ICoN Consolidated Newsletter, 2017A (Jan.-June 2017, #15-#20)

The Informational Corrlinks Newsletter (ICoN) provides a variety of legal, treatment, activism news & practical info for incarcerated SOs via CorrLinks. This consolidated version covers all legal cases and articles covered in the ICoN newsletters for the first half of 2022 and are offered as a space-saving measure. To better make use of Corrlink's 13k character limit, abbreviations will be used, so ICoN readers need to familiarize themselves with the following acronyms: SCOTUS (Supreme Court of the United States, an acronym in current Internet use), RC (registered citizen, an "SO" currently forced to register), ARM (Anti-Registry Movement, a term sometimes used to describe our reform movement), SOR (SO Registry), AWA (Adam Walsh Act), SORNA (the part of the AWA covering Registration & Notification), Admt (Amendment) & the many abbreviations for states & court jurisdictions. Time dated announcements & resources are not included in this consolidated newsletter. – Compiled Dec. 4, 2022.

ORDERING BACK ISSUES OF THE ICoN & DONATING TO THE CAUSE

Due to a limited budget and manpower, **I do NOT have a regular physical mailing list for these newsletters**. Those with Internet access can print past issues from my site and the other resources I offer at https://oncefallen.com/icon/

Consolidated ICoN newsletters are sent out upon request and a payment of two stamps to help offset costs. Please note that some prisons place limitations on mail which may require a higher cost (example: some prisons limit printouts to five single-sided pages per envelope, so a printout taking up 22 pages would require 5 stamps.) Please note your facility's limitations before making a request. Checks/ MOs must be made out to Derek Logue. You can contact me for further info and a list of what I offer at:

Mail - Derek Logue, 2211 CR 400, Tobias NE 68453
Email – iamthefallen1@yahoo.com (this is also the email I use for signing up for the ICoN)
Phone – (513) 238-2873 (No collect calls)

YOUR LIFE ON THE LIST: Edition 3 (A registry survival guide) by Derek Logue

"Your Life on The List: Edition 3" is a registry survival guide, covering a variety of common concerns like housing, employment, compliance checks, travel, and other common questions. It also contains a housing list and a comprehensive overview of the registry, residency/ proximity laws, and other post-conviction laws you may experience as a Registered Person.

To download a free PDF Copy of the guide, visit the front page at oncefallen.com

To order a printed copy from Amazon.com ($14.95 plus tax & shipping):
https://www.amazon.com/Your-Life-List-Derek-Logue/dp/B0BSZWQCWV/

If you are thinking of becoming an activist, consider ordering a copy of "The Anti-Registry Activist Manual: A Guide to Effective Advocacy" by Jonathan Grund. It is available for $13.50 on Amazon.com:

https://www.amazon.com/Anti-Registry-Activist-Manual-Effective-Advocacy/dp/B09T893TNR/

LEGAL ROUNDUP January-June 2017

US v. Brown, No. CR-13-1706 (2nd Cir, Dec 6, 2016): Earlier this year, the same court (with the same judges) ruled a 60 year sentence for 3 counts of producing CP & 2 counts of possession was excessive & remanded the sentence to the lower court; for reasons unknown, the 2nd Cir. Reversed its own June ruling and declared the sentence is "substantively reasonable.". The majority found that "given the seriousness of the crimes involved here, a 60 year sentence – which was below the Guidelines range – is within the realm of punishments that this Court has upheld as reasonable for production of child pornography, even considering that there may be, as [the defendant] argues, 'more serious' crimes such as intentional murder."

Brian Valenti et al. v. Hartford City, *Indiana*, 1:15-cv-63 (USDC IN/ND, Dec. 1, 2016): Ruled a 2008 Hartford City ordinance that restricted registered sex offenders from entering or loitering within 300 feet of broadly defined "child safety zones" is unconstitutionally vague as well as violating ex post facto. Hartford City's ordinance defined loitering near a child safety zone as "standing [or] sitting idly, whether or not the person is in a vehicle or remaining in or around an area." In 2015 the city council changed that definition to "remaining in a place or circulating around a place under circumstances that would warrant a reasonable person to believe that the primary purpose or effect of the behavior is to enable a SO to satisfy an unlawful sexual desire, or to locate, lure, or harass a potential victim." U.S. District Judge Theresa Springmann concluded that both definitions violate the 14th Amendment's guarantee of due process, since they fail to give people fair notice of when they are violating the law and invite arbitrary enforcement. Springmann also found that the ordinance's punitive effect outweighed its regulatory purpose, meaning that even if it were crystal clear it could not constitutionally be applied to SOs convicted before it was passed.

State of Indiana v. Douglas Woods Johnston, 49A02-1606-CR-1222 (IN Ct of App, Dec 2016): A man who has been convicted of multiple sex offenses must keep his name on the IN SOR for now after the Indiana Ct of Appeals found he failed to present a proper petition to keep his name off of the registry. Douglas Johnston filed a motion in October 2015 requesting his removal from the IN SOR, writing that he had been found guilty but mentally ill in 2006, when he was convicted for the first time of child molesting as a Class C felony. Johnston further wrote that he was eligible for relief because he was 59 years old and was willing to get continued treatment for his mental illness.

During the hearing in January 2016, Johnston's counsel told the Marion Superior Ct that Johnston had also been convicted of child molesting in 1997 and had been arrested in 2013, though that charge was dropped. Johnston then testified that he had been getting treatment for his mental illness and told the court that he faced hardships when trying to comply with the IN SORA. The state objected that the petition was inadequate and argued that Johnston had failed to meet his burden of proof. But the trial court ultimately found that Johnston should be required to register only until July 28, 2016, 10 years after his conviction. The IN DoC filed a motion to intervene and motion to correct error, but failed to appear before the Marion Superior Ct, so the motion to correct error was denied.

The state appealed, and in a Tuesday opinion a panel of the IN Ct of Appeals unanimously reversed the decision to deny the motion to correct error. In the majority opinion, Judge Mark Bailey wrote that there were allegations that Johnston's most recent victim was 6 years old, that Johnston had been classified as a SVP and that state statute in effect in 2006 required that, "A sex or violent offender who is convicted of at least two unrelated offenses … is required to register for life." "Thus, by all indications, Johnston was subject to life-time reporting requirements when he petitioned for relief," Bailey wrote.

Johnston's petition for relief came under IN Code sec. 11-8-8-22, which provides a mechanism for relief forSOs if, among other things, the petition is submitted under penalties of perjury and lists each criminal

conviction. But Johnston's petition was not submitted under penalties of perjury and one of his convictions was omitted, Bailey wrote. Further, Bailey wrote that there was no indication that notice of the hearing was sent to the Department of Corrections or the Attorney General, as required by state statute. Finally, the appellate judge pointed out that Johnston's counsel had not argued that he had satisfied his statutory burden of proof. Instead, Johnston argued that he had been "implicitly" found to be subjected to an ex post facto punishment, another provision of the statute. But Bailey wrote that Johnston had not presented an ex post facto punishment argument and instead made an appeal for compassionate relief. Thus, the appellate panel found that Johnston had failed to produce a proper statutory-based petition for relief, so the Marion Superior Ct should have granted the state's request for dismissal. The case was remanded with instructions to dismiss the matter with prejudice, subject to further proceedings if Johnston filed a new petition. [From TheIndianaLawyer.com]

Karsjens v. Piper, Case No. 15-3485 (8th Cir, Jan. 3, 2017): U.S. Court of Appeals panel reversed a ruling that had declared Minnesota's SO "civil commitment" program unconstitutional, putting the matter back in the hands of a lower court and easing pressure on lawmakers to make major changes. The ruling overturned an order by federal Judge Donovan Frank that threatened to upend the program. Frank ripped the program in his June 2015 ruling, saying the "stark reality is that there is something very wrong with this state's method of dealing with SOs." The 8th Circuit panel ruled "We conclude that the class plaintiffs have failed to demonstrate that any of the … arguable shortcomings in the MSOP were egregious, malicious, or sadistic as is necessary to meet the conscience-shocking standard." The plaintiffs plan to appeal to the full 8th Circuit Panel or even SCOTUS. [Note: SCOTUS denied certiorari in this case in Sept. 2017]

US v Schmidt, No. 16-6567 (4th Cir., Jan. 4, 2017): The case involves prosecuting a man who allegedly involved a sex crime while not even being on American soil. This Court determined Congress intended to give prosecutors more power to pursue U.S. citizens who molest children in foreign countries. "[The PROTECT Act of 2003] was aimed in part at the 'ugly American,' whose sexual exploits and visitation to sexual guesthouses abroad have helped to stimulate the sex trade in young children," wrote Judge J. Harvie Wilkinson III, who was joined by Judges G. Steven Agee and Pamela A. Harris.

State of NC v. Moir, No. 49PA14 (NC Sup Ct, Dec. 21, 2016): This confusing court case ruled that a registrant who was eligible for relief from the registry under state law was actually NOT eligible relief under the federal Adam Walsh Act, even though NC is NOT an AWA compliant state. Section 14-208.12A reads, "The court may grant the relief if… (2) The requested relief complies with the provisions of the federal Jacob Wetterling Act, as amended, and any other federal standards applicable to the termination of a registration requirement or required to be met as a condition for the receipt of federal funds by the State." "Any other" was apparently interpreted by the Court to include the AWA despite NC not adopting AWA.

Pennsylvania v. A.S, Penn Superior Ct, Case No. 1366 WDA 2015 (Jan. 9, 2017): The Penn Superior Ct questioned whether a veteran Allegheny Co judge is meting out overly harsh sentences in sex assault cases in a strongly worded opinion ordering that a defendant be resentenced. In the 36-page opinion last week, the appellate panel suggested that Common Pleas Judge Donna Jo McDaniel, who presides over SO court, has shown a pattern in those types of cases. "We note our awareness of a possible emerging pattern in this particular sentencing court of routinely sentencing SOs in the aggravated sentencing range and/or outside the guidelines," wrote Superior Ct President Judge Emeritus John T. Bender. "The appearance of bias, and doubt regarding a court's commitment to individualized sentencing, both rationally emerge when such a pattern of routine deviation from sentencing norms is demonstrated by adequate evidence."

Simpson/ Martinez v Arizona, No. CR-16-0227-PR (AZ Sup Ct, Feb. 9, 2017): Applying the United States Supreme Court's decision in United States v. Salerno, 481 U.S. 739 (1987), we hold that the provisions of Arizona Constitution article 2, section 22(A)(1) and A.R.S. § 13-3961(A)(3), prohibiting bail for defendants accused of sexual conduct with a minor under age fifteen where proof is evident and the presumption great that they committed such crimes, violate the 14th Amendment's due process guarantee.

People v. Pepitone, 2017 IL App (3d) 140627: Struck down a law banning registered citizens from public parks. "We hold that section 11-9.4-1(b) is facially unconstitutional because it is not reasonably related to its goal of protecting the public, especially children, from individuals fitting the definition of a child sex offender or a sexual predator…Nor is it drafted in such a way as to effect that goal without arbitrarily stripping a wide swath of innocent conduct and rights he has as a citizen and taxpayer from a person who has paid the penalty for his crime… Section 11-9.4-1(b) is an outright ban on all individuals with certain sex offense convictions from public park buildings and public park property without any requirement that anyone—particularly a child—be actually, or even probably, present." The appeals panel's majority found that the law "criminalizes substantial amounts of innocent conduct" and "makes no attempt to assess the dangerousness of a particular individual."

State of West Virginia v. J.E and State of West Virginia v. Z.M., Case Nos. 16-0677 & 16-0723 (WV Sup Ct 2017): juveniles judged delinquents for sex offenses don't have to register as sex offenders when they turn 18. The registration requirement applies to any person convicted of sex offenses. The court says under West Virginia law those delinquency adjudications are not convictions. The Supreme Court also ruled that the names of juveniles convicted of first- or second-degree sex assault can be disclosed publicly. Those crimes are sexual intercourse or intrusion by someone over age 14 with someone younger than 12 and the same act without consent "by forcible compulsion." The ruling concerned two separate cases where a teenager, each identified only by his initials in Tuesday's ruling, abused a younger child.

Rodriguez v. Florida, FL 5th Dist Ct of Appeal, Case No. 5D15-3622: An appeals court has ruled that an Orange County sex crimes prosecutor was so far out of bounds in what he told jurors about a defendant that the trial violated the man's constitutional rights. It also referred the case to the Florida Bar for possible disciplinary action against Assistant State Attorney David Fear. Fear called Rodriguez a pedophile seven times. "The flood of improper prosecutorial comments in closing argument in this case was deep, wide, and unrelenting; it made a mockery of the constitutional guarantee of a fair trial for the Appellant [Rodriguez]," the court wrote in an opinion released Friday. The appeals court also found fault with the defense attorney and the trial judge.

Does v Coupe, No. 458, 2016 (DE sup Ct, Mar 3, 2017)—The state Supreme Court rejected an ACLU challenge of a law requiring GPS monitoring of some SOs who have been released from prison and are on probation. After hearing arguments Wednesday, the court issued a two-sentence order Friday upholding a Chancery Court decision in favor of the state. The SOs complained that wearing GPS monitors was embarrassing, sometimes painful and an invasion of privacy. The ACLU said the monitoring amounted to an unconstitutional search under the 4th Amendment. The Supreme Court previously ruled that such GPS monitoring was not punitive, meaning the 2007 law could be applied retroactively.

US v. Jay Michaud, Case # 3:15-cr-05351-RJB (US Dist Ct E. WA, March 17, 2017): The government moved to dismiss without prejudice the indictment of a man accussed of accessing a CP site run by the feds; because the gov't is unwillimg to disclose information related to the FBI's use of "Network Investigative Technique" (NIT) which allowed them to access IP addresses even on users that utilized anonymous web browser services like Tor, the gov't moved to dismiss the case rather than give away their secrets.

People vs. Garcia, S218197 (CA Sup Ct, March 20, 2017): Concluded polygraphs as part of treatment under CA law does not violate 5th Amdt because polygraph responses could not be used in a court of law. They also rejected the argument that a limited waiver of therapist-patient privilege violates privacy rights and is overbroad.

J.I. v. New Jersey, Case No. (A-29-15) (076442) [NJ Sup Ct, Mar 21, 2017]: Overturned a blanket ban on internet access as a condition of parole, citing the global computer network's pervasive reach into all aspects of contemporary life. J.I. was admonished for visiting "Godtube," a religious website providing guidance through biblical passages, his therapist's website, and the site for the Parsippany Presbyterian Church, where he attended services. At a March 2014 meeting with a parole supervisor and his parole officer, J.I. was barred from using the internet for any purpose, other than to seek employment. He was specifically barred from using going online to keep in contact with relatives, make purchases or any other benign activity, the court said. But after the meeting, he continued to use the internet, looking at a weight loss website and one containing information about applying for public assistance. In response, a parole office barred him from all internet access, and advised him that he would be arrested if he had any internet-capable device in his possession, including an iPhone.

The People v. Mike H., D069391 (CA Appeals Ct 4th, 3/31/17): Concluded that a ban on the probationer's use of anonymizing tools to access the Internet, and a requirement that he accurately identify himself when setting up any online communications services, was permissible, but banning the use of any electronic devices that contain any encryption software was too broad.

EFF/ ACLU/NACDL report, "Challenging Gov't Hacking in Criminal Cases": This guide may prove valuable to those who were caught up in the online CP stings involving encrypted browsers like Tor. It is 122 pages long, so if you can find an outside resource who can print this report for you, the link to the report is: https://www.aclu.org/report/challenging-government-hacking-criminal-cases?redirect=malware-report

May v. Ryan, Case No. CV-14-00409-PHX-NVW (US Dict Ct AZ, 3/28/17): Overturned an Arizona law that outlaws any contact with the genitals of a minor, which had been interpreted so broadly, even changing a baby's diaper could be a violation. Unlike laws in every other state, sexual element did not have to be proven by the state in AZ. "Arizona stands alone among all United States jurisdictions in allocating the burden of proof this way. Arizona is the only jurisdiction ever to uphold the constitutionality of putting the burden of disproving sexual intent on the accused."

Brian Hope et al. v. Commissioner of the Indiana Department of Correction, et al., 1:16-cv-02865 (S Dist IN 2017): Judge Richard Young ruled in favor of plaintiffs holding they are likely to prevail in their federal lawsuit. Young granted a preliminary injunction barring authorities from enforcing the IN SOR Act against the plaintiffs. The suit brought by the ACLU of Indiana argues that SORA's application to them violates the Equal Protection Clause of the 14th Amendment and implicates the right to travel, and Young found the plaintiffs are likely to prevail on those claims. He did not reach the plaintiffs' ex post facto argument.

US v. Jenkins, No. 14-4295 (2d Cir. April 17, 2017): Found a 225 mo. sentence for mere CP possession to be "substantively unreasonable."

Hoffman Et al. v Village of Pleasant Prairie, Case No. 16-CV-697-JPS (E Dist WI 2017): City's 3000 foot residency restrictions amounted to virtual banishment; In granting summary judgment to the nine plaintiffs, U.S. District Judge J.P. Stadtmueller found the village imposed restrictions on where the offenders could live without considering any studies or data regarding the safety risk that posed to other residents.

In re: Justin B., Case No. 2015-000992 (SC Sup Ct, May 3, 2017): Upheld family court decision that the mandatory, statutory requirement that a juvenile offender register as a SO and wear an electronic monitor for life is not unconstitutional, claiming it is not a punitive measure.

J.B./L.A./B.M./W.M./R.L. v. New Jersey State Parole Board (A-81/82/83-15) (077235) [NJ Sup Ct May 8, 2017]: Ruled that paroled SOs must submit to lie detector tests as part of the conditions of their release but must be made more clearly aware of their 5th Amendment rights against self-incrimination; The court instructed the state Parole Board to revise its regulations to clarify that SOs can invoke their 5th Amendment rights without consequence if the answer to any question during the examination process could form the basis of an independent criminal investigation. The defendants in the case are all on lifetime supervision.

US v. Rittenmaier, Case 8:14-cr-00188-CJC (So. Div. CD Cal. 2017): The Beat Buy/ FBI informant case has taken an interesting turn. The Washington Post reported the court has tossed out nearly all of the evidence in the case. U.S. District Judge Cormac J. Carney "did find fault with the government's case against Rettenmaier, though, ruling that searches of his home and cellphone were illegal because an FBI affidavit for a search warrant misstated key facts about the case. While only one of the questionable images found on Rettenmaier's hard drive ended up as part of the criminal case, the search of his home and phone produced thousands of alleged CP pictures, according to federal court records." However, the actual picture found by the Best Buy technician was NOT tossed because Rittenmaier "had given up his right to privacy by consenting both orally and in writing to the search of his hard drive." Despite all this, this case has proven a working relationship between the FBI and Best Buy "Geek Squad" computer repair technicians. Hundreds of pages of evidence was presented showing eight Geek Squad City employees (the Best Buy repair facility in KY) were paid by the FBI over a 6 year span. While Best Buy denies any relationship with the FBI, but that statement has done nothing to ease the fears of civil liberties experts, "who feared that the Geek Squad had grown into a proactive arm of the government, snooping on citizens without the requirement of judicial oversight." "Court records show that in the course of recovering Rettenmaier's data, a Geek Squad technician found "multiple inappropriate images," including a photo of a naked girl, believed to be 9 years old, in the "unallocated space" on Rettenmaier's hard drive. Unallocated space is where deleted data resides on a computer until it is overwritten by other data, but it often does not have metadata such as when it was created, accessed or deleted, and because it lacks that information courts have ruled that photos found in unallocated space cannot be proved to be "possessed" by the computer's owner without other evidence." [Quotes from Tom Jackman, "FBI's conduct in Best Buy computer case prompts judge to throw out child porn evidence," Wash. Post, 5/17/17)

DG v Missouri DoC/ Board of Probation & Parole, Cause # 17AC-CC00213 (Cole Co MO Cir Ct): A preliminary injunction has halted efforts to retroactively place GPS monitors on hundreds of SOs who completed parole and had not been sentenced to lifetime supervision. The law had been recently changed to remove the stipulation that only repeat offenders are subject to lifetime GPS. Under this temporary injunction, the DOC cannot place GPS on those without repeat offenses and must remove the ones they have already installed.

In the Matter of Mark G. Legato, an Attorney at Law (D-99-15) (077464); In the Matter of Regan C. Kenyon, Jr., an Attorney at Law (D-100-15) (077465); In the Matter of Alexander D. Walter, an Attorney at Law (D-101-15) (077467) [NJ Sup Ct May 2017]: In a 6-1 ruling, the majority declined to mandate the automatic disbarment of lawyers who commit sex offenses involving children, and said matters must be resolved on a case-by-case basis—with particular emphasis on whether the attorney had actual physical contact with the child victim. "We have refrained from establishing a bright-line rule requiring disbarment in all cases involving sexual offenses against children," Justice Walter Timpone wrote for the majority.

"The imposition of discipline in cases involving sexual misconduct with a minor requires a fact-sensitive inquiry."

Oliver v. Roquet, No. 14-4824 [3rd Cir. May 2017]: A federal appeals court ruled that a state-employed psychologist can't be sued by her patient, a convicted SO, over claims that she retaliated against him for his paralegal work while committed. In a progress report, Roquet claimed Oliver's intense focus on paralegal services took his attention away from rehabilitation. She also based her decision to hold Oliver back on his hostility toward facility staff and manipulating other inmates by charging for legal work. Reversing a New Jersey federal judge's order allowing Oliver's case to proceed, the U.S. Court of Appeals for the Third Circuit held Oliver failed to show that Roquet's recommendation to not advance him to the next stage of treatment was based on his legally-protected free speech activities alone. The Court concluded Oliver failed to show how his 1st Amendment rights were violated.

OUR RIGHT TO VOTE

After this particularly controversial election, some of you might be wondering if you can help vote Trump out of office in 4 years. (Trump has been on record as being opposed to allowing folks convicted of felonies the right to vote.) Well, most states grant all registrants (and felons in general) the right to vote either upon completion of a prison sentence. It is easier to list the 10 states (AL, DE, FL, IA, KY, MS, NV, TN, VA, WY) that DO NOT grant automatic voting rights after your EOS date, details below:

AL (it is possible for SOs to get voting rights back from the pardon & parole board even though the law claims they cannot do it), DE (can get restoration through the governor), MS (rape/ statutory rape are disenfranchised, can be overruled by legislative bill or governor), NV (violent or repeat offenders can get rights restored through their court of conviction), TN (All people convicted of a felony since 1981, except for some serious felonies such as murder, rape, treason and voter fraud, may apply to the Board of Probation and Parole for voting restoration upon completion of their sentence; People convicted of a felony between Jan. 15, 1973, and May 17, 1981, are eligible to register to vote regardless of the crime committed. People convicted of certain felonies prior to Jan. 15, 1973 may be barred from voting), WY (Voting rights restoration is dependent on the type of conviction: first-time non-violent felony offenders can apply to the WY Board of Parole five years after completion of sentence; All others must apply to the Governor for either a pardon or a restoration of rights, but must wait ten and five years, respectively, after completing their sentence), FL (Voting rights restoration is dependent on the type of conviction: many can apply to the clemency board five years after completing their sentence, but others convicted of certain felonies—such as murder, assault, child abuse, drug trafficking, and arson—are subject to a seven year waiting period), IA (must pay off all fines, only obtained by Governor or President), KY (right restored by Governor for all felonies), VA (Those convicted of violent felonies, crimes against minors, and electoral offenses must wait three years before applying for a gubernatorial restoration of voting rights; On April 22, 2016, Governor McAuliffe restored the rights of all Virginians with a prior felony conviction who have completed the terms of incarceration and have been released from supervised probation or parole. The April 22nd order does not create automatic rights restoration. The order only restores the rights of individuals who are eligible as of April 22; Going forward, the Governor will continue to review eligibility and restore rights on an ongoing basis)

Speaking of voting, here are a couple of stories about SOs and voting. Neither are good stories.

OH- INVESTIGATION: More than 70 SOs are registered to vote at Cleveland schools (From News 5 Cleveland)

“While RSOs in the state of Ohio are prohibited from living with 1,000 feet of a school or daycare facility, they are not prohibited from actually entering schools. A News 5 investigation revealed that at

least 77 Cleveland SOs are registered to vote in the city's elementary and high schools… Unless an SO is currently under some form of community control, Ohio law is otherwise silent on a SO's ability to enter schools and interact with children. While Cleveland schools were closed Tuesday for the election, several parents noted that large groups of children continue to play on school property long after the final bell and on their days off… Pat McDonald, Director of the Cuyahoga Co. Board of Elections, acknowledged that the issue has raised concerns from voters and some school superintendents. 'I would encourage them to vote by mail or come down here and vote in person to alleviate any potential conflicts or any potential issues,' he said. But McDonald noted that he can't actually require SOs to do so. Ohio is one of a handful of states that allows convicted felons to vote, and unlike nearby IN and IL, does not have such voting requirements… Natalie is teaming up with Rep. Sean O'Brien (D-Bazetta), to draft a bill that would bar SOs from entering schools and daycare centers for any reason. 'It's just not worth the risk, why put them in that situation?' said O'Brien, who plans to introduce the bill early next year. O'Brien stressed that SOs would still be allowed to vote by mail or in person at the board of elections."

TX- SOs Protest Decision to Nullify Their Votes (From thecrimereport.org)

"Like millions of Americans who wanted to have their say, more than 100 men inside a Texas treatment center for SVPs registered to vote in last month's presidential election. Local election officials refused to count their ballots, a decision that attorneys say likely violates federal and state laws… The tossed-out votes now are the subject of a growing legal fight in the small town of Littlefield, which once begged to get the treatment center for the jobs and the multimillion-dollar payroll that it brought. The town appears to be having second thoughts about the more than 200 convicted SOs that came with it. 'They didn't want us going out into their community, so they made us vote by mail, and now they're denying us the right to vote at all,' said Clarence Brown, 54, one of the men whose ballots were rejected. 'This place isn't supposed to be a prison, but this run-down, bigoted little town is trying to make it one so we can't exercise our constitutional right to vote. Even if they don't like us, what they have done is not legal.' Brown said he and 65 other men at the center have filed a challenge to the decision to reject their ballots. They plan to ask the US DoJ to investigate the case as a violation of the 1965 Voting Rights Act, which makes it a federal crime to prevent a qualified voter from casting a ballot. 'It sounds like a pretty clear violation,' said Buck Wood, an Austin lawyer and expert on Texas elections law. 'If they completed their sentences, they should have been allowed to vote.'"

NARSOL, NCRSOL file suit challenging North Carolina's SOR
by rwvnral • January 23, 2017

Raleigh, North Carolina . . . The National Association for Rational Sexual Offense Laws (NARSOL, formerly RSOL) and its North Carolina affiliate, NCRSOL, have filed a federal civil rights action challenging the state's amendments and enhancements to sex offender registration requirements going back more than a decade. Emboldened by a recent decision of the 6th Circuit Court of Appeals that set aside similar amendments and enhancements imposed by the state of Michigan, NARSOL and NCRSOL are joined by individual plaintiffs who seek to set aside legislative enactments since 2006 that have incrementally expanded the scope of restrictions imposed upon citizens required to register as sex offenders.

For more than a decade, the NC Legislature has continued to add increasingly burdensome restrictions on its registrant population as evidenced by its recent passage of a revised premises statute (§ 14-208.18) even despite significant push back from the federal courts. Such restrictions include prohibitions on where registrants may live and work, go to school, dine, recreate, attend sporting events, or even worship. Registered sex offenders are forbidden to change their names, access a wide variety of social media websites, and are generally restricted from being within 300 feet of any location where children frequently congregate including libraries, shopping malls, and many restaurants.

"The time has come to confront these laws more aggressively. They simply do not protect the public. The research is clear that laws such as NC's actually increase the danger to the public by preventing people from effectively reintegrating into society. At the same time, too many people are being denied basic constitutional rights under the guise of public safety. Nobody disputes the state's compelling interest in protecting children and adults from sexual abuse. But no American citizen should have to give up fundamental, guaranteed, 1st Amendment freedoms in the name of a policy that simply doesn't work," said Robin Vanderwall, president of NCRSOL. NARSOL's executive director, Brenda V. Jones, had this to say: "Nothing is more important than the prevention of sexual abuse. But, study after study has shown that registration laws like those enacted in North Carolina are doing absolutely nothing to prevent such abuse. What's worse is that adding so many restrictions violates the Constitution's strict prohibition against retroactively punishing a person once his court-ordered sentence is complete. He has already paid his price!"

Paul Dubbeling, a Chapel Hill attorney who was successful in a previous challenge to the state's defunct premises statute, filed the new complaint in federal district court on Monday. When asked about this new suit, Dubbeling stated: "This is ultimately about public safety. The NC registry law simply fails to actually protect the public while at the same time unnecessarily denying basic constitutional rights to tens of thousands of citizens. To protect both the public and the Constitution, we need to return the power to decide who is dangerous and who isn't to those best able to judge – the judges themselves."

DATING AS AN RSO

Since Valentine's Day came and gone and spring is about to be sprung, I received an amazing amount of emails from readers wondering about the prospect of finding a mate after release. Well, I haven't had a significant relationship with years so I wasn't sure exactly how to answer the question. This ain't Chuck Woolery writing but maybe this article will help with your Love Connection concerns.

In my Job & Welfare survey published last year, I found Registered Citizens [RCs for short] in the survey were less likely to be married than the general population [GP for short] (34.43% of RC vs 49% of gen) and less likely to have kids (54.93 RCs vs 74% GP). Still, a third of registrants were married, which surprised me. What I don't know, however, is how many of these marriages were formed after a conviction rather than before.

I place a post on the SOSEN site asking those who dated an SO after his conviction, and Gini Aland, a staff member at the site, replied with her personal experience. She writes, "About five years ago I became friends with a very nice man. He helped me with some of the problems I was having with my computer and we began spending time together. One day, after I had known him for several months, we were walking down the street and he invited me to a barbecue at his house, before I could answer he said he needed to tell me something first, he simply said, 'I'm on the registry.' I stopped walking and asked him what he meant, he replied, 'You know, the sex offender registry, Megan's List.' I simply stood there, speechless! He asked if it bothered me, I had to tell him no, absolutely not! I looked at this man as my friend, not some socially labeled 'monster'. We began dating and eventually moved in together. I believe that you simply need to start with honesty and friendship for any relationship to grow."

In December 2016, Maya Chung published a piece in InsideEdition.com called, "Women Reveal What It's Like to Be in a Relationship With a Sex Offender and Why They Stay." Below are some excerpts of the article:

"Susan, 33, and Josh, 31, met in September 2013 when Josh worked a job that delivered beds to the Missouri hospital where Susan worked. According to Susan, a month into the relationship, Josh told her

he was on the sex offender registry for a crime he committed while he was serving in the Marines. ‘He told me within the first month. He told me very early on because he knew I had two children,’ Susan told InsideEdition.com…

“A few months into their relationship, Susan allowed Josh to meet her two children. She said she felt that she understood Josh’s crime and knew him to be a good person. “He disclosed what happened and how it happened, all of that to me. I could see from his point of view. It’s not totally his fault that this happened," said Susan. “I didn’t find him as a threat.” Susan isn’t the only woman willing to overlook the past of the man she loves, even a man with his name on the sex offender registry. While it may seem surprising to many, some women are willing to go through being outwardly shunned by family and their communities in the defense of the men because to them, love trumps all. Their experiences being in a relationship with a sex offender may be different, but these women have another thing in common: An undeniable faith in their men…

“Josh is required to re-register every 90 days under Missouri law, which in some other states would only be reserved for Level 3 offenders. He is also not allowed to live within 1,000 feet of a school or loiter within 500 feet of a public park or swimming pool, among other constraints. Because Josh is not currently on parole, however, he is not prohibited from being around kids and therefore nothing prevented him from forming relationships with Susan’s children or eventually moving in with her.

“The many stipulations that come with being a registered sex offender are something that Melissa knows all too well. She is married to a Level 3 offender. ‘If you look at him on paper he looks like a monster, but if you get to know him, he’s not that,’ she told InsideEdition.com. ‘We have been married for almost seven years, and although the constraints of the sex offender registry can be brutal, we are so very happy with each other,’ Melissa said. She met Jerry at a charity event in 2006 – 17 years after his second offense. She said they became friends before becoming romantically involved. When he told her his status on the registry soon after they began dating, and she made a conscious decision to stay with him.

“At first I was like okay, wow, but I was also able to hear the whole story of things and confirm it with outside sources. So it’s just kind of like a 'wow, what kind of stigma does that carry?' I have my own faith and beliefs that people can change and grow and become better people,” Melissa said. She said she previously held the idea that once you were a child molester you are always a child molester, but she realized Jerry’s story is different. She said Jerry owns up to his mistake. She added that he was young and it took him a while to realize that what he did was wrong…

“Having a child, who has to interact with other children, is another the bridge the pair has to cross. The couple sits down with the parents of their daughter’s playmates and explains to them that Jerry will never be left alone with their children. Melissa also informs them that she has gone through sex-offender supervision courses to ease any of their concerns. ‘The biggest effect the registry has in my life is the effect it has on my family because the community treats my entire family as if they are sex offenders as well,’ Jerry told InsideEdition.com. According to Melissa, some of her family, however, does not agree with her decision to marry Jerry. ‘I’ve had arguments with family members. I’ve had people ask me how I can forgive someone like this,” said Melissa. “My grandma told me I should have walked away before I ever had children…’

“In cases like Susan’s though, when your children are from a previous marriage, there is an entirely different bridge to walk over. Josh moved in with Susan and her two daughters in November 2015, after two years of dating. Susan never disclosed to her ex-husband that Josh was on the registry. When he found out in July 2016, he filed a motion to get an order of protection that would prevent Josh from being around his children. It was granted in October. According to the order, Josh can no longer be around or talk to Susan’s children. Susan’s ex-husband also filed a motion to modify their divorce and obtain full

custody of their daughters. The parents currently share 50/50 custody… Susan's ex-husband, who did not want to speak for the article, made a GoFundMe account in which he asked for help with legal fees to get custody of his children. In the post, he called Susan bipolar. He also calls Josh a creep and a pedophile. He added that he wants to provide a safe home for his children by taking full custody of them. 'They are in very real danger every day,' the post said."

The bottom line is that yes, it is possible to meet someone who will accept your past; my stance is honesty is the best policy. If your date has kids from a prior relationship, or even if you have kids together, then prepare for hardship. Your mileage may vary. My suggestion is to learn to be happy with yourself without depending on another for happiness. That is likely why many of us "offended" in the first place. It sounds cliché but I have learned that art over the years. You can't force something into existence—it must come naturally. Just be honest and be yourself, because if you have to lie to get that person to like you, then that person isn't worth the effort. But that's just my opinion.

REGISTRY REMOVAL SCAMS

Believe it or not, there are private websites that disseminate registry information. There are a number of "mugshot" websites and magazines sold in shops, private registries like Family Watchdog and Homefacts, and even private registry websites that extort money from those desperate to get off the registry. There are even guides from sources purporting ways of "legally" dodging the registry. I can understand the allure of finding ways to avoid the registration, but don't be suckered in by websites offering ways to remove you from the registry.

Adam Galvez wasn't taken in by a scammer's website (Offendex), but after confronting the website owner, Chuck Rodrick, he began receiving threats and lawsuits. Rodrick has been sued in Arizona courts for extorting people through Offendex and affiliated websites like SORArchives.com, BarComplaint.com, and SexOffenderNewswire. In both lawsuits, Rodrick lost. Rodrick would charge hundreds of dollars for removal of registry info from one website only to publish the same information from another website. After years of lawsuits and threats, Rodrick hasn't abandoned his harassment campaign against Adam.

I asked Adam to give ICoN readers some practical advice; he replied, "As some of you may know there are many scams on the internet, one that I would like to make those aware of is the mugshot websites. These sites are not run by any government agency but rather by con-men, thugs and felons. Their objective is to convince you that they will get your mugshot photos removed from the internet for good. This is far from the truth, nobody has the power or ability to get your mugshots removed especially from the real Megan's law websites. Some of these sites are charging hundreds of dollars to make promises to you that they cannot make. Please do not pay these sites money to remove your mugshots more importantly do not contact the operators of these sites as they will make your lives a living hell. I have a lot of experience with the tyrants that run these websites and have had to deal with lawsuits and a lot of cyber harassment and stalking and I would not wish this upon my worst enemies. I can assure you all that I am an advocate against these sites and am working daily on trying to get them taken down. Often if you argue with these operators they will be sure to move you to the top of their searches and none of you want this and that is again why I say DO NOT CONTACT THEM."

The next warning isn't about a scam for money, but merely some very bad advice that I suggest you ignore. A DC based prison group known as the Safe Streets Arts Foundation published a guide called "How to Legally Avoid Being Placed on the Sex Offender Registry."

So if you don't like the Sex Offender Registry statue in one state, you can move legally and quickly to another state, literally overnight. And if you don't like the Sex Offender Registry in any state, you can still be a US citizen without any fixed address. You can travel constantly from state to state, not calling any

one state your residence. Homeless people do it all the time. Such flexibility in movement is your right as a free citizen in a free society, and the basis for you to not be on any registry, regardless of your past."

Now here's what you need to do if you're currently on a Sex Offender Registry. Call up your registrar and declare that you're moving out of state and demand to be removed immediately, and of course don't show up to re-register since you are no longer a state resident. If you are asked where you're moving, simply say that you wish that to be private. Then officially become a homeless person without any fixed address. All you need do is declare yourself one."

The gist of the article is that you are not obligated to have a fixed address so if you don't stay in any location for more than a day or two, then you won't invoke registration, but this logic is flawed for a couple of reasons. First, even if you declare you are homeless you have to declare where you are pitching your tent or parking your car. Second, you are still going to have to register; in fact, by declaring homelessness, you are likely going to have to register MORE frequently. Some municipalities have required daily registration of the homeless. A compliance check could catch you not staying at a registered location. The bottom line is being a transient staying in different locations every night will NOT keep you from registration.

There are few real paths for permanent relief from the registry. One way is through a pardon, which can only be received through the state of conviction. Pardons for SOs are rare but not impossible. If you are in a state with a level system and you are placed on a lower tier, then you will eventually time out from the registry, though some states may require a petition for registry removal after the allotted period. Some states have unique legal avenues to be removed from the registry. The Collateral Consequences Resource Center published a spreadsheet on registry relief, available at [http://ccresourcecenter.org/wp-content/uploads/2015/05/Sex.Offender.Relief.5.12.15.pdf]. Don't fall for false promises of registry removal or guides to dodge registration requirements. Cops actively enforce the registry and Failure To Register could get you MORE time than whatever crime landed you on the list in the first place.

Recently, WWL-TV reported a different kind of scam in Louisiana. "According to authorities, the caller says that their target owes an 'East Dist of LA Fed Ct' fine payment for missing a 'federal SO screening' court hearing. The caller then states that the SO has missed their hearing and that the federal court put out a warrant for their arrest. The only way to resolve this, according to the caller, is to wire money via Western Union. They even claim the money could be refunded at a later date. 'It is important for the public to remember that no legitimate business will require personally identifiable information over the phone nor will the U.S. Marshals Service ever threaten arrest over the telephone for non-payment of court fines or fees or request a wire transfer,' a statement from the USMS read." Such scams are common with credit cards and the like so if you ever receive such a notice, contact the agency by looking up the number online or through the phone company, not the contact info listed in the letter or given by the person on the line. (Often, these numbers will be unlisted and won't show up on your phone.)

The bottom line: The best way to stay safe from scams is just know what to look for. Scams appeal to two emotions—fear and desire. Scams like the USMS scams appeal to fear, and registry removal scams appeal to your desire to be free from the registry.

THE AWA AND VISAS

I am aware some of you have considered meeting foreign women through penpal services or websites after release for prison to find true love. However, you must be made aware of an alarming but overlooked power contained within the Adam Walsh Act (Title IV) is the power to deport a nonresident because one of their spouses or parents was listed on the registry. "The AWA amended Section 204(a)(1)(i) of the Immigration and Nationality Act - the statute governing the petitioning procedure for

immediate relatives – to prohibit U.S. citizens and lawful permanent residents who have been convicted of any "specified offense against a minor" from filing a family-based immigrant petition on behalf of any beneficiary, unless the Secretary of Homeland Security (Secretary) determines, in his sole and unreviewable discretion, that the petitioner poses no risk to the beneficiary."

Conviction for any of nine crimes "that by its nature is a sex offense against a minor" (including non-custodian kidnapping, child porn, internet, and solicitation/ prostitution offenses) will be a "disqualifying conviction to bar any U.S. citizen or permanent resident from filing a petition for his/her parent, spouse, children, stepchildren, and siblings. The bar also applies to petitions for a fiance/ee (K1) and derivative children (K2). The petitioner has the burden to prove whether or not a prior conviction is a 'specified offense against a minor.'"

If a person has a disqualifying charge, then he can apply for a "no risk" exception as described in the Aytes Memorandum of February 8, 2007 (Aytes Memo). "The Aytes Memo stresses that USCIS may not approve a family-based petition if the petitioner has a conviction for a specified offense against a minor unless USCIS first determines that the petitioner poses no risk to the safety or well-being of the beneficiary (and any derivative beneficiary) for whom a petition was filed."

"The Aytes Memo listed the following factors that should be considered in the "no risk" analysis: (1) The nature and severity of the petitioner's specified offense(s) against a minor, including all facts and circumstances underlying the offense(s); (2) The petitioner's criminal history; (3) The nature, severity, and mitigating circumstances of any arrest(s), conviction(s), or history of alcohol or substance abuse, sexual or child abuse, domestic violence, or other violent or criminal behavior that may pose a risk to the safety or well-being of the principal beneficiary or any derivative beneficiary; (4) The relationship of the petitioner to the principal beneficiary and any derivative beneficiary; (5) The age and, if relevant, the gender of the beneficiary; (6) Whether the petitioner and beneficiary will be residing either in the same household or within close proximity to one another; and (7) The degree of rehabilitation or behavior modification that may alleviate any risk posed by the petitioner to the beneficiary, evidenced by the successful completion of appropriate counseling or rehabilitation programs and the significant passage of time between incidence of violent, criminal, or abusive behavior and the submission of the petition."

"In cases where none of the intended beneficiaries are children, the Aytes Memo directs the close examination of the petitioner's specified offense and other past criminal acts (ex: spousal abuse or domestic violence) to determine whether the petitioner poses any risk to the safety or well-being of the adult beneficiary. However, USCIS uses the "beyond a reasonable doubt" standard in the "no risk' analysis, and in a 2014 decision, the Board of Immigration Appeals ruled that it lacked the authority to review the propriety and USCIS' use of that standard in adjudicating petitions under the Adam Walsh Act."

On May 20, 2014, the Dept. of Homeland Security got the Board of Immigration Appeals (BIA) to ratify the startling power that the DHS may deport a noncitizen for a crime committed by someone else.

On May 20, 2014, in the trilogy of decisions that are Matter of Aceijas-Quiroz, Matter of Introcaso, Matter of Jackson and Erandio, the Board answered some of these questions and refused to address others on jurisdictional grounds. Each decision represents a particular pronouncement of law regarding the AWA. As a single piece of work, the story is far more disturbing. In Aceijas-Quiroz the BIA held that it lacked the authority to review any challenges brought against the legal standard used by USCIS—"beyond a reasonable doubt"—when conducting a "no risk" analysis…In Introcaso, the BIA explained that a visa petitioner bore the burden of proving whether or not an offense was a "specified offense against a minor…In Jackson and Erandio the BIA held that the AWA applied to all convictions made by any US citizen at any time – even those that occurred, as they did in Jackson and Erandio, 25 years before

the AWA's enactment…The impact of these three decisions will undeniably be devastating for those families caught up in the immigration related provisions of the AWA. It now becomes far more likely that their visa petitions will be denied, without any meaningful opportunity to obtain administrative review of such denials.

The Immigrant Legal Resource Center advises attorneys, "Where the victim is a minor, counsel should attempt to plead to an offense that does not appear in the above list. If that is not possible, counsel should keep the age of the victim out of the reviewable record. However, it is not clear that the inquiry will be limited to the reviewable record and the categorical approach."

It IS possible to obtain a visa but according to the USCIS, they have denied 99% of all petitions under the AWA. They estimate denying petitions of over 4000 cases just in 2017.

REGISTRANT RUNS FOR CLEVELAND CITY COUNCIL

I-Team finds candidate running for local office is convicted sex offender
POSTED 25 MAY 2017 BY ED GALLEK, Fox 8 Cleveland

CLEVELAND--The FOX 8 I TEAM has found a convicted sex offender running for Cleveland City Council. Edward Hudson-Bey is gathering names on petitions to get on the ballot to represent Ward 10 on the city's northeast side. So we went to see him. We asked why anyone should vote for him as an SO with other criminal convictions. He responded, "Your past is your past. It's where you are today and what you're looking for tomorrow." But when we revealed this to voters in the ward, we found them taken aback. The ward includes Glenville and other neighborhoods -- poor areas with lots of violence. Current Councilman Jeff Johnson has a record for a federal corruption conviction. Yet Johnson is now running for mayor.

Hudson-Bey pleaded guilty to robbery in '07. His sex offense conviction came in '03 for sex with a minor, a 14-year-old boy. Hudson-Bey still has to register with the sheriff's department as n SO. We also found Hudson-Bey has older convictions dealing with stolen cars. The I TEAM wondered how can a guy like that even be eligible for a council seat? The state says, in general, Ohio law allows a convicted felon to run for office. However, it does not allow a convicted felon from taking office. Ultimately, what would happen if Hudson-Bey were to win could come down to a ruling by a local prosecutor or the state attorney general. Hudson-Bey is just one of several candidates exploring a run for Cleveland City Council in Ward 10.

Seems like an incredible long-shot, but Hudson-Bey believes, somehow, he can go from sex convict to councilman. He said, "Nobody's perfect." And he added, "I'm unbeatable. I'm honest. I'm open. I'm trustworthy."

REGISTRY FEES

Registration fees are becoming popular in a select growing number of locations. As of 2015 (when I first wrote my last updated the registry fees page at OnceFallen.com), 16 states have implemented some form of registry fee or granted authority for agencies to establish fees. Obviously, registry fees and the fear over possible legal trouble for failing to pay fees is a very real concern. Some state laws consider failure to pay registry fees part of the criminal charge of "failure to register." Exacerbating the possibility of arrest for failure to pay fees is due to the fact that registrants have far higher rates of unemployment than the average citizen. Most of these states do provide waivers due to indigence, and some states (like Ohio) consider failure to pay a civil matter. Possibly the worst news of all is no legal strategies have been successful at striking registry fees as unconstitutional.

Below is a list of the laws on fees I have been able to verify through state law, current as of 5/17/17. Keep in mind that some local ordinances allowed by the state create fees exceeding state law.

1. AL: $10 quarterly
2. CO: Municipalities can charge up to $75 initial/ $25 renewal
3. GA: Those convicted of a “dangerous Sx Offense” on/after July 1, 2006 must pay $250 annual fee
4. ID: SVPs pay $50 annual fee plus $10 per registration period; all others pays $80 annual fee
5. IL: $100 Initial; $100 annually; can be waived if declared indigent
6. IN: Counties authorized to impose up to $50 annual fee and $5 per address change
7. KS: $20 per registration period
8. LA: $60 Annually; failing to pay within 30 days constitutes FTR; some local ordinances have created fees of up to $600; courts can establish own rules to determine indigence
9. ME: $25 Annually
10. MA: $75 Initial; $75 Annually; can be waived for indigence
11. MI: $50 Annually
12. MS: Grants Dept. of Public Safety to charge a fee (currently at $11)
13. OH: Sheriffs are granted authority to charge up to $100 annually
14. OR: $70 Annually
15. TN: $150 Annually; local agencies can charge up to $50 more; failure to pay is FTR unless declared indigent
16. UT: $100 Annually; $25 more can be charged if the registering agency is other than the DOC

THE BIRTH OF ICoN by David E.

[ICoN Note: This is our 2 year anniversary. It was David E. who prodded me to start this newsletter, so I asked him to write something for our two year anniversary. These are his words.]

We all have a story to tell. Telling my story, one that begins with deviance and strife yet leads to lessons learned and uncovered blessings, was an important part of my journey to recovery. Few in the public care to hear my story, let alone sympathize or advocate for my rehabilitation. Yet, with the help from family, I found one such organization: a little known website called Once Fallen, ran by Derek Logue. Upon connecting with Derek, we discovered a common mission: righting the wrongs of our legal system and promoting the just treatment of offenders and registrants. He offered an outlet for sharing my experiences; I had a deep level of insight into prison life; he had connections to the public and expertise in legal matters; I provided encouragement to raise his advocacy efforts to another level. Through this marriage of interests, ICoN was born - the monthly newsletter you are now reading that shares legal news as well as treatment related messages to a large audience across the country. We are lucky to have leaders like Derek working tirelessly to champion our rights and spearhead efforts for a more just treatment of offenders and registrants - many of whom are seeking to live a peaceful, victim-free life. Thank you, Derek! Your work continues to help many.