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"DON'T THINK OF A PREDATOR" – CHANGING FRAMES FOR BETTER SEXUAL VIOLENCE PREVENTION

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“Don’t think of a Predator” -- Changing Frames for Better Sexual Violence Prevention 8 Sex Offender Law Report 81-96 (October/November 2007)

Eric S. Janus*

Powerful frames shape the way we think about sexual violence. These frames channel public debate and policy making in ever more dysfunctional directions. If we want to get sexual violence policy back on track, we need to change the frames that determine the policy outcomes.

According to “framing theory,” frames are “abstract structures that serve to organize or structure social meanings.”[1] In his best-selling book, *Don’t Think of an Elephant*, Stanford linguistics professor George Lakoff explores the power of frames in the broader political sphere. Powerful metaphors, he argues, frame debates, and push answers in particular directions. Framing a discussion in terms of “tax relief” rather than “social investment” tilts the field of debate in a particular direction: who, after all, could oppose “relief”?

There is good reason to worry that American sex offender policy is, in large measure, heading in the wrong direction. Massive and flashy legislative programs pose as aggressive innovations in the effort to prevent sexual violence. But policymaking and clear thinking about how to address the problem are taking their separate ways. As Dr. Michael Miner, Vice President of the International Association for the Treatment of Sexual Abusers, recently put it:

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[1] ValueBasedManagement.net, Framing Explained, http://www.valuebasedmanagement.net/methods_tversky_framing.html (last visited June 8, 2007).

> In general, these laws are based on public fear and misperception of both the nature of sexual crimes and the risk that is posed by convicted sexual offenders. As these laws become more and more draconian, their unintended outcomes are changing both the nature of sexual offender treatment and the viability of providing such treatment.[2]

Miner's conclusion is unambiguous: our aggressive approach to sexual offenders is "at best useless and at worst iatrogenic."

In this short article, I seek to make two points. First, our system for making sex offender policy in this nation is broken. It is not, of course, that every aspect of it is misdirected. But when we look at the major patterns, the large movements in policy, we can see that it is misguided and getting further and further off-course. Second, as Lakoff might argue, the central problems with our policy making can be traced to a set of frames – powerful metaphors about society in general and sexual violence in particular – that push policy ineluctably in the wrong direction.

I. Sex offender policymaking is broken.

It is not simply that we, as a society, have made some bad choices as we've sought to shape our policy against sexual violence. It is more serious than that. Our policy making is systematically broken. We count ourselves lucky if, among the misguided policies that dominate, we find, here and there, some wise and sensible initiatives.

The evidence that our policy making is broken is compelling. What we know about sexual violence, our empirical knowledge, is time after time disconnected from the design of our public policy.

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[2] Michael H. Miner, Editorial, *Is This Any Way to Develop Policy?*, 2 SEXUAL OFFENDER TREATMENT (2007), *available at* http://www.sexual-offender-treatment.org/54.0.html.

Begin with the example of residential restrictions on sex offenders. Authoritative reports from Minnesota, Iowa, Kansas, Colorado, and Florida have shown that there is no empirical reason to think that such geographical restrictions will be effective – and lots of reasons to think that such poorly thought-out broad brush restrictions may be counter productive.[3] Indeed, it was national news that five sex offenders were living under a bridge in Florida because they could not find other suitable housing that complied with the residential restrictions.[4] Yet despite these clear warnings, states and localities continue to adopt such residence restrictions. The most striking example is the adoption in California, despite strong media opposition, of Prop. 83 "Jessica's Law" – imposing, among other things, exactly such broad residency restrictions.[5]

The use of sexually violent predator (SVP) civil commitment schemes continues to grow. The rate of state adoption of these laws had seemed to stabilize, remaining steady at 16 or 17 (depending on how Pennsylvania's juvenile-only law is counted) for several years. One might have concluded that the plateau represented an emerging

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[3] *See e.g.*, MINN. DEP'T OF CORRECTIONS, LEVEL THREE SEX OFFENDERS: RESIDENTIAL PLACEMENT ISSUES, 2003 REPORT TO THE LEGISLATURE, 9 (2003) (sex offender proximity to schools or parks not associated with recidivism); IOWA DEP'T OF HUMAN RIGHTS, THE IOWA SEX OFFENDER AND RECIDIVISM 19 (Dec. 2000), *available at* http://www.state.ia.us/dhr/cjjp/images/pdf/01_pub/SexOffenderReport.pdf (finding no statistical significance in differences in recidivism of sexual offenders after the implementation of the sex offender registry); KANS. SEX OFFENDER POLICY BOARD, 2007 REPORT (2007) (electronic monitoring, when used alone, will not change sex offender behavior and provide security for the community); COLO. DEP'T OF PUB. SAFETY, REPORT ON SAFETY ISSUES RAISED BY LIVING ARRANGEMENTS FOR AND LOCATION OF SEX OFFENDERS OF THE COMMUNITY 17 (2004), *available at* http://dcj.state.co.us/odvsom/Sex_Offender/SO_Pdfs/FullSLAFinal01.pdf (report is unable to document a relationship between re-offending of sexual offenders and proximity to schools and day-care centers); Jill S. Levenson & Leo P. Cotter, *The Impact of Sex Offender Residence Restrictions: 1000 Feet From Danger or One Step From the Absurd?*, 49 INT'L J. OF OFFENDER THERAPY & COMP. CRIMINOLOGY, 168 (2005); (Florida study finds residency restrictions linked to increased isolation, financial and emotional stress, and decreased stability in sex offenders; which may inadvertently increase triggers for re-offense).
[4] *Sex Offenders Living Under Miami Bridge*, N.Y. TIMES, Apr. 8, 2007, § 1, at 22.
[5] *See* Editorial, *'Effective Against Crime'*, S.F. CHRON., Jan. 19, 2006, at B8; *see also* CALIFORNIA ATTORNEYS FOR CRIMINAL JUSTICE, STATEMENT IN OPPOSITION TO PROPOSITION 83, http://www.cacjweb.org/pdf/Prop83.pdf (last visited June 14, 2007).; *see further* IOWA COUNTY ATTORNEY'S ASSOCIATION, STATEMENT ON SEX OFFENDER RESIDENCY RESTRICTIONS IN IOWA (Feb. 14, 2006), http://www.cacjweb.org/pdf/iowa.pdf (last visited June 14, 2007).

consensus that these hugely expensive laws do not represent the best use of scarce prevention resources. But in the past 12 months, two states and the federal government have adopted new SVP laws, and Congress has enacted legislation that will actually encourage more states to adopt such laws.[6] New York is the latest entrant, passing its law in the spring of 2007 after long resistance by the state legislature.[7]

To be sure, the assertion that sexually violent predator commitment laws are a bad idea is hotly contested. But there is weighty evidence that these laws do not, on balance, offer a net gain to the fight against sexual violence. What is not contested is that their cost in dollars is huge, and that they dangerously push the boundaries of some fragile constitutional protections. In New York, the legislature adopted an SVP law in the face of opposition from the New York Times and the New York State chapter of ATSA.[8] As the Times opined:

> This means that states are making an open-ended commitment of scarce resources to create an entirely separate prison system — costing as much as $100,000 a year per inmate in some states — to lock down men who are a tiny subset of the sex-crime problem. Meanwhile, a far bigger universe of molesters and rapists roam free as agencies struggle for the resources to find, prosecute, monitor and treat them all.[9]

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[6] Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248, 120 Stat. 587.
[7] New York Sex Offender Management and Treatment Act, 2007 N.Y. Sess. Laws 3318 (McKinney).
[8] "Sexual violent predator legislation may have a place in the treatment and management of sexual offenders and in the reduction of sexually violent crime. However, . . . the unproven efficacy and potentially enormous costs of such programs mandate careful further study and design before enacting such legislation in the State of New York." Richard B. Krueger, M.D., Vice-President, N.Y. ASSOC. FOR THE TREATMENT OF SEXUAL ABUSERS, NYS ATSA AND ALLIANCE POLICY STATEMENT CONCERNING SEXUAL VIOLENT PREDATOR LEGISLATION, 8 THE ALLIANCE 1,2 (Fall 2006), *available at* http://www.paraphilias.com/publications/pdfs/TheAlliance_Fall2006.pdf.
[9] Monica Davey & Abby Goodnough, *Doubts Rise as States Hold Sex Offenders After Prison*, N.Y. TIMES, Mar. 4, 2007, § 1, at 1. *See e.g.*, NYATSA, *Supra* note 7; Monica Davey & Abby Goodnough, *Doubts Rise as States Hold Sex Offenders After Prison*, N.Y. Times (Mar. 4, 2007), http://select.nytimes.com/search/restricted/article?res=F60C16F83C550C778CDDAA0894DF404482.

Meanwhile, the population held under these laws continues to grow – reaching 3646 by May 2006, according to a report in New Scientist (up from 520 in 1998).[10]

Yet another indication of the extremism of the current approach is the lack of balance in the criminal law. Minnesota Public Radio has traced the new approaches in a multipart series entitled "When getting tough backfires." The conclusion: "Sometimes the new laws actually make things worse."[11] News headlines scream "750 years" for a man sentenced for downloading and trading child pornography.[12] In a tragic irony, the 18 year old brother of rape-murder-victim Jessica Lundsford, whose father has fought tirelessly for "Jessica's Law," was charged under the law because he allegedly "fondled" a 14 year old girl at a dance.[13] Highly publicized rape prosecutions against three Duke lacrosse players were dropped and the prosecutor disbarred because of his zealotry during the prosecution.[14] And Genarlow Wilson, convicted of having consensual sex with a fifteen-year old girl when he was 19 years old, has come to symbolize "extreme cases of getting tough on sex offenders when he was sentenced to the mandatory 10-year sentence."[15]

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[10] Peter Aldhous, *Sex Offenders: Throwing Away the Key*, NEW SCIENTIST, Feb. 21, 2007, at 6; *see also* Roxanne Lieb & Scott Matson, WASH. STATE INST. FOR PUB. POLICY, SEXUAL PREDATOR COMMITMENT LAWS IN THE UNITED STATES: 1998 UPDATE 5 (Sept. 1998), *available at* http://www.wsipp.wa.gov/pub.asp?docid=98-09-1101.Peter Aldhous, *Throwing Away the Key*, New Scientist (Feb. 21, 2007); Roxanne Lieb and Scott Matson, *Sexual Predator Commitment Laws in the United States: 1998 Update*, Washington State Institute for Public Policy 5 (Sept. 1998) http://www.wsipp.wa.gov/pub.asp?docid=98-09-1101.

[11] *When Getting Tough Backfires* (Minn. Pub. Radio broadcast June, 18, 2007), *available at* http://minnesota.publicradio.org/standard/display/project_display.php?proj_identifier=2007/06/12/sexoffenders.

[12] *Burnsville Man Sentenced to 750 Years on Child Porn Charges*, KSTP.com [ABC News affiliate] (Minneapolis, MN), May 8, 2007, http://www.kstp.com/article/stories/S79004.shtml?cat=1.

[13] *Crusader's Son Arrested on Sex Charge*, ABCNews.com, May 30, 2007, http://abcnews.go.com/US/wireStory?id=3229234.

[14] *Duke Lacrosse Prosecutor Disbarred*, CNN.com, June 16, 2006, http://www.cnn.com/2007/LAW/06/16/duke.lacrosse.ap/index.html.

[15] Shannon McCaffrey, *Ga. Man in Prison Despite Release Order*, ComCast.net, June 12, 2007, http://www.comcast.net/news/national/index.jsp?cat=DOMESTIC&fn=/2007/06/12/687366.html.

States and localities continue to focus legislative energy on dramatic measures that have little likelihood of effectiveness in dealing with sexual violence, and serve mainly to stigmatize and separate. Key examples are proposed legislation in Ohio, Alabama and Wisconsin to require offenders to affix neon-green license plates to their cars.[16] And the venerable *Economist*, in an article dripping with skepticism about the direction of public policy, cites other examples:

> New Jersey is considering prohibiting released sex offenders from using the internet. In Texas, a proposed bill calls for the death penalty for repeat sex offences against victims under 14.[17]

It is legislative approaches such as these that have led many experts in the field to decry the uninformed basis for policy-making. Robert Prentky and Ann Burgess write: "Unfortunately, we must conclude that the social debate over management of sexual offenders is fueled by impassioned feelings about sex offenders, and typically is insensitive to rational input and uninformed by empirical data."[18] They offer a crisp dictum for the development of sex offender policy: it ought to be based on "sound, reliable information."[19]

The problem is not simply that too little attention is paid to existing empirical knowledge about sexual offending. Rather, key leaders are actively hostile to science, especially that which disturbs their pre-existing ideas. Perhaps the most dramatic example is the reaction to the 1998 publication in *Psychological Bulletin* of the peer-

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[16] PolState.com, Three States Consider Sex Offender License Plates, http://polstate.com/?p=5128 (last visited June 14, 2007).

[17] *"Locked Up,Just in Case; Civil Confinement."*, Economist (Mar. 17, 2007), page 37 http://www.economist.com/world/na/displaystory.cfm?story_id=8866809.

[18] ROBERT ALAN PRENTKY, PH.D. & ANN WOLBERT BURGESS, D.N.SC., FORENSIC MANAGEMENT OF SEXUAL OFFENDERS 150 (Kluwer/Plenum 2000).

[19] *Id.*

reviewed article by Dr. Bruce Rind and others examining, using meta-analysis, the evidence on harm from childhood sexual abuse (CSA). These authors reported that "basic beliefs about CSA in the general population were not supported."[20] The response to the publication was intense. The publisher, the American Psychological Association, was forced to issue a statement condemning childhood sexual abuse.[21] Most chillingly, the United States House of Representatives voted unanimously to "denounce" the study, while prominent federal legislators, calling the study's conclusions "sick and twisted," threatened to investigate the universities which had funded the research.[22]

II. The source of imbalance: existing frames.

It is easy to attribute the lack of balance in current public policy to the "hysteria" of the public. The notion is that politicians, for crass political purposes unrelated to the goal of reducing sexual violence, exploit people's natural fears for their children and their own safety, creating what a number of commentators have called a "moral panic."[23] To be sure, there is a good deal of political exploitation at the base of the current unbalanced approach to public policy in this area. One need look no further than California, whose legislature resisted for some considerable period of time passage of "Jessica's Law," an unworkable and misguided collection of knee-jerk responses. But, the measure became a popular cause, egged on by Fox News' "anchor" Bill O'Reilly and the Governor of California. The latter's approach was explicitly to politicize the policy debate, "stating

[20] Bruce Rind, Phillip Tromovitch, & Robert Bauserman, *A Meta-Analytic Examination of Assumed Properties of Child Sexual Abuse Using College Samples*, PSYCHOLOGICAL BULLETIN, July, 1998, at 22.
[21] AMERICAN PSYCHOLOGICAL ASSOCIATION, CHILDHOOD SEXUAL ABUSE CAUSES SERIOUS HARM TO ITS VICTIMS, Mar. 23, 1999, http://www.leadershipcouncil.org/1/rind/apa.html (last visited June 14, 2007).
[22] Stacy Burling, *Local Study on Pedophilia Raising a National Furor*, PHILADELPHIA INQUIRER, June 10, 1999, at A01.
[23] PHILLIP JENKINS, 1998 MORAL PANIC: CHANGING CONCEPTS OF THE CHILD MOLESTER IN AMERICA (Yale Univ. Press 1998).

that Republicans are more interested than Democrats in public safety."[24] The timing gave the legislature no time to examine the proposal, and Gov. Schwarzenegger himself said he did not know how much the cost of the proposal would be. In an editorial criticizing the governor's proposal, one California newspaper pointed out the complexity of the decisions that might be made if such a proposal were to be carefully evaluated. The editorial's bottom line: "haste and threats result in bad laws."[25] Despite the caution of the mainstream media, the people of California adopted this proposition with 70.5% voting for the measure.[26]

The posturing and demagoguery of politicians and cable-news personalities owe their effectiveness in part to the fact that they address real, legitimate concerns of many people. People do, in fact, fear for their children. They perceive that they lack of control over their own safety and that of their children. They share a genuine desire to express rejection and condemnation of sexual violence. And, many judge the governmental responses to sexual violence to be inadequate.

But overlaying these real concerns, and amplifying them in maladaptive directions, is the political rhetoric, a set of frames that point inexorably – given the popular concerns – to the wrong policies. The solution does not lie in ignoring the real concerns of the people, but in changing the frames.

A. Sexual Predator

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[24] *See* Editorial, *We Need a Smart Law on Sexual Predators, Not Just a Tough One: Schwarzenegger's Plan Needs More Time to Give Details on Monitoring Offenders,* MERCURY NEWS (San Jose, Cal.), Aug. 18, 2005, sec. 24A; *see also* Bill O'Reilly, *Californians Want Jessica's Law*, FoxNews.com, Feb. 1, 2006, http://www.foxnews.com/story/0,2933,185521,00.html.

[25] *See* Editorial, *supra* note 24.

[26] Frank D. Russo, *Analysis of the Final Returns on California Ballot Propositions*, CaliforniaProgressReport.com, Dec. 15, 2006, http://www.californiaprogressreport.com/2006/12/analysis_of_the.html.

The term "sexual predator" has come to predominate the discourse about sexual violence. A search of the Westlaw "allnews" database yields 203 references to this term in 1990, and more than 10,000 in 2006. The term no doubt has its own resonance in popular discourse, but it is elevated in the capstone legal innovation for dealing with sexual violence, the "Sexually Violent Predator" laws. These laws, roughly speaking, define "sexual predators" as the "worst of the worst," sex offenders who have some form of "mental abnormality" and who have "serious difficulty" in controlling their sexual offending, thereby posing a high likelihood of re-offending.

These people are a small sliver of people who have sexually abused others – they are atypical. Nonetheless, the term "sexual predator" has come to stand for the archetypical sex offender. This is the first problem with this "frame."

The second problem is that the sexual-predator frame suggests that sexual abuse is aberrational, rather than systemic and ubiquitous. The sexual predator – who is imagined as "mentally disordered" – is thereby defined as different in kind from most of us, who are, by definition, mentally normal. The sexual predator is not one of us. In this way, the sexual predator frame suggests that sexual abuse is essentially a problem of the other – the stranger – thus contradicting the clear empirical evidence that the overwhelming majority of sexual offending is perpetrated by family, intimates, and acquaintances.

Third, the predator paradigm, with its defining rubric of the mental disordered "other," suggests that the solution to sexual violence is to identify, and then excise and banish, the problem. Systemic approaches to sexual violence are not necessary. We need not change anything fundamental in our society. We need only find the "predators" and banish them.

Thus, merely by posing the problem as what to do about "sexual predators," we have defined out of existence the question of what to do about fundamental societal attitudes and practices that allow (or even encourage) sexual violence to flourish. The sexual-predator paradigm, in sum, is attractive because it reassures us that there is no need for any kind of fundamental change in our society to address the problem of sexual violence.

B. Recidivism

It is no mystery how the frame of recidivist sexual violence came to stand for the problem of sexual offending in our society. Most of the aggressive new approaches to sexual violence arose in the context of public outrage over recidivist sexual violence: heinous crimes committed by sex offenders released from prison on parole. Recidivist sex crimes seem to be the most outrageous. We can focus our outrage on the offender – who, after all, should have learned from his punishment – *and* on the government, which should have known better than to release this (in hindsight, obvious) killer, who was safely imprisoned. Following the template of the path-breaking Washington legislation, much of the recent legislation cites the "high" recidivism rates of sex offenders.[27]

Recidivism is not an irrational matter to consider in designing sex offender policy. Any known sex offender is certainly at higher risk for sexual violence than a (randomly selected) non-sex offender. Thus, sex offenders under correctional control are a logical target for prevention strategies. But the recidivism frame has come to predominate our field of vision – and the problems with the recidivism frame are manifold.

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[27] *See, for example,* New York Sex Offender Management and Treatment Act, *supra* note 6, § 10.01.

First, inherent in the recidivism frame is the notion that the recidivism rate for sex offenders is extraordinarily high. Sex offender recidivism is lower than the rate for many other types of criminals. The vast majority of sex offenders, over a three year period, are not caught in a new sex crime.[28]

Of course, how much is "too much" recidivism is a normative judgment. But the problem of the recidivism frame goes much deeper. The key problem of our almost-exclusive focus on recidivism is that it forces the bulk of sexual violence into the shadows. The fact is that most – the vast majority – of sexual abuse is not sexual *recidivism*. Of all sexual crimes committed by released prisoners, only 13% is committed by those previously confined for sex offenses. The rest – 87% - is committed by prisoners convicted on non-sex-offenses.[29] Further, 86% of sex offenders in prison have no prior history of a sexual offense.[30] In short, the vast majority of sex offenders and sex offenses are not committed by sex offender recidivists.

By definition, recidivist sexual violence focuses our attention on a small – *downstream* – portion of the problem of sexual violence. Only about half of all sexual offending is reported to authorities. A little less than half of these reports are cleared by police. A fraction of those cases result in convictions. A fraction of those convicted reoffend sexually. When we focus excessively on recidivism, we necessarily ignore the bulk of the problem of sexual violence.

C. Zero tolerance.

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[28] PATRICK A. LANGAN, PH.D, ERICA L. SCHMITT, AND MATTHEW R. DUROSE, U.S. DEP'T OF JUSTICE, RECIDIVISM OF SEX OFFENDERS RELEASED FROM PRISON IN 1994 8 (NOV. 2003).
[29] *Id.*, at 7.
[30] *Id.*, at 17.

The zero-tolerance metaphor is simple but misleading. It suggests, wrongly, that we are on the verge of controlling sexual violence, and all that remains before we are at "zero" is, in the words of a Florida legislator, "to find the loopholes, find the cracks."[31] In fact, most sexual violence is not addressed by our social policies. The "zero tolerance" rhetoric entails the exclusion of most sexual violence from the prevention calculus.

D. Risk – not guilt

A central pillar of the constitutional legitimacy of the new legal approaches – SVP laws, Megan's Law, residential restrictions – is that they are civil, rather than penal, laws. It is for this reason that the riskiness ("dangerousness") of individuals, and not their guilt, must be front and center in the justification and application of these laws. In a fateful move, these laws shift the justification for taking away people's liberty from punishment for guilt, to protection from risk.

The consequences of the shift to risk are many. Risk is a continuous quality, while guilt/innocence is a dichotomous judgment. Thus, taking away liberty because of risk has no obvious anchors, no bright moral lines, like that separating guilt from innocence. As we become better able to measure risk, the lack of any natural stopping point will create great political pressures to expand preventive liberty deprivation to reach more and more risk.

In a somewhat contradictory way, risk is an individual characteristic; it encourages us to think about who is the "most dangerous" - rather than where is the most danger. In the same vein, we can use risk without thinking at all about the root causes of sexual violence.

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[31] Catherine Donaldson-Evans, *Molester's Often Strike Again*, FoxNews.com, Apr. 16, 2005, http://www.foxnews.com/story/0,2933,151999,00.html.

Those who are "at risk" of being sexually violent are necessarily a broader group than those who commit sexual violence. Thus, risk assessment seems to require broad surveillance of populations, whereas guilt-assessment more narrowly involves following the evidence of a particular crime.

Finally, "riskiness" will become described as a constitutive quality of the person, and thus will support the notion that dangerous persons are different in kind – they have a different inherent quality – than the rest of us. This move, perhaps the most dangerous of the risk-frame, will facilitate the use of an "outsider jurisprudence" to support aggressive legislation that constrains the liberty of the risky.

E. Most dangerous – the "worst of the worst".

The preventive laws are extraordinary expansions of legal principles, and thus courts have considered it necessary to justify them by claiming that they address the most extreme forms of danger – in the words of the Supreme Court in *Hendricks*, "the Kansas Legislature has taken great care to confine only a narrow class of particularly dangerous individuals…."[32]

This frame has two somewhat contradictory tendencies. First, it encourages a downstream focus, suggesting that the proper target for policy and intervention is the repeat and uncontrollable predator. Second, because "most dangerous" has no natural definition, the frame is forever expandable. More and more can fall into the category "most dangerous." The use of this frame, then, allows the atypical-stranger-predator-violent rapist, to morph into the architypical sex offender, whose characteristics are then

[32] *Kansas v. Hendricks*, 521 U.S. 346, 364, 117 S.Ct. 2072, 2083 (1997).

thought to be stereotypical of all sex offenders. It is a vehicle by which a small part of the problem of sexual violence comes to stand for and characterize the whole.

F. Spare no expense.

This frame is based on the reasonable principle that we cannot put a value on human life or safety. As a state legislator in Minnesota put it, "What is the price of yet another victim, the innocence stolen from another child, the sense of safety at night for another woman?" The unspoken message is that people who object to sexual-violence-prevention legislation on the grounds of cost do not have the proper set of values and are not properly valuing the lives of women and children.

Of course, no one really believes that there are no limits on expenditures in the pursuit of the safety of women and children. Many services and programs to combat domestic and sexual violence go wanting. The “spare no expense” rubric is simply false, because there are plenty of ways in which expenses are “spared.”

But there is a more serious consequence of the frame: this symbolic statement can only be true if the kinds of problems that are shortchanged are not real problems. What this slogan really means is “spare no expense for the *real* kinds of sexual violence (the highly visible, stereotypical violence in the news).” This frame intensifies the spotlight on the archetypical, casting the typical kinds of sexual violence further into the shadows.

G. Ritual exile

Separating sexual predators geographically from the rest of us is a recurrent theme. SVP laws and residential restrictions make this notion of banishment explicit, as do laws like Jessica’s Law, that impose minimum 25 year sentences for certain first sexual offenses. Megan’s Laws accomplish the same separation more indirectly through

the shunning and "not in my backyard" neighborhood activism that often follows community notification.

In addition to physical separation, this frame also connotes a symbolic or "ritual" exile of the predator. Sexual predators are the "other." The problem of sexual violence is discrete, and we can identify those who pose a danger and protect ourselves from them. In the ritual exile, we as a society reject the predator. In a sense, the exile is to protect ourselves, but perhaps more importantly it is to purify ourselves, to take the actions to rid our society of sexual violence.

The key message from the ritual exile frame is that we, as a society, can acquit ourselves of our obligations to fight sexual violence by simply identifying the "predators" and removing them like a discrete cancer. The frame, like many of the others, is inconsistent with any notion of finding and addressing root causes, or the typical case, of sexual violence. The ritual exile frame is also profoundly anti-communitarian. When one neighborhood organizes to keep an offender out, the message, sometimes explicit, sometimes not, is that the offender should go live somewhere else.

III. Creating effective new frames

Righting our public policy on sexual violence must start from the recognition that the momentum for policy arises from the frames used to talk about the problem, interacting with the core values and concerns of the public. I begin with four principles to guide the development of a new set of frames. First, the public's concerns are not, in the main, hysterical or frivolous, but represent a set of "truths" that must be addressed if policy to be successful. Second, the public reaction is not so much based on false facts as on problematic frames. Third, the frames need to acknowledge that policymaking, and

the underlying public attitudes, needs to address both the rational knowledge we have developed about the real nature of sexual violence, and the emotive or non-rational fears and values that people have about sexual violence.

Based on these principles, I propose the following new frames for thinking about sexual violence.

1. It's "us" not "them."

The frames used to talk about sexual violence must express appropriate ownership of the problem while simultaneously expressing condemnation of sexual violence. But the condemnation must co-exist with the acknowledgment that the perpetrators are of us, are not a different species, from a different planet, nor necessarily afflicted with a different psychology or biology. This frame is not, unfortunately, a simple one, and does not neatly divide the world into good and bad. But there is some hope that this frame can gain some vigor and robustness through the stories of people like Joshua Lundsford, son of anti-violence crusader Mark Lundsford, whose clear ties to the insider "normal" group may force some cracks in the basic frames that rely on an outsider jurisprudence.

This frame requires a rather nuanced approach to sexual violence. It seeks to enable us to express our disapproval of sexual abuse without painting the abuser as a monster, and without minimizing or ignoring the harm they do.

2. Focus on the "most danger" not the "most dangerousness."

Through and through the predominating frames we have seen strong themes that focus our attention on the "most dangerous," the worst of the worst. This, we have seen, is a downstream focus, casting a strong spotlight on the atypical and rare rape murders,

and relegating the typical, much more common crimes into the shadows. The new frame I propose entails a shift from "zero tolerance" to "harm reduction" as a strategy. It encourages us to look for solutions further upstream, seeking root causes and practical, though imperfect, interventions that address large swaths of the problem.

3. Replace interstitial, reactive solutions with a comprehensive and systemic orientation.

Much of the public policy addressing sexual violence is framed as an effort to close the loopholes in order to prevent the next heinous sexual crime. But since the crimes that drive this approach are the atypical crimes, this approach misses the mark in three ways: first, the goal – zero tolerance – is unattainable. Second, the approach ignores the invisible but typical forms of sexual abuse. Third, approaches developed in this way are likely to have unforeseen (and unintended) consequences that may well make the problem worse.

Solutions, therefore, need to be comprehensive in the sense that they examine and address the problem at all levels, paying particular attention to both intended, and unintended, effects on the less visible, but more widespread, aspects of sexual violence.

4. Embrace the "spare no expense" approach, but expand it from the archetypical to the typical aspects of the problem.

Across the country, states with SVP laws have anted up huge sums of taxpayer money on the theory that no expense is unwarranted in the fight against sexual violence. As we have noted, this generous approach extends not much further than flashy programs that address the stereotypical but relatively rare aspects of the problem. This generosity

needs now to extend to finding solutions to the less visible but much more common instances of sexual abuse.

IV. Conclusion.

There is some urgency to the task of shifting the frames we use to discuss and construct our fight against sexual violence. We are not too far removed from a time in which most sexual violence was truly invisible to the law, in which women who alleged rape were routinely re-victimized by the criminal justice system, and in which myths about sexual violence abounded. In many ways, the present approach embodies a positive sea-change in attitude about sexual violence.

But an extreme, unbalanced, and non-nuanced approach is destined to collapse. There is great danger that the advances we have made in thinking about sexual violence will be collateral damage in that collapse.