



How to Handle Sexual Predators

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Divina Genao was born about seven years ago, by all accounts to a warm, loving family. The life they planned for her was snuffed out by a predator—a predator who should never have been uncaged.

Conrad Jeffrey, age 40, was charged with sexual assault of a minor, a 14-year-old girl. Allowed to plea bargain to mere weapons possession and criminal restraint, he was released after serving only a portion of a five-year sentence.

Just six weeks after his release, he snatched little Divina from a crowded street and fled to his furnished room in the neighborhood. By the time the police knocked down his door, the child was dead.

The sexual psychopath has continued to confound society for hundreds of years. Unremorseful, relentless, and apparently unamenable to rehabilitation, this monster in human form has induced more debate than solutions. One currently fashionable solution is the "sexual predator law" that now exists in Washington State.

Would this law have saved Divina? Most likely not. The sexual predator laws are, essentially, a form of postsentence civil commitment.

When an offender has served his (or her) full sentence, he is evaluated to determine if he is presently dangerous to society. If such a finding is made, the offender may be retained until pronounced safe to walk among us.

Flawed Protection

Even leaving aside the (considerable) civil liberties issues of retaining a prisoner past the completion of his sentence, the sexual predator laws will ultimately fail to protect society. That is because they are founded on the same basic conceit as is a parole board, to wit, that a group of individuals can predict future conduct.

This conceit has, tragically, proven to be one we can no longer afford—the body counts tell us otherwise. Simply put, if a parole board believed that Jeffrey was safe to release, would not that same group have failed to retain him for commitment under a sexual predator law?

The sexual predator laws are as illusory as a sentence of 150 years (with parole eligibility attaching after only 10). That is, they are media-genic, but lack teeth; they satisfy the public with a false promise of safety, but deliver much less.

Arthur Shawcross killed at least one child. Allowed to plea bargain down to manslaughter, he was sentenced to an indefinite term of up to 25 years.

Despite an original diagnosis that was highly indicative of dangerousness, he eventually persuaded the parole board to release him. Shawcross killed at least 11 women before he was again incarcerated, this time for life.

The public may be fooled by the appearance of lengthy prison sentences, but predators know the truth.

The solution is simple. Sex offenders must be sentenced for actual criminal conduct, not some plea-bargained distortion of the facts.

How is an overworked parole board to contend with rapists who have pleaded guilty to burglary, or with child molesters who have pleaded to endangering the welfare of a child? All too often monsters slip through the bureaucratic cracks.

Would this negatively impact plea bargaining? Certainly. Offenders are well aware of the long term consequences of their negotiations, and equally aware how quickly we forget. Indeed, if sexual predator laws were passed fewer offenders would plead guilty anyway, fearing that the promised sentence could be extended at some later date.

Would this cost more money? Initially, yes. We would need the resources to try those cases that cannot be settled—we would need more judges, prosecutors, defense counsel for the indigent, and all the related costs.

Would it cost more in the long run?
Emphatically no! The criminal justice costs of investigation, detection, apprehension, and trial for re-offenders is enormous. And the cost in human lives and souls is incalculable.

This recommendation for actual-criminal-conduct sentencing is not intended as a general prescription. It would be properly applied only to the predator: the serial rapist, the chronic child molester, the serial sadist—individuals whose crimes should never be euphemized by the criminal justice system.

There are individuals who are so toxic that their very presence threatens us all. They self-identify by their conduct.

And such a recommendation must carry with it the corollary of appropriate sentencing. Forcing individuals to plead guilty (or go to trial) on actual criminal conduct is meaningless if they can sentence bargain instead.

Therefore, the law must provide for irreducible minimum sentences for certain types of crime, and life sentences without a possibility of parole for the chronic, calcified, repetitive (or escalating) offender.

Does such a recommendation fly in the face of the much-vaunted goal of rehabilitation? Yes, in that it acknowledges that there are some sociopathic human beings for whom rehabilitation is not possible. And, true, it would remove motivation from those so sentenced. They would have little incentive to join therapy groups or take up oil painting knowing that no parole board would ever have the opportunity to be impressed with their achievements.

Behavior is Truth

Acceptance of these recommendations requires two foundational beliefs on our part:

- Behavior is the truth, and
- there are some individuals whose behavior we cannot change.

For those who would argue that sexual predators are sick, the response is simply: So where's the cure? Unless and until rehabilitation of predators approaches the medical model it purports to imitate—that is, to rehabilitate a broken arm so it returns to its former state of functioning—why should all society be the butt of bizarre (and life-threatening) experiments?

For too long the headlines have haunted us with the

specter of a parole board member expressing surprise and shock at the horrible deeds of an individual his agency released. Such agencies always justify their actions by saying that they could not predict future behavior. It is time to accept that statement as truth and to protect ourselves accordingly.

There are individuals who are so toxic that their presence threatens us all. They self-identify by their conduct. And we cannot protect ourselves from monsters by calling them by another name.

If prison cannot rehabilitate, it can at least incapacitate. If we cannot transform sexual predators, we certainly can contain them.

A society that has no problem with life sentences for repetitive armed robbers (on habitual-offender grounds), but on grounds that the sexual predator is sick permits predatory pedophiles to serve serial alternative sentences until the offender reaches critical mass and kills, is itself sick in the classical sense by acting against self-interest.

Would we have to build new prisons to contain those committed to longer terms? Probably not. And certainly not if we use creative and alternative sentencing options for nonviolent offenders. Safety will never be a no-cost proposition, but we can at least work to make it cost-effective.

As citizens, we have more than just a collection of rights. We have obligations, too. When it comes to the criminal justice system, we must regard ourselves as participants, not mere recipients.

We are all consumers, and our tax dollars are the price (if not the cost). A society that cares more about truth in packaging than it does about truth in sentencing is hell-bent on its own eventual destruction.

There is an old saying about monsters that we ought to heed: You don't know where they're going, but you can always tell where they've been. Once an offender has shown us he has clearly embarked on the predator's bloody road, it is our responsibility to make that road a dead end.

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