

Vera Institute of Justice

Criminal Justice Issues and Prisoners' Rights

<https://www.vera.org/blog/unlikely-allies-collaborate-for-fairer-restitution-practices>

Public Facing Advocacy Writing

In 2013, a group of victims advocates and advocates from alternative to incarceration (ATI) and reentry programs began meeting together to see what would happen if we listened to each other more. Nearly two years later, the group has become the Coalition of ATI/Reentry and Victims Advocates (CAVA), and is defining how unlikely partnerships can advance sound and safe criminal justice policy.

CAVA aims to strengthen policy and program efforts in both the ATI/reentry and victims fields through dialogue and coordinated action. We consider the possible impacts of proposed policies and initiatives on our constituencies and explore areas of common interest as well as points of dissension in order to identify opportunities for mutual learning and alignment on key issues.

In October, CAVA had our first real win.

Restitution, fines, and fees pose immense challenges in a system where most of those harmed and most of those responsible for harm are poor. While restitution, in particular, may seem to be an area where the interests of these two groups are irrevocably opposed, in one specific instance, at least, that turned out not to be the case.

When people are incarcerated in state prison in New York, they are required to pay a number of fines and fees and are sometimes ordered by the court to pay restitution to the victims of their crimes. Until last month, the New York State [Department of Corrections and Community Supervision](#) (DOCCS) secured payment for these financial obligations from incarcerated people in the order they were enumerated by the court which, for reasons of circumstance rather than principle, placed restitution low on the list.

That was bad for victims, often leaving them waiting years for even small amounts of restitution while incarcerated people paid off other, higher-ranked court-ordered fees and fines. For many victims, restitution is necessary to replace what was taken or repair what was damaged during the crime, to meet financial obligations (such as hospital bills or relocation costs) they incurred as a result, or simply help them make ends meet. Of equal importance, restitutions symbolic value may contribute to victims recovery process.

But it turned out that the payment order was also bad for those incarcerated. Until now, court fees were listed *above* restitution on the payment schedule, meaning that incarcerated people had to pay court fees first. At the same time, incarcerated people who pay court-ordered restitution are exempted from paying certain court fees however, this exemption didn't kick in until *after* they paid the court fees they theoretically were exempt from. So, an incarcerated person would pay a fee, then pay restitution, and *then* be eligible (if they were aware) to apply for a waiver of that first fee.

This process was not only illogical, it could be damaging: the more fees and fines that incarcerated people have to pay, the greater the risk they will not be able to meet all their court-ordered financial obligations. Unpaid financial obligations, in turn, can result in significant civil penalties that can have a lasting impact on formerly incarcerated people, particularly when they try to secure a line of credit, a loan, or a lease all things that can help them navigate the extraordinarily challenging process of reentry. Some also believe that whether incarcerated people have paid restitution can have an impact on whether or not the victims of their crimes support their being granted parole.

CAVA realized that by changing the order in which financial obligations are paid to prioritize restitution, we could not only ensure that victims would receive full payment earlier, but would also help some incarcerated people meet their fiscal obligations sooner, pay less overall, and avoid harmful civil penalties. We reached out to the Department of Corrections and Community Supervision, the Office of Victim Services, and the governors office, and the change went into effect this October.

The change will have a real impact on the lives of both victims and those incarcerated. And the win may also have an impact on their advocates: CAVA's early victory is a clear sign of what is possible when we form unconventional alliances to challenge the myth that the interests of those harmed and those responsible for harm are inherently opposed.

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