ICoN Consolidated Newsletter, 2019A (Jan. to June 2019, #39-#44)

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 /30/2023.

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

NC - *Meredith v Stein*, No. 5:17-CV-528-BO (E. NC, W Div., Nov. 7, 2018): Ruled in favor of SO who moved from WA to NC & was initially told he did not have to register but was subsequently forced to register in NC. Plaintiff argued the mechanism by which NC places out-os-state SOs on the registry violated due process under the 14th Amdt. The Court found the state has NO clear way of determining who should register when moving to the state & NC's "current process for determining whether out-of-state offenses are 'substantially similar' to reportable convictions in NC violates plaintiff's procedural due process rights under the 14th Amendment."

Braylock, Breland and Mathews v City of Dayton, Court File No. 27-CV-18-199 (4th Dist Ct MN, 12/11/18): Issued an order determining that the City of Dayton's SO residence restriction ordinance was void and preempted by state law (sometimes referred to as "home rule," where a local law cannot be passed without being granted authorization by the state legislature). MN does not have statewide residency restrictions, and this lower court level decision is similar to a number of court rulings in other states where no statewide residency restriction exists while municipalities pass local level restrictions. Earlier in 2018, a US Dist Ct (First Lutheran Church v The City of St Paul, Case No. 0:18-cv-0954-JRT-KMM (USDC MN, 7/2/18)) also passed an injunction against a local residency restriction ordinance.

NM – The Albuquerque Journal reported that a lawsuit has been filed against Correctional Services Network of America LLC along with Jimmie Rae Gordon (CEO of CSNA) and Gloria Letcher (Gordon's step-mother and a manager of the company). The lawsuit says the corporation has been mailing postcards to inmates at a New Mexico prison and asking the inmates to get their relatives to enter into contracts with the business, but never perform any work after they are paid. Gordon claims CSNA helps inmates with various tasks, such writing letters to a warden on an inmate's behalf asking for a change to their living situation or helping inmates with appeals that they plan to file themselves for example. "We're not attorneys and we can't give legal advice, but we can assist them at their direction," Gordon said. I have covered a variety of potential scams in previous newsletters. This is yet another possible example of scammers playing on your desperation & that of your loved ones. If a service seems too good to be true it often a scammer.

FL – *Archer v State*, Case No. 5D18-665 (FL 5th App Ct, 25 Jan 2019): Archie, who was on sex offender probation, was violated for (among other things) traveling outside his county without the approval of his probation officer. Although he was wearing a GPS monitor that was supposed to alert him when he traveled outside the county, the alerts were not turned on that day. When Archie accompanied a friend to pick up another person who apparently lived in a neighboring county, the GPS detected the activity and ultimately he was violated for it. Case law precedent states that probation can be revoked upon a finding that a violation is willful and substantial. In order for something to be willful, it needs to be done knowingly. The Appellate Court found that, "no evidence was presented indicating that there was signage on the road that would have alerted Appellant that he was traveling into Sumter County. The State could not establish that Appellant willfully violated his probation without introducing evidence that he knowingly left Marion County." Many probation-related questions are asked by members who have been threatened with violations for petty infractions they may have done unknowingly. When faced with such a scenario, know that in order to be violated, the violation must be willful and substantial and unless there is evidence it was done knowingly, you can't willfully do something you are unaware of. (Editor's note: This analysis was extrapolated from the Florida Action Committee website.)

RI – The ACLU of RI settled a lawsuit against the state over a law that prohibits shelters from allowing more than 10% of their beds to be used by SOs. The parties agreed that, in implementing the statute, shelter providers will not be deemed to have exceeded the limitations so long as the shelter operator

reports to the local police the names of the individuals being housed overnight and that available alternative shelters or housing for the individuals were explored.

CA - *In re GREGORY GADLIN*, Case No. B289852 (CA 2nd App Ct, 28 Jan 2019): declared invalid a regulation promulgated by the California Department of Corrections and Rehabilitation which categorically bars inmates who were previously convicted of crimes requiring registration as a sex offender from seeking early parole under a recently-enacted constitutional provision. The opinion only invalidates the department's rule that registered sex offenders currently serving time for a conviction not requiring registration are prohibited from seeking early parole under a law created in 2016 by Proposition 57. It leaves open the question of whether those currently serving a sentence requiring sex offender registration are similarly barred. Proposition 57 added to the state Constitution article 1, §32(a)(1), which provides: "Parole Consideration: Any person convicted of a nonviolent felony offense and sentenced to state prison shall be eligible for parole consideration after completing the full term for his or her primary offense."

State of *NH v. Edward G. Proctor*, No. 2018-0031 (NH Sup Ct, 8 Feb 2019): Ruled a SO did not break the law by hiring a 16-year-old boy to work for his landscaping business. Proctor was convicted in 2017 under a law prohibiting certain SOs from undertaking employment or volunteer services involving the care, instruction or guidance of children. Proctor hired the teen in Feb 2016 for snow removal work and again in May 2016, driving him to job sites for weeding, mulching and other landscape work. He was arrested after the boy's mother typed Proctor's name into the SOR. Proctor argued that the law prohibits accepting certain types of employment, not providing employment. The Court did not weigh in on that argument but agreed with his second argument that the law, which specifically mentions jobs such as teacher, coach and camp counselor, only prohibits activity that inherently involves children.

Doe v. Marshall, CASE NO. 2:15-CV-606-WKW [WO] (M.D. Ala. Feb. 11, 2019): Ruled part of AL's internet reporting requirements & branded identification requirements are unconstitutional under the 1st Amdt (but rejected 14th Amdt arguments, specifically challenges on the vagueness). The specific internet reporting requirements referenced include requirements for SOs to provide law enforcement with a list of any and all internet providers used and a list of any email addresses or instant message address or identifiers used, including any designations or monikers used for self-identification in internet communication or postings other than those used exclusively in a lawful commercial transaction. He also called the internet reporting requirements "overbroad." Ruling also declared unconstitutional the state's requirement for SOs to have a valid driver's license or other identification card that identifies the person as a sex offender.

From IL Voices -- Lawsuit #3: "3 to Life" Mandatory Supervised Release, Paul Murphy et al v. Kwame Raoul et al, U.S. District Court for the Northern District of Illinois Case #: 1:16-cv-11471 -- This lawsuit challenges the constitutionality of a legal scheme whereby individuals who have been convicted of certain sex-related crimes in Illinois end up serving life sentences in prison as the result of the interactions of various state laws and state agency regulations promulgated by three distinct entities—the Illinois legislature, the Prisoner Review Board ("PRB") and the Illinois Department of Corrections ("IDOC"). In particular, individuals convicted of sex-related crimes who are sentenced to three years to life of mandatory supervised release ("MSR") find themselves stuck in prison for life as a result of the imposition of unmeetable restrictions on where they can live that must be satisfied in order for such individuals to be released on MSR. Update 3/31/19: Judge Kendall issued an opinion for the Federal Dist Ct today, granting the Plaintiff's motion for summary judgment in part. In the opinion the judge said "At the very heart of liberty secured by the separation of powers is freedom from indefinite imprisonment by executive decree. The AG and Director's current application of the host site requirement results in the continued deprivation of the plaintiffs' fundamental rights and therefore contravenes with the 8th and 14th Amendments to the US Constitution." Page 56 of the order says that "the defendants' application of the

host site requirement constitutes cruel and unusual punishment." The court granted the plaintiffs' motion for summary judgment on their equal protection and 8th Amendment claims but denied the substantive and procedural due process claims. The next hearing will be on 4/22/19 to discuss a trial date for the procedural due process claim and the need for a remedial hearing to determine the scope of equitable relief for the plaintiffs. What this means is that the state cannot detain SOs set for release because they do not have a place to go upon release.

GA – *Park v The State*, S18A1211 (GA Sup Ct, 3 Mar 2019): Ruled lifetime GPS ankle monitors for a "predator" violate the 4th Amdt protection against unreasonable searches and seizures. "The permanent application of a monitoring device and the collection of data by the State about an individual's whereabouts twenty-four hours a day, seven days a week, through warrantless GPS monitoring for the rest of that individual's life, even after that person has served the entirety of his or her criminal sentence, constitutes a significant intrusion upon the privacy of the individual being monitored. See, e.g., United States v. Jones, 565 U.S. 400, 407 (132 SCt 945, 181 LE2d 911) (2012)"

1st Cir – *Pagan-Gonzalez v Moreno*, No. 16-2214 (1st Cir, 22 Mar 2019): "This case requires us to consider the constitutional boundaries for the use of deception by law enforcement officers seeking consent for a warrantless search. We conclude that the search at issue here violated the 4th Amdt because the circumstances -- including a lie that conveyed the need for urgent action to address a pressing threat to person or property -- vitiated the consent given by appellants." (Following is condensed from Justia.com) "The 1st Circuit vacated in part the district court's grant of Defendants' motion to dismiss Plaintiff's complaint, holding that the warrantless search in this case violated the 4th Amdt because the circumstances, including deception by law enforcement officers, vitiated the consent given by Plaintiff. Plaintiff alleged that he consented to FBI agents' entry into his home and search of his computers only because the officers lied about the true reason of why there were there and what they were looking for. The district court granted Defendants' motion to dismiss for failure to state a claim. The First Circuit vacated in part and affirmed in part, holding (1) because the totality of the circumstances pointed to a situation involving beguilement, the government did not meet its burden to prove voluntariness, and therefore, the warrantless entry into Plaintiff's home and the search and seizure of his computer violated the Fourth Amendment; (2) Defendants were not entitled to qualified immunity on Plaintiff's search-based Fourth Amendment claim because any reasonable officer would have recognized that the circumstances were impermissibly coercive; and (3) even if Plaintiffs' malicious prosecution claim had merit, Defendants would be entitled to qualified immunity." The case involved the FBI lying to a man that his modem was sending out viruses to DC when in reality, the FBI came to search his computer for CP.

FL – *Berben v State*, Case No. 5D17-1428 (5th FL App Ct, 12 Apr 2019): Remanded a lower court's sentence of 100 years for a CP conviction: "When imposing the sentence, the trial court made specific and unsubstantiated comments, concluding that Berben had actually distributed the pornographic images and further equating such conduct to actual, physical or sexual abuse of a minor… Further, the trial court saw "little difference in the culpability between those who actually sexually abuse and exploit children and those who encourage and promote conduct by downloading and sharing videos of such," neither of which Berben was charged with." As one of the concurring opinions mentioned, "Make no mistake, those who possess child pornography face lengthy prison sentences. However, they are not generally sentenced to life in prison."

7th Cir. -- *Lacy v Butts*, No. 17-3256 (7th Cir, 25 Apr 2019): Ruled IN's requirement that SO inmates give detailed accounts of their past actions violates the Constitution's protections against self-incrimination. "Prison rehabilitation programs may offer benefits and incentives by conditioning visitation rights, work opportunities, housing in a lower-security unit, & other privileges on an offender's willingness to admit responsibility for the crime of conviction. McKune v. Lile, 536 U.S. 24, 40 (2002). But the 5th Amendment draws one sharp line in the sand: no person 'shall be compelled in any criminal

case to be a witness against himself.' US 5th Amdt. (emphasis added). This case requires us to decide whether IN's SO Management & Monitoring (INSOMM) program crosses that line with its system of revoking good time credits and denying the opportunity to earn such credits for convicted sex offenders who refuse to confess their crimes. In an action brought by a class led by D.L., an inmate subject to INSOMM, the district court ruled that Indiana's system as currently operated impermissibly compels self-incrimination and must be revised.

FL -- *McKenzie v. Florida*, Case No. 5D18-2206 (5th DCA, 10 May 2019): Reversed an order designating a man as a "sexual predator" three years AFTER he had completed his sentence. The Appeals court found that the lower court lacked jurisdiction over the individual to enter the order. Once the sentence has been served, the court did not have the authority to belatedly designate him as a sexual predator.

FIRST STEP ACT FINAL REPORT

The First Step Act (S.756 - 115th Congress) was signed into law on 12/21/18 and now we have the clearest picture of what the First Step Act means for federal SO inmates. The short answer is that very few people, especially SOs, will benefit in any way from the First Step Act; the Act is aimed primarily at "low level drug offenders". It is important to note that S.756 was originally a completely different bill called the "Save Our Seas Act," but the text of that bill was replaced with the First Steps Act (which was originally S.3649) so people researching the bill progression on the congress.gov site or other bill tracking sites need to know this so they won't get confused. Also, I'm only covering the parts relevant to SOs so I won't be covering many of the other sections.

The First Step Act contains 6 Titles: Title I covers "Recidivism Reduction," creating various prison programs that certain inmates can take to earn credits towards early release, among other privileges. Title II is the BOP Secure Firearms Storage. Title III prohibits restraints on pregnant and post-partem women. Title IV covers sentencing reforms. Title V reauthorizes the Second Chance Act of 2007. Section VI covers miscellaneous criminal justice issues.

Title I, Section 101 creates a "Risk and Needs Assessment System" and will amend 18 USC 229. Under subsection 3632, the USAG will have 210 days to develop & publicly release a risk and needs assessment program. (Of course, it will likely take longer to actually implement the plan.) This plan will include incentives for program participation, such as phone and/or video conferencing privileges up to 30 min/day and 510min/mo., transfers to institutions closer to release residence, and optional incentives like increased commissary limits, more email privileges, consideration for transfer to preferred housing units, and other incentives.

Subsection 3632(d) covers rewards, and of particular interest is 3632(d)(4) which allows prisoners to earn 10 days good time for every 30 days of successful participation in prison programs, plus those deemed a minimum or low-risk of recidivism can earn an additional 5 days for every 30 days of successful participation (this does not apply to programs taken BEFORE this law is implemented). Time credits earned under this paragraph by prisoners who successfully participate in recidivism reduction programs or productive activities shall be applied toward time in prerelease custody or supervised release. These credits will NOT be retroactively applied to your participation in past programs.

Subsection 3632(d)(4)(D) is the list of inmates NOT eligible for the above-listed incentives. Again, I'm only covering SO-related offenses ineligible for the incentive programs: 18 USC 116 (Female Genital Mutilation), 18 USC 55 (kidnapping)18 USC 109A (sexual abuse), 18 USC 2250 (Failure To Register as SO), 18 USC 2251 (Sexual Exploitation of Children), 18 USC 2251A (Buying/ Selling Children), 18 USC 2252 (Certain activities relating to material involving the sexual exploitation of minors), 18 USC

2252A (Certain activities relating to material constituting or containing child pornography), 18 USC 2260 (Production of sexually explicit depictions of a minor for importation into the US), Any offense under chapter 77, relating to peonage, slavery, and trafficking in persons, except for sections 1593 through 1596, OR an offense described in section 3559(c)(2)(F), for which the offender was sentenced to a term of imprisonment of more than 1 year, if the offender has a previous conviction, for which the offender served a term of imprisonment of more than 1 year, for a Federal or State offense, by whatever designation and wherever committed, consisting of murder (18 USC 1111), voluntary manslaughter (as described in 18 USC 1112), assault with intent to commit murder (18 USC 113(a)), aggravated sexual abuse and sexual abuse (18 USC 2241 and 2242), abusive sexual contact (18 USC 2244(a)(1) and (a)(2)), kidnapping (18 USC 55), carjacking (18 USC 2119), arson (18 USC 844(f)(3), (h), or (i)), or terrorism (18 USC 113B). On a related note, if you're subject to deportation after you complete your sentence, you are ineligible for this program.

This is a lot of offenses to cover so if are unsure which statute you fall under, I can only suggest to consult the US Code to see if your specific offense is a part of this list. (Reminder: I only covered sex offenses; numerous other crimes were also excluded.)

Under Title I, Sec. 602, the AG has 180 days to implement the plan once the AG report mentioned in Sec. 601 is finalized, including assigning risk levels to prisoners. Thus, the Act gives the AG until 1/15/2020 (390 total days from 12/21/18) to implement this incentive program. Expect a request for an extension of that deadline.

Under Title I, Sec. 102, (b)(1)(A), 18 USC 3624 is amended in subsection (b)(1) -- (i) by striking "beyond the time served, of up to 54 days at the end of each year of the prisoner's term of imprisonment, beginning at the end of the first year of the term," and inserting "of up to 54 days for each year of the prisoner's sentence imposed by the court,"; and (ii) by striking "credit for the last year or portion of a year of the term of imprisonment shall be prorated and credited within the last six weeks of the sentence" and inserting "credit for the last year of a term of imprisonment shall be credited on the first day of the last year of the term of imprisonment" and replacing it with a section discussing prerelease options for eligible prisoners.

In light of the amount of misinformation the prison "grapevine" tends to spread, I want to point out that the First Step Act DOES NOT increase good time from 47 days to 54 days. 18 USC 3624(b)(1) already offered UP TO 54 days a year, so the First Step Act didn't really change good time. Since the law states the prisons can offer UP TO 54 days means that prisons can offer any number of days from none to 54 days. This does not mean any of you WILL earn 54 days a year.

Nothing in Title IV regarding sentencing reforms benefit anyone except non-violent drug offenders. Title V only covers reauthorizing existing programs under the Second Chance Act of 2007 and making a few semantic changes to the language of the bill.

Under Title VI, Sec. 603(a)(5), Section 231(g) of the Second Chance Act of 2007 (34 USC 60541(g)) is amended to create progrms for terminally ill patients in need of special care. However, eligibility for this program is defined as "serving a term of imprisonment based on conviction for an offense or offenses that do not include any crime of violence (18 USC 16 (a)), sex offense (sec. 111(5) of 34 USC 20911(5)), offense described in section 18 USC 2332b(g)(5)(B) or 18 USC 37."

Finally, under Title VI, Sec. 609, administrative changes as listed below:

ENSURING SUPERVISION OF RELEASED SEXUALLY DANGEROUS PERSONS.

(a) Probation Officers.—Section 3603 of title 18, United States Code, is amended in paragraph (8)(A) by striking "or 4246" and inserting ", 4246, or 4248".
(b) Pretrial Services Officers.—Section 3154 of title 18, United States Code, is amended in paragraph (12)(A) by striking "or 4246" and inserting ", 4246, or 4248". This is merely an administrative change referring to record keeping. 4246 refers to 18 USC 4243 - Hospitalization of a person found not guilty only by reason of insanity, and 4248 refers to 18 USC 4246 - Hospitalization of a person due for release but suffering from mental disease or defect.

In sum, very few people will see any real benefit from the First Steps Act. If you do, consider yourself one of the lucky ones.

The full text of the version of the First Step Act that was signed into law can be found at https://www.congress.gov/bill/115th-congress/senate-bill/756/text

FARM BILL PASSES, NO EXCLUSIONS FOR RCs

As mentioned in the Oct 2018 issue (#36), an Amendment had been added to the Farm Bill which would have excluded registrants from obtaining food stamps. To review, under current law, RCs are exempt from food stamps ONLY IF they are "failing to comply" with conditions of release, such as failure to register. It is essentially a "fleeing felon" rule. The Amendment would have excluded that failure to comply requirement. It was in the House version of the Farm Bill, the one Trump preferred. Thankfully, this Amendment was omitted from the final version of the Farm Bill. The Farm Bill is a law that comes up for renewal roughly every 5 years; however, registered persons cannot rest on this reprieve, as the next attack on our most basic needs can come at any time.

Had this bill passed, it would have joined a growing list of federal government programs registrants cannot receive. Currently, SOs cannot get Section 8 Housing (only officially applies to lifetime registrants but rarely can SOs pass a screening process) as well as Small Business Loans. Another plan to prevent SOs from obtaining Federal Housing Authority (FHA) Loans but failed to pass. No plans to prevent SOs from obtaining SSI or Medicaid/ Medicare have been proposed as of yet.

READER SUBMISSION: ON 18 USC 2251(a)

(DISCLAIMER: This is an inmate submission; as I am merely passing along the info, & because I state in the intro above I do not handle issues related to sentencing policy, I cannot clarify what is stated here if you are confused by this article & have further questions.)

As most people know 18 USC 2251(a) prohibits any person from employing using persuading inducing enticing or coercing any minor to engage in any sexually explicit conduct for the purpose of producing any visual depiction of such conduct, i.e., the sexual exploitation of a minor. A good majority of people who fall under this statute are charged with production of CP, not sexual exploitation of a minor. This seemed funny to me so I wrote my sentencing judge and surprisingly got a response. See Smith v US, 2015 US Dist LEXIS 172406. My judge wrote, "There is not such language in the statute, because it was not written to prohibit the production of a visual depiction of sexually explicit conduct involving a minor. Rather it makes criminal certain acts that would make it possible to produce such a depiction." Check it out for yourselves, as I've researched for years. I've also come across HR 1761, in which Congress admits that sec. 2251 does not prohibit production of CP, and they want to amend the statute to add an offense that prohibits production. I encourage you to look into this too. I've done my part by doing the research; I'm going to leave it up to you what you want to do with it. Good luck & fight the fight. -- Ken

DOCTRINE OF VESTED RIGHTS

In the battle against tough-on-crime laws, we have scored some victories, but no sooner than a court decision comes out in our favor, some politician tries to reinstate the law. A paralegal shared this particular doctrine with me in case some of those reading this with legal experience might want to utilize in a future court battle over rights already granted to us.

You hear this discussed most often in property rights cases, but the Doctrine of Vested Rights is defined at USLegal.com this way:

"Doctrine of vested rights as applied in constitutional law protects a person, who won a legal decision, from a legislature seeking to overturn the decision. This was first announced in McCullough v. Virginia, 172 U.S. 102 (U.S. 1898) wherein the court held 'It is not within the power of a legislature to take away rights which have been once vested by a judgment. Legislation may act on subsequent proceedings, may abate actions pending, but when those actions have passed into judgment the power of the legislature to disturb the rights created thereby ceases.'"

For example, if you won a court case on a city's residency restriction law, the city legislature could not pass a new ordinance trying to pass similar restrictions against you. This doctrine may prove useful someday so it was worth sharing.

WRITING LEGISLATORS

I've been an activist for over a decade, & dealing with legislators has been a central part of my efforts to reform the registry. Even I have room to grow, however. At last year's NARSOL Conference, a successful professional lobbyist gave us a number of tips to better help with reform campaigns. I'll add a few insights of my own. (If you have friends on the outside wanting to learn more, the link to the video I reference is https://youtu.be/gF0kN2qiTZA]. Since you obviously can't meet legislators face-to-face, I'm focusing on the act of writing legislators. The tips below should help with your future writing campaigns.

Consider the political climate: Pols don't like discussing SO laws, so they tend to breeze through them. Pols don't always read bills. Like most of you, pols get their info from the media. They also get info from lobbyists & special interest groups. Do you know your legislator's party affiliation? Research your legislator if possible. There ARE some differences between the parties. Republicans are more tough-on-crime but cost-conscious, Democrats are concerned with helping the disadvantaged and thus receptive to the perceived plight of crime victims, and libertarians are focused on the constitutionality of laws.

Do your research: This one seems obvious, but keep in mind that your target audience mostly likely has no real knowledge on the subject. Pols are reluctant to do anything that hasn't already been done. What do you know has been tried successfully in other states? Do you know which pols are passionate about criminal justice issues? It makes no sense to write a pol on the banking or health care committee but it makes a lot of sense to write members of a criminal justice committee. Who is the chair of that committee?

Develop a simple & effective message: Since many legislators lack the time (& maybe the desire) to read lengthy diatribes, a one page summary of your argument with three key bullet point arguments are best. Don't use "form letters"; Use your own words. Some of you do have terrible writing styles—run on sentences, you don't space paragraphs, you make your entire letter one long paragraph, misspellings, bad handwriting, trying to use too many big words and lofty speech, etc. If you suck at writing, hire a proofreader. If possible, get feedback from others before sending. Consider the fact that quite a few pols

were blue-collar guys & won a beauty contest. Not all were Harvard educated. I cannot stress enough the importance of following this rule.

A good letter to your legislator will follow this suggested pattern:

Dear (Name of Legislator),

My name is (you), and I'm concerned about (bill/issue). (Brief description of how this bill/issue impacts you and your loved ones).

(Three main bullet points of your argument, like why the bill sucks, why it is ineffective, and perhaps a better solution while explaining why this is a better solution)

(Your closing argument). Thank you for your time. (your name & contact info)

Persistent but Polite: Writing a single letter often is not enough. It is not uncommon to get a form letter from pols thanking you for the issue (at times, I've gotten form letters from someone who obviously didn't read my argument as it was thanking me for my SUPPORT of the bad law I was opposing). Write back as a follow up, multiple times if necessary, to show that you are genuinely concerned and want a definitive answer. Bills on the federal level often take months to pass (state laws can pass awfully quickly).

INTERSTATE TRAVEL

One question I get a lot is what happens when a registered person merely travels to another state to visit family or to just take a vacation. There honestly is not an easy answer. Part of the problem is many states do not have laws that address rules for travel. Thankfully, one researcher published a study that helps answer this question. (Reference: Rolfe, Shawn. "When a Sex Offender Comes to Visit: A National Assessment of Travel Restrictions." Criminal Justice Policy Review. Nov. 2017. Found online at https://www.researchgate.net/publication/321062728_When_a_Sex_Offender_Comes_to_Visit_A_National_Assessment_of_Travel_Restrictions)
Here are the key findings of this report:

30 states place "visiting" registrants' information on their state's SOR website. Of those 30 states, 22 states (AR, CA, CT, FL, GA, ID, IN, KY, MD, MA, MS, MO, MT, NC, SC, SD, TX, UT, VT, VA, WI, WY) never remove the registrant's information once they have left the state and returned to their permanent place of residence. For these states that do remove nonresident sex offenders from their public sex offender registry, the process for removing a nonresident registrant from their registry appeared to be complex and further time-consuming. For instance, the registrant had to either complete a checking-out process with the registration office in which they originally registered at when they arrived in the state, or the registrant must have their resident state send confirmation to the state in which the registrant visited that they have returned to their place of permanent residence. 22 states never remove nonresident registrant from their public registry; however, MO did state that registrants were removed from the registry, but removal occurs 1 year after the registrant had left their state.

46 states do require nonresident SOs to register with their state. RI suggested that registrants who want to visit their state should first contact the state's SORN office to determine whether or not they had to register. Three states (NY, OR, PA) did not require registrants who were visiting their state to register. Despite there not being a requirement, each state's SORN office highly recommended that nonresident registrants contact the registration office closest to where the sex offender will be staying. AL requires

their resident registrants to submit a travel permission form (requiring approval) at least 3 business days prior to wanting to travel outside of the state.

29 states (AL, AR, CA, CO*, FL, HI, IL, IA, KY, ME*, MI, MS, MO, MT, NE, NJ*, NM, NC, ND, OH, OK, SC, TN, TX* UT, VA, WA, WI*, WY) indicated that residence restriction laws, where applicable, would need to be followed, too. (States marked with an asterisk did not have a statewide mandate, but nonresident registrants are still required to follow any local residence restriction ordinances, when applicable.) Six states (HI, NM, ND, TX, UT, WA) have residence restriction laws only for registrants currently on probation or parole that also applied to nonresident registrants. There was one state (SC), however, that mandates that any registrant who is required to abide by a residence restriction law in their resident state must adhere to those same guidelines when visiting SC. For example, if a registrant who lives in OH cannot reside within 1,000 feet from schools and daycare centers, then they cannot stay in a location that would violate this policy.

While all but three states (NY, OR, PA) require nonresident registrants to register with the state they are visiting, the maximum number of days allotted in which nonresident registrants can be in the state before having to register varies by state. Depending on the state, such allotments can range from 2 days (NV) to 30 days (AK). Alaska's SORN Office did, however, state that nonresident registrants were still required to submit a "visitor's form" to them prior to entering the state. If the registrant is going to be in Alaska longer than 30 days, then they are required to register in-person at one of the state's designated SOR offices.

The number of days allotted for nonresident registrants to register in another state is not universal; states also have varying definitions on what constitutes as "days." Some states define "days" as consecutive, which means the registrants' allotted number of days starts once they have entered the state, regardless of whether it is a business day or not. Some states such as AK, CT, DE, IA, NE, and WY require registrants to register within so many business days after arriving in their state. If the registrant arrives in the state during the weekend or on a holiday, the number of days allotted for the registrant does not start until the first available business day, and is also consecutive.

15 states also include stipulations for a specified number of aggregate days in a calendar year; when a registrant travels in and out of one of these states, they are required to register with that state once the total number of days permitted in a calendar year has been exhausted. The number of aggregate days allotted can range from one state to the next: 3 Days- FL, 5 Days- AR, IL, 7 Days- MO, 10 Days- UT, 14 Days- MA, 30 Days- CA, CO, KY, ME, MN, NM, NC, ND, SC, WI

The location of where nonresidents are required to register when visiting a state also varies. For the states that require nonresident sex offenders to register, one of four law enforcement agencies were used for the purpose of registration: State Police, Sheriff Departments, Department of Corrections, and Local Police Departments. Most states rely on their Sheriff Departments to carry out this task, and in these states that require a visit to the Sheriff's Department to register, there are usually numerous registration facilities at which nonresident registrants can register. For other states with different registration locations, however, location options are more limited. In Ct, nonresident RSOs are required to register at CT's State Police Headquarters, which is located in Hartford. This means that regardless of where a registrant plans to stay in CT, the nonresident SO must travel to Hartford within 5 business days of entering the state to register.

Every state had a minimum set of guidelines and requirements for registering nonresident RCs: valid identification, criminal background check, SOR forms, picture taken, fingerprinting, and the physical address of where the registrant will be staying. Some states required nonresident registrants to submit their DNA. And depending on the state, the cost associated with collecting the registrant's DNA was at the registrant's own expense. Additionally, some states (n = 12) required registrants to pay a registration

fee. These fees ranged from as low as $10 (Alabama) to as high as $100 (Illinois). Anecdotally, the author also learned that the registration process for nonresident registrants could take, on average, an hour or two longer.

Most states relied on the same language or law used to register sex offenders who moved into their state and became a permanent resident for registering nonresident sex offenders. For example, Delaware explicitly states that all sex offenders are to be designated as a “move-in” offender, regardless of the RC’s purpose or how long they intend to be in the state. While most states followed a similar course, a few states did in fact have a statute specifically addressing registrants visiting their state. It should be noted that many of them were not easily interpretable, especially for the layperson.

MOVING TO A NEW STATE

In previous newsletters, I’ve covered interstate and even international travel. However, moving to a new state comes with a different set of conditions and burdens for RCs.

Most ICoN readers are federal prisoners & thus subject to the offense-based classification scheme adopted by the federal Adam Walsh Act (AWA), passed in 2006. This means you are given a Tier level that corresponds to the number of years you will have to register; Tier 1 SOs register for 15 years, Tier 2 SOs register for 25 years, and Tier 3s register for life. However, how you will be classified by the state of your residence may vary, EVEN IN AN AWA STATE! In addition number of states (AL, CA, CO, FL, GA, HI, OR, SC, WY), maintain lifetime reporting requirements for ALL registrants, though CA and OR are currently converting to a tier system. MO converted to a 3 tiered system in 2018. AR has a four-tier system in place. Most states have a 3 tiered system.

The main difference between an AWA compliant state and one that is not compliant is how SOs are classified assuming a tier system even exists. Many non-AWA states utilize a risk-based classification scheme. This means you would undergo a barrage of psychological tests & actuarial tests like the Static-99 to determine under which tier you’ll be forced to register. Under the AWA, tier systems are based upon your official charges; any registrant with a hands-on offense. Below is the suggested tier system breakdown adopted by the AWA (for my Corrlinks readers, most of you are federal prisoners and will be classified by the AWA):

Tier I Offenses — Convictions that have an element involving a sexual act or sexual contact with another, that are not included in either Tier II or Tier III, including: False Imprisonment of a Minor; Video Voyeurism of a Minor; Possession or Receipt of CP; The following Federal Offenses: Video Voyeurism of a Minor, 18 U.S.C. Receipt or Possession of CP, Receipt or Possession of CP, Misleading Domain Name, Misleading Words or Digital Images, Coercion to Engage in Prostitution, Travel with the Intent to Engage in Illicit Conduct Engaging in Illicit Conduct in Foreign Places; Arranging, inducing, procuring, or facilitating the travel in interstate commerce of an adult for the purpose of engaging in illicit conduct for financial gain); Filing Factual Statement about Alien Individual, Transmitting Information about a Minor to further Criminal Sexual Conduct; Any comparable military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. §951 note)

Tier II Offenses — Convictions that involve: A person previously convicted of a tier I offense whose current sex offense conviction is punishable by more than one year imprisonment: The use of minors in prostitution (to include solicitations); Enticing a minor to engage in criminal sexual activity; A non-forcible Sexual Act with a minor 16 or 17 years old; Sexual contact with a minor 13 or older; The use of a minor in a sexual performance; The production or distribution of child pornography; The following Federal Offenses: Sex Trafficking by Force, Fraud, or Coercion; arranging, inducing, procuring, or facilitating the travel in interstate commerce of an adult for the purpose of engaging in illicit conduct for

financial gain; Abusive Sexual Contact, Victim 13 or Older; Sexual Exploitation of Children; Selling or Buying of Children; Sale or Distribution of CP; Sale or Distribution of Child Pornography; Producing CP for Import; Transportation for Prostitution; Coercing a Minor to Engage in Prostitution, Transporting a Minor to Engage in Illicit Conduct; Any comparable military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. §951 note)

Tier III Offenses — Convictions that involve: A person previously convicted of a tier II offense whose current sex offense conviction is punishable by more than one year imprisonment; Non-parental kidnapping of a minor; Sexual contact with a minor under 13; The following Federal Offenses: Aggravated Sexual Abuse; Sexual Abuse; Sexual Abuse of a Minor or Ward; Abusive Sexual Contact, victim under 13; Any comparable military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. §951 note)

Currently, 17 states (AL, CO, FL, KS, LA, MD, MI, MS, MO, NV, OH, OK, PA, SC, SD, TN, WY), 4 US Territories (Guam, Virgin Islands, American Samoa, & N. Mariana Islands), and 133 Indian tribes have "substantially implemented SORNA", the registry section of the AWA. (Oddly, DC, a federal territory, is NOT AWA compliant.) However, the AWA is a set of minimum standard rather than a universal standard. AWA states can have more stringent requirements, like AL and FL, which require lifetime registration with no tier system in place, and still considered AWA compliant.

This system is very complicated and can cause major problems when moving from state to state. One common problem with moving state-to-state is that registry status often defies the law of gravity, meaning your status can go up but rarely comes down. For example, a Tier 1 registrant no longer required to register in OH because he timed out moved to FL, where everyone registers for life, and now the OH registrant is a lifetime FL registrant and will be on the FL list even after he dies. A second caller moved from WI, who labeled him a Tier 1, moved to a state that classified him a Tier 3, and when returning to WI, was classified a Tier 3. Some states keep you on their registries even if you don't live in that state. Many, but not all, states try to pigeonhole out-of-state RCs into a corresponding tier, but it may cause a person to be improperly labeled as a "predator."

If you have been removed from the registry in one state but are forced to register in another state, it is possible to be removed from the registry via court order if you are willing to fight registration. A couple of recent cases, one in North Carolina, the other in Florida, give hope for removal from the registry upon moving to a new state under specific circumstances:

- Meredith v Stein, No. 5:17-CV-528-BO (E.D.N.C., 7 Nov 2018): Ruled the state's process for adding people to the NC registry who had been convicted out of state deprived Plaintiff of a cognizable liberty interest and the procedures protecting that interest were constitutionally inadequate. The Plaintiff moved from Washington state; NC officials initially told him he would not have to register, but forced him to register anyways upon arrival.
- In the May 10, 2017 edition of The Islander (A weekly newspaper in Holmes Beach FL), it was reported that The 12th Circuit State Attorney Office had dropped a case against a man accused of FTR because his crime predated the registry in Indiana, where the man had been convicted. The defense provided the state with a 2011 court order from Indiana, which "specifically states that the defendant is not required to register because his conviction predated the registry," Assistant State Attorney Shanna Sue Hourihan wrote in the memo.

The most common misperception that has led to numerous criminal charges for FTR is the assumption that an RC moving from one state to another only has to notify one state of the move. An RC moving from OH to FL has to notify BOTH states within the timeframe the state gives; for OH that's within 72 hours of a move, and for FL, within 48 hours of the move. Another problem moving to a new state is that

states that may not have statewide residency or presence restrictions may allow counties & municipalities to adopt such laws. In states with residency laws, not all states contain provisions within the law that allows registrants to keep their homes/ apts. if they resided in the property before a prohibited place moves close to them. Even if you no longer have to register in one state due to timing out or obtaining relief from registration requirements (via pardon or relief by court order), some states may force you to register.

No matter which type of court convicted you – state, federal, military, territorial, or even the court of a different nation—EVERYONE forced to register will experience these difficulties. Therefore, my best advice for any SO moving to a new state, whether currently forced to register or not, is contact the registration office before you plan on moving to find out what restrictions and/or tier you may land on long before you finalize a move. You must research each state's laws. There is no worse feeling than buying a new home or moving into that new apartment only to be forced to move because someone opened a new daycare down the street. Be sure to give sufficient time to the registry officers in both the state you are leaving and the state you are moving to of your intent to move. A little headache today can save you a lot of headaches down the road.

HOW THE DEFINITION OF 'OVERT ACT" HAS CHANGED OVER 20 YEARS
From floridaactioncommittee.org, 11/19/2018

(ICoN Editor's note, this applies specifically to FL. However, you may find this useful in challenges to sting operation challenges.)

The facts are similar though the cases are 20 years apart. After some online communication, a man plans to meet who he thinks is a minor, only it's actually an undercover police officer. When he shows up at the intended meeting point, he is arrested and charged with a crime.

In 1998's State v. Duke, No. 96-3339 (FL 5th App., March 27, 1998), the 5th district court of appeals held that merely showing up was not sufficient to constitute the "overt act" sufficient to warrant Duke's conviction of attempted sexual battery. "The overt act must reach far enough towards accomplishing the attempted crime as to amount to commencement of consummation of the crime."

In 2018's Berger v. Florida, No. 5D17-1313 (FL 5th App, Nov. 16, 2018) the same district court ruled otherwise. In Berger, the man responded to an ad on Craigslist to have sex with an adult man and woman. When the person responding (obviously an undercover police officer) suggested he wanted someone to teach his minor daughter about sex, Berger initially said that's not what he was looking for but nonetheless was open minded. Only, unlike in Duke, when he showed up and was arrested, the charges stuck.

When addressing the Duke decision – the Berger Court stated, "We now recognize that Duke was wrongly decided and recede from its holding." But did they really get it wrong or, in our culture's zeal to convict, have we loosened the standards of what it takes to consider someone to have attempted a crime?

How many times have you thought something sounded like a good idea but then backed out when confronted with the actual act? I'm sure if you ask a skydiving company how many people go up in the plane, but when it's time to jump they change their mind, they will tell you many.

Who is to say that Berger, when confronted with the minor, would not have said, "This isn't what I was looking for and I can't go through with it!"? Over the years the opportunity to abandon an offense has been reduced. According to the Berger decision, showing up is where the new line is drawn.

CYA: SELF-MONITORING CAN SAVE YOUR LIFE

As a registered person, I've had fears of being arrested for a false allegation since my release in 2003, and last month, my worst fears came true. Five days after I lost nearly everything in an apartment fire, I have been falsely accused of a theft in Florida, and I spent 24 days behind bars before being out on bond just before the end of March. I will easily prove my innocence thanks to some advice I received many years ago. I was once told to save receipts and keep a log of my daily activity. For years, I kept little Ziploc bags full of receipts. Unfortunately, they were lost in a fire. Thankfully, we live in a modern age and now I can prove my innocence without those little faded sheets of paper.

For better or for worse, nearly everything you do is tracked—online activity, credit cards, cell phone, emails, and practically anything you do electronically is tracked. My advice is the opposite of whatever conspiracy theorists and anti-gov't types like to advise people, because as an RC, I actually desire to have a record of my activities in case someone falsely accuses me of a crime.

Because some of my readers may not be familiar with the latest technology, I will explain each form of technology with details. Even so, this is NOT comprehensive. New forms of technology pop up regularly, and while the amount of info collected on us might be a bit unsettling, there are times where knowing companies have large amounts of info on your daily activity can be useful to you. Below are a few different ways to verify where you were at should you face a false accusation like I have.

Credit/ Debit/ EBT/ Loyalty Program Cards

Any card used for purchases keep detailed records of purchase times and locations. You're likely aware that debit/ATM cards (connected to your bank accounts) and credit cards obviously keep records, but some of you might not be aware your EBT food stamp/ benefit cards keep detailed records too. Even loyalty reward cards (like my Kroger Rewards Card), cards that offer points or exclusive discounts, collect shopping information. For example, I can see every purchase I made in the past 2 years where I had scanned my Kroger Rewards Card along with the date and location where I shop.
Smartphones

Unless you are unable to own a smartphone upon your release, having a smartphone will be one of the best ways to monitor your daily activity. Technology has advanced greatly in years, and today's portable phones take photos, use GPS positioning and maps, and connect to the Internet and the various social media websites. If you buy a smartphone with the Android operating system, then it is connected with Google. Unless you choose to block your location, Google tracks your cell phone movement; you can check that info on Google Maps to see where all your cell phone traveled that day (and presumably you with it). At the least, phone companies also keep records of phone calls and text message sent and received from your phones, so you can use those records to build up a case. Under a court order, these phone companies can also take that info and triangulate the info from cell phone towers to determine where you were located while on the phone. There may be other software programs or "Apps" that can track your activity.

Computers

Computer software stores many types of records. If you create a word processing document or upload files like a picture to a computer, it is time dated by the last update you made to the file. Emails also have time and location information, and a growing number of stores are offering the option of emailing receipts for purchases made at brick-and-mortar stores. Whenever you make a comment on social media websites like Facebook or Twitter, your time, date, and IP address (i.e., your computer's location) is stored. The search engine (the program allowing you access to the internet) may store your internet browsing history.

I suggest you backup files frequently. Save everything whenever possible—bank statements, credit card usage, photos and even scanned paper receipts can be stored onto computers, and storage is cheap. A 2Terabyte hard drive can hold more files than most folks will ever need and costs less than $100, and flash memory cards (flash drives and SD or Micro SD cards) are also reliable and cheap, so buy extra for making a couple of copies.

It is important you have a trusted loved one to help look info in the event of a false accusation. Thankfully, I had a trusted girlfriend I could share passwords with and she was able to obtain personal info that verified my location in my home state of Ohio rather than Florida the day of the crime. Having as much electronic data in a single file folder will make it easier for someone to gather the relevant proof of innocence.

"The Old-Fashioned Way"

For the technologically challenged, don't worry, paper receipts and eyewitness alibis are still useful. You might wish to keep a log of activities. I used to but small daily planners and write down where I went that day. I would stuff paper receipts in small Ziploc bags and store them in a small tote. Here is another idea—if you live close to a store, go buy something often, like a candy bar or soda, and even if you pay in cash, you have a receipt. Any major events like doctor's visits or other appointments, or just another day at the office, establish your alibi.

This seems like a lot of work to keep up with your daily activities but it is not. Most electronic items do the work for you. If you are able to learn this technology, then you'll find these techniques very useful to establish an alibi. I'm sure there are even more ways to establish an alibi than what I have listed. I hope you'll never face a false allegation, but consider the fact that rearrest rates are higher than reconviction rates for RCs. After my personal experience with a false accusation, I cannot stress the importance of keeping records of your activities enough.

A PERSONAL NOTE: My case is still ongoing but I'm certain to win because I am innocent and I have plenty of evidence establishing my whereabouts at the time of the crime. However, this arrest interfered with my move to a new state. At this time, I still cannot respond to physical letters or fulfill requests for printing spreadsheets so expect delays if you've sent out any letters since late February.
POSSIBLE SCAM ALERT!

In a previous newsletter, I discussed a business called ClearMyCase.com, a service claiming to offer legal assistance to those wanting off the registry. ClearMyCase.com was sued in court over failing to provide services paid. Now I have been informed that the same people that ran the ClearMyCase website is now running a new organization called FindYouAPlace.com. Much like the ClearMyCase website, this new site promises to provide housing application assistance. There were multiple reports that ClearMyCase failed to deliver on their promises to provide the services many customers paid for, so I would be wary of this service as well.

I'd like to take this time to remind my readers that I have provided a housing list free of charge for many years on my website. It can be accessed at http://www.oncefallen.com/findinghousing.html

VIDEO GAMING AS AN RC

I love to play video games, so I can't imagine being banned from video gaming. Sadly, thanks to Online Predator Panic, POs can place restrictions on internet access if your crime involved the computer, and since pretty much every modern system currently has internet capability, then you might not be allowed to use certain devices that cannot be easily monitored while "on paper". As far as I know, there isn't some

software that can be downloaded to allow police to monitor your PS4 or Xbox One like they can a PC. Thus, some RCs may not be able to buy and play many modern video game consoles because of restrictions placed upon you by a PO. (This is not an absolute rule and can vary; I have heard some POs would allow games for older audiences but not kid-friendly games, and many have no such restrictions.)

It is questionable if the PS2, released in 2000, can even run online these days but even if it does, I doubt anyone can play online games these days since Sony shut down PS 2 online servers in 2016. (Actually, for the nerds out there, a computer program called XLink Kai allows users to achieve online play for some PS2 games by using a network configuration that simulates a worldwide LAN; because of this, only games with LAN functionality may be played in this way.) Online game support for PS3, Xbox 360, and Vita is declining. Ultimately, internet capability, as well as ability to play certain games like Call of Duty or Madden football, is determined by the dedication of companies supporting outdate systems or of online communities of gamers.

As much as I hate Wikipedia, they have a decent article on Online gaming history which can explain the internet capability of each gaming console, found at:
https://en.wikipedia.org/wiki/Online_console_gaming

So here are some gaming options that should still remain open to you should you find yourself facing restrictions on video gaming devices:

Older-Gen systems: Pretty much every console made before Sega Dreamcast lacks internet capability, at least not without some massive runarounds. The list of major systems that has internet capability is shorter than the list that doesn't, so below are systems that ARE internet capable and/or can play online games:

- Sega Dreamcast (Runs Windows CE so it can theoretically could connect to the Internet but probably can’t handle today’s internet)
- All Microsoft XBox Systems
- Playstation 2, 3, and 4, PSP and Vita
- Nintendo Gamecube, Wii, Wii U, and Switch
- Pretty much any computer-based emulators like Raspberry Pi

That leaves pretty much every video game console before the year 2000 (A Philips CD-I had some limited online capability but it was made in 1991 so I doubt it could even handle modern internet). Fans of various gaming systems continue to make new games for vintage systems, even more obscure vintage consoles like the Vectrex and Intellivision. (Of course, that would mean going online to find them, so you’ll have to find someone willing to do that for you.)

Flashbacks or “Dedicated” Systems: If you like retro games, you're in luck. Pretty much all plug and play “Flashback” or “Mini” consoles are not internet capable and can be hacked to add more games. The Atari & Genesis Flashback portables even allows you to *ahem* have someone else download games for you to play more games.

THE FEDS ARE DROPPING CP CASES INSTEAD OF REVEALING INFO ON THEIR SURVEILLANCE SYSTEMS

Human Rights Watch and other groups say these systems draw serious concerns.
Original From: ELIZABETH NOLAN BROWN, Reason.com, 4.24.2019

The Dept of Justice has been dismissing CP cases in order to not reveal information about the software programs used as the basis for the charges.

An array of cases suggest serious problems with the tech tools used by federal authorities. But the private entities who developed these tools won't submit them for independent inspection or hand over hardly any information about how they work, their error rates, or other critical information. As a result, potentially innocent people are being smeared as pedophiles and prosecuted as CP collectors, while potentially guilty people are going free so these companies can protect "trade secrets."

The situation suggests some of the many problems that can arise around public-private partnerships in catching criminals and the secretive digital surveillance software that it entails (software that's being employed for far more than catching child predators).

With the CP cases, "the defendants are hardly the most sympathetic," notes Tim Cushing at Techdirt. Yet that's all the more reason why the government's antics here are disturbing. Either the feds initially brought bad cases against people whom they just didn't think would fight back, or they're willing to let bad behavior go rather than face some public scrutiny.

An extensive investigation by ProPublica "found more than a dozen cases since 2011 that were dismissed either because of challenges to the software's findings, or the refusal by the government or the maker to share the computer programs with defense attorneys, or both," writes Jack Gillum. Many more cases raised issues with the software as a defense.

"Defense attorneys have long complained that the government's secrecy claims may hamstring suspects seeking to prove that the software wrongly identified them," notes Gillum. "But the growing success of their counterattack is also raising concerns that, by questioning the software used by investigators, some who trade in child pornography can avoid punishment."

Courts have sought to overcome concerns that scrutiny would diminish the effectiveness of the software for law enforcement or infringe on intellectual property rights by ordering only secret and monitored third-party review processes. But federal prosecutors have rejected even these compromises, drawing worry that it's not legitimate concerns driving their secrecy but a lack of confidence in the software's efficacy or some other more nefarious reason.

Human Rights Watch (HRW) has raised questions about how much data (not just on defendants but on all Americans) these programs have been accessing and storing. In February, HRW sent a letter to Justice Department officials expressing concerns about one such program, called the Child Protection System (CPS). TLO, the company behind the CPS system, has intervened in court cases to prevent disclosure of more information about the program or independent testing of it.

"Since the system is designed to flag people as suspected of having committed crimes, both its error rates and its potential to exceed constitutional bounds have implications for rights," HRW states. Yet "it is unclear what information the Justice Department has about CPS' potential for error (and on what basis)."

Prosecutors say they can't share any details about it "because it is proprietary and not in the government's possession," notes HRW, which since 2016 has been researching cases involving the CPS system. "We fear that the government may be shielding its methods from scrutiny by relying on its arrangements with the non-profit," states HRW. (Read more here.)

Another tool used in these cases, Torrential Downpour, was developed by the University of Massachusetts. The school has been fighting against the release of more information about Torrential Downpour, too. But defendants' lawyers say it's necessary after the program alerted authorities about alleged child porn on computers that couldn't actually be found anywhere on the physical devices.

"An examination of the software being used to build cases should be allowed, but the entities behind the software won't allow it and the government is cutting defendants loose rather than giving them a chance to properly defend themselves against these very serious charges," writes Cushing. "I supposed it ultimately works out for defendants, but it only encourages the government to tip the scales in its favor again when the next prosecution rolls around with the hopes the next defender of the accused isn't quite as zealous"

Plus, if these defendants really are innocent, than the government has publicly and falsely smeared them as sickos and then balked at allowing them a true opportunity to clear their names. "These defendants are not very popular, but a dangerous precedent is a dangerous precedent that affects everyone," HRW's Sarah St. Vincent told ProPublica. "And if the government drops cases or some charges to avoid scrutiny of the software, that could prevent victims from getting justice consistently. The government is effectively asserting sweeping surveillance powers but is then hiding from the courts what the software did and how it worked."