he fled the country. At this point, the police didn't realize that Nicole's father had also distributed the images.

Months later, the police said they had no leads on her father, so Nicole went on television to ask the public for any tips that might help them find him. A police officer in Toronto involved in tracking child pornography around the world saw the broadcast and recognized Nicole as an older version of the girl in the notorious videos. The Toronto officer set off an alert that reached the police in Nicole's hometown, informing them that she was the victim in a major pornography-distribution case.

The alert brought the local detective to Nicole's house on that December day, to which she was in fact the girl in the pictures that circulated around the globe. "It was the most moment of my life," Nicole said of seeing the pictures of herself. "In a way, I did it being that bad with my father — and then I saw that it was. Knowing that other people, all over, had seen me like that, I just froze. I could hear my mother crying, but I couldn't cry."

Nicole's appearance on TV produced a tip that eventually led the police to arrest her father in Hong Kong. But by going public, she had inadvertently exposed her identity to thousands of men who for years had collected her images. On one Web site with an American flag design, on a thread that continued for four years, commenters described in detail the acts of rape and bondage Nicole had experienced. One called the videos "legendary." Another called her "an eager participant" because her father instructed her to smile and talk in the videos. "The fact remains that she is the most searched for, sought after and downloaded ever," a third commenter wrote. "There are hours of video out there. It's just too bad there are not more willing like her."

For Nicole, knowing that so many men have witnessed and taken pleasure from her abuse has been excruciating. "You have an image of yourself as a person, but here is this other image," she told me. "You know it's not true, but all those other people will believe that it's you — that this is who you really are."

Until the 1970s, magazines with titles like *Lolita* were rife with sexual images of minors and routinely sold alongside adult pornography at red-light bookstores. In 1978, Congress made child pornography illegal, and four years later, the Supreme Court upheld a state law banning



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its sale. The court's decision changed the market along with the law. "The commercial distributors started to go out of business," said Kenneth Lanning, a retired F.B.I. agent who consulted on child pornography cases for decades. For a time, distribution and production plummeted. But then came the Internet. By the mid- to late 1990s, Lanning said, "there was a way for people seeking it to find each other and send images."

A decade later, the Justice Department interviewed veteran experts like Lanning for a 2010 [report](#), and concluded that "the market — in terms of numbers of offenders, images and victims" — was growing to a degree described as "overwhelming" and "exponential." In the early-Web year of 1994, only 61 defendants were sentenced in federal court for child-pornography offenses; in 2011, 1,880 were, a 30-fold increase. The federal definition of child pornography extends to young people up to age 18, but the 2010 report noted that it had become more common for images to involve young children, as well as violence and sadism.

Precise numbers of child-pornography viewers are hard to come by. Unicef estimates that there are at least hundreds of thousands of Web sites with child pornography worldwide. Child-pornography consumers are even more likely to swap with one another via hidden networks. Using a tool developed at the University of Massachusetts, Amherst, in 2009, police have logged close to 22 million public I.P. addresses offering child-pornography pictures or videos via peer-to-peer file sharing, which allows users to download content from one computer to another; almost 10 million of the I.P. addresses were located in the United States. Many of the users shared only a single illegal image, perhaps downloaded inadvertently, but others offered collections of hundreds or thousands of pictures.

To gain access to a group of downloaders, a recent arrival may have to prove himself by delivering new material. Often this involves digitally altering an existing image, but in some cases, it can also mean seducing children to create new pictures to trade. The most desired series zoom around the Internet. "A lot of these guys have a collector's mentality," Lanning said. The pictures Nicole's father took became must-haves and went viral.

For Nicole, knowing that her photos were circulating was an unrelenting burden. It was hard to concentrate at school and hard to forge new friendships. She stayed close to just a few friends from her church. Her family is deeply Christian — "I've found comfort in my faith," she says — and she was home-schooled for a few years as a younger child. Her friends from church were the only ones she told about her father. "Everyone else I held at arm's length," she told me when we met this summer at her lawyer's office. Nicole speaks deliberately and carefully, and on that day she was wearing an outfit that matched her coral nail polish and perfectly applied makeup. "But other kids found out after my father was charged. I remember walking down the hallways and thinking I could hear people saying, 'There's the girl who was raped by

her dad.’ ”

In her junior year, Nicole transferred to a community college with a program for students who wanted to earn an associate’s degree while finishing high school. “At the time I’d have said I went for academic reasons, but looking back, it was also to isolate myself,” she said.

Late that spring, Nicole got a series of messages on Myspace from a man who said he had been looking for her for five years. He asked, “Want me to come visit u?” When Nicole blocked him, he wrote to one of her friends on Myspace, telling her that Nicole was a “porn star” — and sending two images. “That’s when I fully realized what it meant for these pictures to be out there,” Nicole said. “I couldn’t get away from it, not really. I started getting paranoid and having nightmares.”

The man was arrested and went to prison, but Nicole couldn’t avoid the knowledge that other men were still looking at the sexual photos of her young self. Later that year, she got a letter from the Victim Notification System at the Justice Department. Congress had passed a [law](#) in 2004 mandating that crime victims receive notice every time a suspect is arrested or has a court appearance. The letter was addressed to Nicole’s mother and stepfather because she hadn’t yet turned 18; it informed them that a man in California had been arrested for possessing a pornographic photo of her. “It just sat there on the counter for days,” Nicole remembered. “We didn’t really know where to put it.” More arrests followed and more letters — piles of them. “We stacked them in a laundry basket in a walk-in closet so I wouldn’t have to see them,” Nicole said. “Then there were more baskets, and we had to move them to the garage. It was really hard for me. I was still scared of my father, but I knew him. These other people, they were strangers, and there were so many of them.”

The piles of letters would eventually connect Nicole with another young woman who had also been abused and then lead them both to court. Back in April 1998, in one of the first investigations into Internet trafficking of child pornography, the F.B.I. started tracking an AOL user, with the handle HAZMAT029, who was posting on an AOL bulletin board service. HAZMAT029 sent 80 illegal pictures to another user, BMR169, along with e-mails that included the message: “do me a favor. get a peice [sic] of paper and wright HI HAZ on it and take a pic of her in nothing but stockings pulled down below her [genitals].” BMR169 e-mailed back pictures of a young girl, her shorts and underwear pulled to the side, sitting on a gray carpet in front of a wooden dresser. Next to her, a note read, “HI HAZ.”

The F.B.I. traced BMR’s AOL account to a suburban house in a small town, and in October of that year, a team of agents arrived with a search warrant. In a basement bedroom, they found the gray carpet and the dresser. They also seized a computer full of illegal images, including

pictures that showed the same girl being forced to give oral sex and being raped. The man the F.B.I. suspected was BMR wasn't home, so the agents showed the face of the child in the photos to his wife and his adult son. Did they recognize the girl?

They did. As they spoke, one of the agents looked out the window of the house and saw the girl playing in the yard across the street. "It's something I'll never forget," he told me.

Amy, as she's called in the court documents, was BMR's 9-year-old niece. Shown sanitized versions of the pictures, Amy denied that her uncle had abused her. She said he told her she was special and took her to buy treats like beef jerky, and she didn't want anything bad to happen to him. "How is he?" she asked her parents in the weeks after his arrest. "Is he going to be mad at me?"

Over months of therapy, Amy began to talk about the abuse. "My mind has everything in it," she told her therapist, according to court records I read with her permission. She remembered her uncle trying to have sex with her — it hurt, and she pulled away. And she remembered, at his direction, chatting with men over the Internet about the photos he sent them.

Amy's uncle pleaded guilty to one count of rape and two counts of child sexual abuse in state court and was sentenced to the minimum for each one, adding up to 12½ years in prison. In federal court, he pleaded guilty to one count of production of child pornography and received a 12-year sentence. Amy's current lawyer, James Marsh, says her parents were told the state and federal penalties would run consecutively, but instead, her uncle was allowed to serve the two at the same time.

Amy was given a diagnosis of depression and post-traumatic stress disorder the year her uncle was sentenced, but she also asked to stop going to therapy — she told her parents that she didn't want to talk about the abuse anymore. Her mother, who worked in health care, and her father, a tradesman, blamed themselves for trusting Amy's uncle with her. For years Amy's mother barely spoke to Amy's aunt, who remained married to her husband, even though the sisters continued to live across the street from each other.

As Amy grew up, she tried to push aside what had happened to her. Every few months, in middle school and high school, her parents would ask if she wanted to talk about it, and each time she would say no. "I was always thinking about it, but I wasn't ready to deal with how I felt," she says now. Amy threw herself into her social life, going out and drinking in the hills behind her house. Even to the friends who knew, it almost seemed as if the abuse hadn't happened.

When she was 17, Amy received her first crime-victim notice from the Justice Department.

“My mom said it was a mistake, because I was still a minor — the letter should have been addressed to her and my dad,” she said. “But it had my name on it, and I never got mail, so I wanted to open it. My parents took me into their room and said we needed to have a talk.” Amy’s parents had never told her that her uncle had distributed images of her to other men. “It had been so long by then, eight years,” she said. “They didn’t know how to tell me.”

Amy’s parents took her to see Marsh, who had started the public-interest Children’s Law Center in Washington. At their first meeting, he explained to Amy that the letters meant her pictures had been traded countless times online. “I just felt so full of shame,” Amy said. “I started wondering, Has he looked at them? He said he hadn’t, and that made me feel better. But then I thought, Who has?”

Marsh researched legal remedies for Amy. Combing through his casebooks, he found a provision in the Violence Against Women Act that he had never heard of before: it gave the victims of sex crimes, including child pornography, the right to restitution or compensation for the “full amount” of their losses. Enumerating what those losses could be, Congress listed psychiatric care, lost income and legal costs and concluded, “The issuance of a restitution order under this section is mandatory.”

The provision for restitution, enacted in 1994, had yet to be invoked in a case of child-pornography possession. The basis for such a claim wasn’t necessarily self-evident: how could Amy prove that her ongoing trauma was the fault of any one man who looked at her pictures, instead of her uncle, who abused her and made the pornography?

Marsh suggested that Amy see a forensic psychologist, Joyanna Silberg, who evaluated Amy and said she would need therapy throughout her life and could expect to work sporadically because of the likelihood of periodic setbacks. Silberg attributed these costs — Amy’s damages — to her awareness of the ongoing downloading and viewing. “Usually, we try to help survivors of child sexual abuse make a very strong distinction between the past and the present,” Silberg, who has given testimony on Amy’s behalf for restitution hearings, told me. “The idea is to contain the harm: it happened then, and it’s not happening anymore. But how do you do that when these images are still out there? The past is still the present, which turns the hallmarks of treatment on their head.”

Marsh put together a lifetime claim for Amy totaling almost \$3.4 million. With the crime notices arriving in the mail, Marsh started tracking men charged with possession of her pictures. He looked, in particular, for wealthy defendants. He planned to use the concept of joint and several liability to argue that each defendant should be on the hook for the full amount of his client’s damages — that is, for millions of dollars. Joint and several liability is

often used in pollution cases: when several companies dump toxic waste in a lake over time, a plaintiff can go after the company with the deepest pockets, and a judge can hold that single company responsible for the entire cost of the cleanup — with the understanding that it's up to that polluter to sue the others to pay their share.

In July 2008, Marsh learned about the arrest of Alan Hesketh, a former vice-president of Pfizer, who was charged with trading nearly 2,000 child-pornography photos online — among them four pictures of Amy. Marsh filed one of his first requests for restitution with the prosecution. Hesketh pleaded guilty, and his sentencing was scheduled for later that year.

At the time of the Hesketh case, Amy was struggling. She was 19 and living with her boyfriend. She had enrolled at a local community college, but she drank too much to concentrate on studying. The crime-victim notices had stirred up the past for her, and she wasn't in regular therapy. "The last class I went to, there was this PowerPoint slide, something about child sexual abuse, and I thought, I can't do this," she told me as she sat in her kitchen smoking a cigarette. "It just brought everything back." Amy dropped out after that, without telling her parents. "I told myself I would just take a year off," she continued. "But you know, statisticwise, once you leave school, the chances you'll finish go down about 80 percent."

Amy has a quick intelligence — she's a college dropout who can rattle off her own odds of going back — and asks lots of questions. She has focused her curiosity on the legal strategy that Marsh has pursued for her. When Hesketh was sentenced, Amy decided she would be there. "I kind of wanted to face my fear," she told me. She also wanted to prove a point: Hesketh was arguing, through his lawyer, that he had committed a victimless crime — a common defense in cases of child-pornography possession. "I thought, I want him to look at me and know that I'm not a picture; I'm a person," she said.

In a federal courthouse in Bridgeport, Conn., in October 2008, Amy sat on the opposite side of the courtroom from Hesketh's family. The judge opened the proceedings by acknowledging that there was a victim in the courtroom. Amy listened as Hesketh's grown children asked the judge for mercy for their father. "His kids kept saying he was the best grandfather ever," she said. "And I was like: 'But you *know*. You know what he did.' "

Then Hesketh took the stand. As Amy remembers it, he said, " 'I'm so sorry.' " Earlier, he said that "he hadn't hurt anyone," Amy told me. "Now he totally flipped around. I felt like I'd made an impact. It was like, 'He knows now.' "

Hesketh was sentenced to 6½ years. Four months later, in an unprecedented move, the judge advised Hesketh to settle the restitution claim and he agreed to pay \$130,000.

Not long after, Amy found out she was pregnant. She wasn't sorry — at the time she had faith in her boyfriend, whom she had told about the abuse and the photos. But he was a heroin user and dealer, and he went to jail two months after their son was born. Amy started seeing another man who she says had a jealous streak and broke her nose, twice. He also broke her infant son's leg, she told me. She took the blame when he threatened her, and she had to give up custody to her mother for six months.

As she recalled this time in her life, she took out her phone and scrolled through her photos until she found a close-up of her beaten face: lip split, one eye half-closed, nose swollen and cheek yellow with bruises. The young woman next to me had clear skin and bright eyes, and I had just watched her charm a police officer into calling us a cab. The girl in the photo was expressionless.

Amy stared at the picture on her phone. "That was my normal," she said.

Six months after Hesketh's sentencing, Marsh went after another child-pornography defendant, Arthur Staples, a 65-year-old sheriff's deputy in Virginia, who had chatted online with an undercover detective and expressed an interest in young children. Staples sent one image of a young girl (not Amy), and he was caught with more than 600 pictures on his computer, including hers. Staples agreed not to appeal any sentence or restitution judgment. The judge sentenced him to 17½ years, and made the unusual move of ordering him to pay all of Amy's claim. To Marsh's surprise, Staples turned out to have \$2 million in assets. He has since paid \$1.2 million to Amy. (Marsh says the government let Staples's wife keep part of the estate.) While Amy has been turned down for restitution by some courts, which have stated that there was not enough proof that any one man who viewed her pictures was responsible for the harm she has suffered, she has won more than 150 cases, totaling \$1.6 million. Most of the amounts aren't large: \$1,000 or even \$100, paid out in checks as small as \$7.33.

Nicole has also been pursuing restitution. Her lawyer, Carol Hepburn, did her own research and got in touch with Marsh when she learned about the claims he was bringing for Amy. The two lawyers now collaborate on ideas and strategy, though they represent their clients separately. Since receiving her first check for \$10,000, Nicole has collected more than \$550,000, mostly in small amounts from 204 different men. So far only a few other child-pornography victims have gone to court for restitution. Many may not know there is a legal remedy; others don't know their images have circulated.

The restitution checks gave Nicole a lift when they started to trickle in, but, like Amy, she had trouble with the transition into adulthood. In the fall of 2008, Nicole was attending a one-year bible college and working at an ice-cream shop. At work she felt increasingly self-conscious

around male customers. Had they seen her pictures? Were they like the man who stalked her on Myspace — were any of them coming to the store because they knew? That spring, Nicole testified at her father's sentencing. She asked the judge to give him a long punishment, and her father was sent to prison for 50 years. Her roommates, one of whom was a friend from her childhood church, supported her. "But I didn't have a counselor there, and that was tough," she said. "I called my parents and said: 'I have to quit my job, and I need to come home. I feel like I'm going crazy.'"

During her first few weeks at home, Nicole slept all day in her childhood bedroom and stayed up late watching sitcoms like "Sabrina" and "The Nanny." Finally, she started counseling and was able to get a job doing administrative work at a nuclear-waste site. That June, she testified at the sentencing hearing of four child-pornography defendants caught with her images, hoping to gather strength from speaking out. Instead, the experience made her feel exposed.

More than a year later, in the fall of 2010, she left for a four-year college away from home. She was worried about being on her own, but she wanted to try. "I push myself," she told me. "I don't like to say something is too much for me." Like Amy, however, she took a psychology course, about child development, that brought up unbearable memories. During lectures, she began going blank. "All of a sudden class would be over, and I would be like, 'What happened?'" she said. She started skipping class for fear of continuing to disassociate.

Nicole, who wasn't in counseling at the time, failed all but two of her courses that spring. "I just totally broke down," she said. "I'd come home and sit in the same position and stare into space, and then I'd look at the clock, and it was six hours later." Nicole talked about this period of her life with Hepburn and me over dinner one night last summer. She showed us a tattoo on her right wrist: a heart sheltered by wings that she got after her father's sentencing. She also learned to make tattoos, and she took out her phone to show us a picture of the first one she created, an anchor with a rope curled around it. "My cousin is a tattoo artist, and he taught me," she said. "We grew up together, and he was a very easy person to hang out with during that bad time. I'd go over to his place, and he'd be drawing, and he said, 'You're into design, you could do this.' When I tried I felt this release of emotions. We started drawing for hours to music — Tom Petty, Cake, everything. You have to learn how to go smoothly and keep the same pressure on the line the whole time. I drew anchors over and over again on grapefruit. I'd been numb for months, and now I could feel again. I actually felt joy."

In the fall of 2011, Nicole transferred to a campus closer to her family. She made her way through her course work by avoiding subject matter that upset her and by allowing for her own limitations. "I had to accept that, because I have this extra stressor, I get overwhelmed by

things that other people can do,” she said.

Nicole decided to spare herself going to court, so she wasn't in El Paso, in September 2011, for the sentencing of Luis Enriquez-Alonso, a student at the University of Texas. He agreed to plead guilty after being caught with thousands of illegal videos and images, including Nicole's, on his computer. At the hearing, Enriquez-Alonso and his parents listened while the prosecutor read into the record a statement Nicole wrote about what it is like to know men are looking at her pictures: “After all these years and going to different counselors, I still haven't learned the trick to let my mind rest,” Nicole wrote. “When I do sleep, my dreams are vivid and I remember them for weeks. A common theme is finding myself naked in front of a crowd of people or in an enclosed space and I can't escape or run away fast enough.”

That day, without a court order, Enriquez-Alonso's family handed over a check for \$150,000, along with an expression of remorse. “That really touched me,” Nicole said, “that his family wanted to make sure that I was taken care of, that I could get all the counseling I need. Most of the time when I get restitution, there's no story behind it. I feel like they're forced to give the money. In this case, they wanted to do it, and there were words behind it, kind words.” Enriquez-Alonso, who faced a maximum of 10 years in prison, is serving 5.

Study after study links child sexual abuse to psychological trauma, addiction and violent relationships in adulthood. There is almost no research, however, that deals with the specifics of Amy and Nicole's experiences: What additional harm comes from knowing that pictures of your childhood exploitation are circulating widely?

The Supreme Court actually addressed this question in its 1982 decision upholding child-pornography bans. “ ‘Pornography poses an even greater threat to the child victim than does sexual abuse or prostitution,’ ” Justice Byron White wrote, quoting from a book about abused children. “ ‘Because the child's actions are reduced to a recording, the pornography may haunt him in future years, long after the original misdeed took place.’ ”

David Finkelhor, a sociologist who directs the Crimes Against Children Research Center at the University of New Hampshire, sees the moral weight of the Supreme Court's proclamation, but not the empirical proof. “The evidence doesn't yet tell us to what extent the experience of being a pornography victim aggravates the experience of the sexual abuse itself,” he told me. “How do you separate it out?”

Courts have disagreed on this question. In at least a dozen cases, defendants have appealed restitution decisions and mostly won. In five of those cases, federal appeals courts have expressed skepticism that Amy and Nicole should receive more than nominal restitution. Two other appeals courts have allowed the young women to recover from individual defendants as

members of the group of viewers but, so far, only for amounts of \$10,000 or less. (Amy collected a far greater sum from Arthur Staples because he waived his right to appeal.)

Last spring, the legal battle was focused on the U.S. Court of Appeals for the Fifth Circuit, which covers Texas, Louisiana and Mississippi. One panel of three judges upheld full restitution to Amy of millions of dollars from a Texas man. Based on that decision, a second three-judge panel affirmed a separate \$529,000 restitution order for Amy against a New Orleans defendant, but voiced its fundamental disagreement with the original ruling. To address the dispute, 15 Fifth Circuit judges gathered last May for a hearing in New Orleans. James Marsh and Carol Hepburn were there along with Amy; Nicole chose not to go. Amy knew this was the most significant hearing to date, and she wanted to show the judges that she was real, just as she had shown Alan Hesketh.

At the lectern to argue her side was Paul G. Cassell, a former federal judge who teaches law at the University of Utah. Cassell is a staunch conservative (he challenged the right to a Miranda warning before the Supreme Court), and Marsh and Hepburn, both Democrats, were surprised at first to be allied with him. But as a leading advocate for victims' rights, Cassell sees in Amy's claims a chance to lay the groundwork for broader change.

For 30 years, the victims'-rights movement has fought for a larger role for victims in criminal prosecutions. Victims have gained the right to make statements in court about the impact a crime has had on them, which judges can take into account in determining punishment. Restitution remains an ambitious next step. The standard context is crime involving financial loss — a bank robber ordered to return stolen money to the bank or an embezzler who must repay the employer he defrauded. Cassell sees Amy and Nicole's cases as a route to expand the idea. "I'd like to pursue the concept of total restitution for all victims, for whatever crimes and losses a defendant has caused," Cassell told me. "This is a good opportunity to show how it can work."

In the courtroom, Cassell linked the defendants to the network for child-pornography distribution. "What the defendants have done is collect images of an 8-year-old girl being bound, raped and sodomized," he said. "If you participate in a market, you become responsible for that market." The lawyer for the New Orleans defendant disagreed. She argued that there was no proof that her client, in particular, had harmed Amy — no way to show that his viewing of her images caused damage. She also called the restitution order for \$529,000 "grossly disproportionate to his culpability relative to other people who have abused Amy."

Michael Rotker, the lawyer for the department, told the court that the problem with the restitution awards was that there was no statutory authority for joint and several liability —

nothing in the law, as Congress wrote it, which allowed a victim to recover a large award from one defendant who could then seek to recoup those losses by suing other defendants. Instead, Rotker argued, each defendant could be held responsible only for a small and roughly equal fraction of the whole. He offered this hypothetical example: if 200 men were convicted of possessing Amy's images, and her claim for damages totaled \$3 million, then a judge would have discretion to order a defendant to pay restitution of \$15,000 to \$30,000.

As the lawyers spoke, Amy's eyes filled with tears. "Some of it was hard to listen to," she told me later. "But my therapist said to think of it as a store, with different compartments you can take out and put back. She said, 'When you were a little girl, you had to compartmentalize to deal with everything you went through.' So I can still do that now, and sometimes it's good, I guess."

At one point in the proceedings, Judge Emilio Garza stopped Cassell, not to challenge him, but to pick up on his theme. "It seems to me that we're in this brave new world, where not only was there an actual rape, but I'm going to suggest to you there is a continuing digitized rape," the judge said. "Possession of the digitized recording of the rape contributes to the system, contributes to the economic benefit of those who produced this thing."

The judges would not announce their decision for several months, but at the end of the hearing, Amy focused on what Garza said that day. "To hear that from a judge — I couldn't believe it," she told me. "It was so relieving. It was like he really got it. He understood."

Just six weeks after Amy got home from New Orleans, her uncle was released from prison after completing his concurrent 12-year sentences. Amy says she was greatly relieved when her aunt told her that she wouldn't allow him in the house. Instead, he was paroled nearby. When Marsh texted to give her the address, Amy happened to be only a few blocks from it. "I almost dropped the phone," she said. "Oh, my God, it was just so weird. I thought, He's got binoculars, he's looking for me. I thought the worst." Marsh reminded her that if her uncle contacted her, he would go back to prison. And also that she was an adult now and safe from her uncle's pedophilia.

Last month, while standing in line at Wal-Mart with her brother and a friend, Amy saw a man who she thought was her uncle looking at her. "I wasn't positive because I haven't seen him for so long," she said. "But as soon as I made eye contact, I didn't breathe." Was she being paranoid? She couldn't tell. The man seemed to follow them out of the store. As they got into her car, the man stopped to light a cigarette, and she thought he was staring at them. "It was very, very scary," she said.

Today, a sentence like the one Amy's uncle received — with no additional prison time for a

federal conviction for pornography production and distribution — is extremely rare. The penalties for distributing or receiving pornography have become harsher. Receiving one illegal photo carries a mandatory minimum penalty of five years. The number of images a defendant downloads increases the punishment, as does his use of a computer. Now that large volumes of data stream with a click, the average recommended prison term for possession has jumped to 10 years, even if a defendant has no criminal record and there is no evidence that he produced or distributed porn. Because some child sexual abuse cases still end in relatively low penalties in state court, there's a paradox: defendants who look at sexual pictures of children can spend more years in prison than people who abuse children but don't have pornography of them.

The United States Sentencing Commission held hearings last February to discuss whether the punishment for child-pornography offenders has become both disproportionate and unfair — with people who committed similar crimes receiving vastly different penalties, based on the subjective decisions of judges. Restitution was discussed even though the prevailing view is that technically it isn't considered part of punishment. Its purpose is to “make the victim whole,” as the legal phrase goes. “Simply put, an innocent victim should not suffer financial losses from a crime — the defendant should make good on those losses,” Cassell said.

But Douglas Berman, an Ohio State University law professor who writes a frequently cited [blog](#) about sentencing, argues that the commission could rethink the role of restitution. In some cases, restitution could be considered commensurate to prison time — and courts could recommend shorter sentences for child-pornography collectors who agree to compensate victims based on their ability to pay. Berman thinks the key to making this leap is adopting the point of view of the victim. “Victims are shrewder than most prosecutors about the diminishing returns of long incarceration,” he said. “They want perpetrators to serve some time. They want these men's lives disrupted, and they want the deterrence that helps protect other people. But they're often wise enough to realize that there's not much gain in deterrence from a 5 or 10 year sentence to 15 years. If victims are saying that restitution is as, or more, important to them than five extra years, I very much think the sentencing commission and Congress should listen.”

When I asked Amy about such a trade-off, she supported it. Nicole had mixed feelings: she liked the idea of greater incentives for restitution, but she wasn't sure about giving up longer punishments, given how easy it would be for someone to leave prison and go back to downloading child pornography. Cassell says that using restitution in this way could have value. “If it makes the perpetrators internalize how they've hurt the victims — if it makes them see there are real victims — then you deter them from doing this again when they get out,” he said.

Berman also favors a proposal that has been discussed at the Justice Department: a general compensation fund that would systematically collect restitution from child-pornography offenders and pay it out to victims like Amy and Nicole based on the harm they suffered and the costs they've incurred because of it. A compensation fund could give more victims the financial means to put their lives back together. And it could force more defendants to reckon with the children in the pictures and with their own role in supporting a market that depends on abuse.

Restitution has allowed Amy and Nicole to get the counseling they need, but receiving large sums can be complicated. When Amy received her \$130,000 check from Alan Hesketh, she went on shopping sprees at the mall, splurging at stores like Abercrombie & Fitch. She had never been able to earn a steady paycheck, and the money was a sudden windfall. By the time the \$1.2 million check came last spring, she was more considered. She didn't want to stand out in her small town. Last summer, she bought a modest three-bedroom house a few miles from her childhood home, where her mother and brothers still live.

Amy has also discovered that she likes giving money away — to her mother for a new deck, to a close friend who wanted kitchen cabinets she couldn't otherwise afford. It's her way of dealing with the discomfort of having resources that people around her don't and repaying those who helped her along the way. "I used to be a mooch to my friends, asking, 'Could I bum a cigarette?' I was a smoker who couldn't afford a pack," she told me. "So now, if you're my friends or family, and you need something, I've got your back."

Nicole's relationship to her restitution money is different, partly because she has received smaller checks. She used a bit to travel, and to buy a car. She has primarily paid for her education. Though school can still be difficult for her — during her last semester of college, Nicole continued to miss classes and assignments because she was disassociating — she graduated in December with an A on her final paper and plans to apply to a master's program in counseling for the fall. At the moment, she's taking time off, renting a house with a friend and having a serious romantic relationship. Eventually, her plan is to earn a Ph.D. in clinical psychology.

Some researchers worry that restitution runs the risk of perpetually casting the people it seeks to help in the role of victim. "There is some research showing that kids who have been abused benefit from being relieved of the victim identification when cases resolve faster," says David Finkelhor, the University of New Hampshire sociologist. But Amy and Nicole say that receiving money doesn't trouble them in that way. Nicole talked about feeling vindicated by the restitution payments. "I didn't feel ambivalent about the money, not at all," she said. When I asked Amy if she thought that the checks were tainted by their tie to the pornography, she

said, “No — I don’t think about it that way.” She added: “O.K., I didn’t work for this money. I mean, I didn’t put in 12-hour days for years straight. But I earned it, kind of. Even if I didn’t *earn* it.”

Amy and I talked about this last summer when I visited her at her new house. Her young son greeted me, pretending to be a monster. They had two new puppies that followed us as she showed me around, pointing out a couple of paintings that I watched her buy in New Orleans (she had asked Marsh how much she could spend). In the basement, Amy flicked on track lights that the previous owner installed over the bar. A door led to the garage, which housed a gleaming car she bought for \$15,000.

For more than two years, Amy has been living with the man she started dating after she left the one who broke her nose. They knew each other from high school, and she feels sure about him: he has a full-time job and a long-term plan that includes getting married and then having a baby. When Amy found out her uncle was out of prison, her boyfriend helped calm her down; he said she had nothing to fear now, and she decided he was right.

While I was visiting, I gave Amy a ride to see her therapist — “I don’t know what I’d do without her, I feel so much better being in therapy” — and on the way back, we stopped at her mother’s house. Amy took me out on the half-rebuilt deck and pointed through the pine trees to the entrance to the basement of the house where her aunt still lives and where her uncle had taken her.

“I haven’t passed through that door since I was 9,” she said. “One day I will. Me and my therapist talked about it. I’m not there yet, but I’ll get there. I’ll be able to go in and be like, ‘Yeah, I can do this.’ ”

In October, the Fifth Circuit ruled in Amy’s favor, in a 10 to 5 [decision](#). The court also accepted the theory of joint and several liability, finding that this means of allocating shared responsibility can ensure “that Amy receives the full amount of her losses, to the extent possible, while also ensuring that no defendant bears more responsibility than is required for full restitution.” Victims and the Justice Department can keep track of how much has been recovered, and courts can set a payment schedule based on an individual defendant’s ability to pay. “Ultimately, while the imposition of full restitution may appear harsh, it is not grossly disproportionate to the crime of receiving and possessing child pornography,” Judge Garza wrote for the court. “Defendants collectively create the demand that fuels the creation of the abusive images.” Garza sent Amy’s award of \$529,000 back to the lower court because it did not provide for restitution “in full” — in other words, it was too small.

The Fifth Circuit’s decision creates a clear split among the appeals courts over how to

interpret Congress' provision of restitution for sex-crime victims — a split that only the Supreme Court can resolve. Cassell and Marsh have asked the justices to do that, and the court could hear a restitution case as early as next fall.

For Amy, Supreme Court review is a heady prospect. “If I win, that will set everything up for other people like me, and that would be so amazing,” she said. “I don’t even think there are words for it. To help people know that they’re not powerless, that would be such a good feeling.”

Nicole worries about the public exposure that a Supreme Court case would bring. But she shared Amy’s hope that it would help other victims. The National Center for Missing and Exploited Children has a database of more than 5,000 child-pornography victims. The center estimates that 12 percent of them have had their photos distributed across the Internet. That means hundreds of young people, in their teens and early 20s, could have potential claims for restitution. “I need the help I’m getting, especially the counseling,” Nicole said. “I want other people to get it, too.” Restitution can’t undo the damage of the past. It can’t actually make her or Amy whole. Still, Nicole says, “it can help give us the tools to heal.”

Emily Bazelon is a senior editor at Slate. Her book “Sticks and Stones: Defeating the Culture of Bullying and Rediscovering the Power of Character and Empathy” is out this month.

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