# ICoN Consolidated Newsletter, 2020B (July to Dec. 2020, #57-#62)

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**

*Doe v Rausch*, No. 3:17-cv-00504-PLR-HBG (ED Tn, 5/14/20): Restrictions of SORVTA are much like traditional punishments of shaming, banishment, and probation, particularly when those restrictions are imposed for life, that the registry imposes an affirmative disability or restraint on Plaintiff, that permanence of SORVTA's restrictions, based solely on his prior offense rather than a present potential of re-offense, weigh in favor of traditional punitive aims, among other things. The effect of lifetime compliance with SORVTA is punitive as it relates to Plaintiff. While the court made clear that this only applies to the plaintiff, the facts and circumstances are likely common to most on the TN SOR prior to 2004.

*Hearn v. Castilleja*, Case No. 18-CV-504-LY (WD Tx, 5/27/20): From TexasVoices.org, Regarding a case of constitutional breach of a plea, "Today the US Dist Ct in our case ruled against us on two… issues. First… the Court further ruled that a valid breach of contract claim, as well as our constitutional claim based on Santobello, requires an aggrieved person to prove the consequences of the breach resulted in a criminal 'punishment' being imposed against him. ... Second, the Court ruled the applicable two-year statute of limitations barred our claims because more than two years elapsed between the point in time that Jack, Donnie and Jimmy 'knew or should have known' their rights were violated (some 20 years ago), and the point in time that we filed our lawsuit (in 2018). Our position is, and has been throughout this case, that the 'continuing violation doctrine' adopted by the SCOTUS in 2012 overruled the 'knew or should have known' dorine for purposes of determining whether a claim is barred by a statute of limitations. Based on that decision, the 5th Cir likewise overruled the 'knew or should have known' doctrine in 2017. Unfortunately, the Dist Ct in our case, we believe, overlooked this fact. Instead, it based its statute of limitations ruling on an unpublished (and therefore non-precedential) case that was decided by the 5th Cir 1998, 19 years before that unpublished case was effectively overruled by the 5th Cir's subsequent decision in 2017."

*People v Legoo*, 2020 IL 124965 (6/18/2020): Under 720 ILCS 5/11-9.3 (a-10), an RC cannot be present in any public park building, a playground or recreation area within any publicly accessible privately owned building, or on real property comprising any public park when minors are present in the building or on the grounds AND to approach, contact, or communicate with a child under 18 years of age, unless the offender is a parent or guardian of a person under 18 years of age present in the building or on the grounds. Howeve, 720 ILCS 5/11-9.4 says no child SO or sexual predator may be on park grounds for ANY reason. Legoo entered a park to retrieve his son who was at the park. The rebellious child refused to leave, so Legoo left him. Legoo was in the park less than 5 minutes. He was arrested for violating the park ban, and the IL Sup Court upheld the conviction, denying the exceptions apply because Legoo did not accompany his son into the park. IL Sup Ct rejected the notion that the exceptions in 9.3 apply to the arrest for the violation for 9.4. So, apparently in Illinois you cannot enter a park unless you're with your child at the moment you enter the park but not if the child is not with you at the moment you enter the park, but if you do enter with your child, you can approach other children. Even the justices mentioned the absurdity of these two laws.

*Commonwealth v. Torsilieri,* No. 37 MAP 2018 (Pa. 2020): Torsilieri brought a post-conviction challenge alleging that, because PA's SOR law essentially used an irrebutable presumption of dangerousness that if violated several constitutional provisions related to punishment as well as state constitutional provisions protecting reputation. The trial court agreed, and held that based on expert evidence adducing that re-offense rates were lower, the provisions that the Appellee challenged were unconstitutional. The Commonwealth sought review. The PA Sup Ct vacated the trial court's opinion on the constitutional question, but did not reverse their opinion. Rather, the PA Sup Ct observed that the Commonwealth did not submit evidence that was contradictory to the Appellee's evidence related to re-offense rates. The Court remanded the case back to the trial court for further fact-finding on the question of re-offense rates.

*Logue v Book*, No. 4D18-1112 (4th FL Appeals, 6/24/20): Last year's ruling in favor of OnceFallen's Derek Logue over FL State Sen. Lauren Book, who filed a restraining order to stop protests and criticism over her role in forcing RCs in Miami to live under bridges, was before a 3 judge panel. This ruling was an 8-3 decision upholding the 3 judge panel ruling, which stated that this restraining order violated free speech; no actual harassment took place. "Each party in this case is a vocal advocate for opposite positions on sex offender laws. Despite Book's complaints, Logue's Tallahassee protest was by all accounts peaceful—even if unpleasant to Petitioner in its scope and message—and non- violent…Like the Tallahassee protest, Logue's appearance at the film festival also had a legitimate purpose. While (Logue)'s presence may have made Book uncomfortable, he was well within his rights to attend and to express his opinion on the film's subject matter—even if it was done by posing a snide and uncomfortably worded question to Book. Logue made no threats nor any threatening gestures toward her. As a result, Logue had the same right to express his views in this public forum as if he had held up a poster complaining about a business on a public sidewalk outside of that establishment. As for Logue putting information about Book's home on his website, in light of the political activities being conducted at this location, his posting of this public information also had a legitimate purpose which was entirely within the bounds of lawful public debate…Logue did not drive by Book's home, take a picture of her private residence, and then disseminate that information. Book's home address as an elected official is a matter of public record for the purposes of validating her residency. Additionally, Book chose to use her home for business and politics. While she is certainly free to do so, she cannot then obtain an injunction against someone who elects to further publicize that widely available information… Publicly expressing anger toward an elected official is not a basis for entry of an injunction. In public debate, elected officials must tolerate insulting remarks—even angry, outrageous speech—to provide breathing room for the 1st Amdt."

*Mitchell v Roberts*, 2020 UT 34 (UT Sup Ct, 6/11/2020): Struck down a 2016 state law that allowed victims of sexual abuse to sue decades later; the UT Legis. did not have the authority to effectively erase statutes of limitation after they already timed out. Currently, 17 states are allowing alleged victims to sue decades after incidents of alleged abuse, often undoing protections made by statutes of limitation in the process. The Court ruled, "This principle is well-rooted in our precedent, a point meriting respect as a matter of stare decisis. It is also confirmed by the extensive historical material presented to us by the parties in their supplemental briefs, which shows that the founding-era understanding of 'due process' and 'legislative power' forecloses legislative enactments that vitiate a "vested right" in a statute of limitations defense."

*DeMare v State*, Case # 2D19-2959 (2nd App. FL, 6/26/20): Jason DeMare went on an ADULT website and initiated contact with "Amber", who claimed she was 18. For days, they chatted and flirted while he believed the woman was 18, but on the fourth day she told him she was 14. Each time DeMare tried to steer the conversation away from sex, Amber tried to steer it back. Each time he said he was not interested in a sexual relationship with a minor, Amber kept cajoling him and calling him chicken. DeMare still traveled to meet Amber, and was arrested in a sting. "Government agents may not originate a criminal design, implant in an innocent person's mind the disposition to commit a criminal act, and then induce commission of the crime so that the Government may prosecute… law enforcement took the lead in the conversation, initially suggested a relationship between DeMare and a minor, coaxed and cajoled DeMare for more details, and challenged his reluctance by impugning his nerve and suggesting he was scared… law enforcement's persistent urging eventually overcame DeMare's reluctance to commit or even describe sexual activity with a minor." The court declared this a case of entrapment.

*US v Tullie*, No. 19-10001, 19-10068 (9th Cir 2020, Unpublished): Invalidated a condition of parole which restricted a registrant from "engaging in any occupation, business, volunteer activity or profession"

that had "the potential to be alone with children." In its ruling, the Court agreed with the registrant that the parole condition at issue was overbroad. The Court noted in its decision that the condition "would leave only professions in industries that rigidly prohibit the presence of minors, such as a bar, casino, or adult-entertainment venue. The Court also noted that there was nothing in the record to suggest that the registrant "had an ongoing propensity to harm children, particularly random children he might 'potentially' encounter on the job."

CA – Lawsuit brought forth by ACSOL to allow Registrants to serve on juries was dismissed; "Here, plaintiffs have failed to carry their burden to demonstrate that the legislature had no rational basis to exclude registrants and others on supervision from jury service," the judge wrote. "Moreover, the fact that some ex-felons are being categorized differently than other ex-felons does not mean that the law is violating plaintiffs' equal protection rights."

*US v Kirschner*, No. 1:10-cr-00203-JPH-MJD (S.D. Ind. Jul. 15, 2020): Kirschner filed an emergency motion for compassionate release. Kirschner suffers from underlying health conditions that increases his risk of severe illness from COVID-19. He served most of his 124-month sentence and his scheduled release date—as determined by the BOP—is rapidly approaching. Releasing Mr. Kirschner from the BOP 7 months before his scheduled release date does not present a danger to the public, nor would it undermine the goals of federal sentencing law as set forth in 18 USC 3553(a). Due to existence of extraordinary and compelling reasons for compassionate release, the motion is granted. (Note: conviction of a CP offense.)

*Note on Compassionate Release/ BOP*: I'm not fielding questions about compassionate release. However, I've had numerous prisoners from multiple facilities stating a few have gotten out due to the pandemic. There's no official statement from the BOP on the releases or any news reports. However, enough people have stated they have witnessed some getting out early. The common thread has been that these releases were granted through the courts, not by the BOP (which has stated SOs are not eligible for compassionate release). That means people have filed petitions with the courts to earn a compassionate release. As noted by one prisoner, "Anyone who wants to try to get released this way needs to file a Motion for Compassionate Release Pursuant to 18 U.S.C. 3582(c)(1)(A)(i). Typically, if you have an identifiable victim in a contact offense, you're out of luck. But the court must weigh several factors, including your risk of death or serious complications due to COVID." Another has stated "send a request to the clerk of court and request appt of counsel for representation on filing a motion for compassionate release due to the Covid-19 pandemic. They will be appointed counsel and sent forms to fill out. While they are waiting they need to write a letter to the judge outlining their release plan, safety -plan and what they have experienced over the last 5 months in prison. I.e.: health medical sanitation, staff not wearing masks and other PPE etc. Be as detailed as possible." This is still no guarantee but considering these statements come from multiple prisoners against many facilities, there may be some merit to them. Still, do not expect a miracle.

*Commonwealth v. Lacombe et al.,* No. 35 MAP 2018 (Pa. 2020): Held that the new SORNA law was non-punitive and thus could be constitutionally applied retroactively without violating the Ex Post Facto clause (and additionally found that PA's state Post Conviction Relief Act was not the exclusive means through which the constitutionality of SO registration may be challenged). The Court undertook similar analysis that it did in Muniz, but decided that the changes to the law — primarily the reduction in the number of times a person subject to SORNA must appear in person to register, as well as a reduction in the number of registrable offenses — rendered it non-punitive.

*Millard v Rankin*, No. 17-1333 (10th Cir. 2020): Overturned a lower court ruling that found CO's SORNA law violated the 8th Amdt. The 10th Cir denies the registry is punitive, basing the decision on

past cases that claimed the registry is not punitive, including the infamous Smith v Doe 2003 decision and other past rulings by the 20th Cir.

*People v. Ehlebracht*, # 2020COA132 (CO App Ct, 9/3/20): Ruled it is permissible to sentence SOs to both prison and probation as an exception to a 2019 CO Sup Ct ruling (Allman v People, 2019 CO 78) that made this practice illegal for most other offenders in the state. "Under the SO Lifetime Supervision Act (SOLSA), punishment "is tailored specifically to SOs and differs markedly from the general sentencing scheme for non-SOs."

*Jones et al. v Stanford et al*., Case 1:20-cv-01332-RJD-SJB (EDNY, 9/9/20): Memo issued determining that blanket restrictions on internet usage by SOs on paper violate the 1st Amdt (individualized bans would still be considered valid if social media was used in the crime.) "While the Court appreciates the State's compelling interest and laudable efforts to protect children from SOrecidivists on the internet, NY's attempt to advance this interest via blanket restrictions cannot be squared with the significant freedom of speech rights at stake. For the following reasons, Plaintiffs' motion for a preliminary injunction is GRANTED. While parole officers remain free to impose individualized restrictions on supervisees based on the Registrant's specific circumstances and risk of recidivating using social media, e-STOP and Directive 9201 are preliminarily enjoined so far as they apply wholesale to Registrants who have not used the internet to facilitate the commission of their underlying sex offense."

*Willman v US Atty Gen,* No. 19-2405 (6th Cir. 2020): "The principal issue in this appeal is whether the registration and notification obligations set forth in the federal SORNA apply to SOs who are convicted under state law but are not subject to that state's SO registration and notification requirements. Our sister circuits have answered the question in the affirmative and so have we in an unpublished opinion, US v. Paul, 718 F. App'x 360, 363–64 (6th Cir. 2017). Today, based upon the text of the statute, we follow those decisions and hold that a SO's obligations under SORNA are independent of any duties under state law. Plaintiff M.S. Willman also argues that SORNA is unconstitutional for several reasons. We conclude that none of these arguments have merit and therefore affirm the judgment of the district court dismissing plaintiff's complaint."

*Melnick v Camper*, Case 1:18-cv-02885-CMA-KLM (USDC CO, 9/18/20): Melnick argued the registry hindered his ability to find housing and employment and to participate in social media. He deemed the registry an illegal search and seizure of his information in contravention of the 4th Amdt. Court ruled that Melnick had no reasonable expectation of privacy for the information disclosed, and pointed to a 2014 federal circuit court decision establishing that the "degree of intrusion" on SOs is reasonable because it advances public safety goals. "The fact that Plaintiff is still on parole only underscores his lack of a privacy interest in the information he was required to submit pursuant to SORA. A parolee does not enjoy 'the absolute liberty to which every citizen is entitled. The purpose of these restrictions is to assist with offenders' rehabilitation while protecting the safety of the community."

*Commonwealth v. Francis X. Harding*, SJC-12875 (MA Sup. Ct, 10/5/20): Overturned a District Court conviction for failing to register a work address and for violating his probation (working where a minor was present). Harding was hired as a handyman at a private residence. At issue were (a) whether the requirement to register one's "work address" means the address of one's employer or every address at which you will be working; and (b) whether employment at a location where children are present includes a situation where you show for handyman work at a home & the family has a kid. According to the Dist Ct, the registration rules would have required someone to give 10 days' notice of where they will be working. It would also put all the home addresses of the customers of a level II/ III on the public registry, essentially precluding any jobs that don't involve a fixed address. The Court held, "Commonwealth's definition of "work address" is unworkable". The Court also sided with him on the interpretation of "working with children" and viewed that as a prohibition against employment at a position where he

would literally be working with children (ex. teaching at a school or being a camp counsellor) but not something such as performing repair work that did not involve children but that took place at a location where a child happened to be present. In the Court's words, "he did not "work with children" in replacing a gutter or restoring exterior woodwork, nor could he, where the child was an infant".

*State of Louisiana v Tazin Ardell Hill*, #2020-KA-00323 (LA Sup Ct, 10/20/2020): Upheld a lower court ruling that found that marking state ID/DL cards with "S*x Offender" in orange letters "constitutes compelled speech and does not survive a First Amendment strict scrutiny analysis." Hill had been initially charged with altering his state ID to hide the offensive statement. The Court primarily relied on the Wooley v Maynard ruling, in which a NH resident covered up the state's "Live Free or Die" motto on his car tag, and rejected a US Court conclusion that held passport marks were immune to compelled speech challenges. This ruling is similar to the ruling in Doe v. Marshall, Case # 2:15-CV-606-WKW [WO] (MD AL 2/11/2019), which held AL's ID/DL marks were unconstitutional. However, it does not mean ALL marks are illegal; in both rulings, states can make less conspicuous marks that may pass constitutional muster.

*McGroarty v Swearingen*, No. 19-10537 (11th Cir. 10/20/2020): Denied a motion to challenge continued inclusion on the state's registry despite living out of state because he did not file a lawsuit in a timely fashion. The registrant left the state in 2004 and did not bring his lawsuit until 2018, far beyond the 4-year statute of limitations in which he could bring a lawsuit.

*Commonwealth of PA v Tanisha Muhammad*, 2020 PA Super 256 (PA Superior Ct, 10/23/2020): Intermediate court ruling in an as-applied challenge (only applies to respondent) found SORNA violates an individual's right to reputation under Article I, Section 1 of the PA Constitution by creating an irrefutable presumption that she poses a high risk of committing additional sexual offenses. Court found there wasn't a high risk of future sexual offense when there wasn't a sexual offense to begin with, but some of the comments made by the court in its opinion as to risk and reputation. First, the court recognized that being on the registry causes damage to one's reputation. Second, the court recognized that there are tools to "distinguish between low-risk and high-risk sex offenders." Muhammad was convicted of "interference with the custody of children", a registerable offense even when no sexual element was involved.

*US v Fletcher*, No. 19-3153 (6th Cir., 10/26/20): This case arises at the intersection of two branches of 4th Amdt law—one governing the traditional balancing of privacy and governmental interests and the other addressing searches of the digital content of cell phones. In short, the revolution in digital capacity of cell phones has shifted the balance between individual privacy and governmental interests. This case involves the decision of Jason Fletcher's PO to conduct a phone search because he was carrying 2 cell phones. The search revealed CP. Fletcher appeals the district court's denial of his motion to suppress evidence found on his phone, as well as the resolution of several sentencing issues. Because the PO did not have reasonable suspicion to search Fletcher's cell phone & Fletcher's probation agreement did not authorize the search, we REVERSE the district court's denial of his motion to suppress, VACATE Fletcher's conviction and sentence, and REMAND this case for further proceedings.

*Goesel v State of FL*, Case No. 2D19-2730 (2DCA, 10/30/20): Overturned a CP conviction based on a search warrant executed on bad faith. Sarasota Co Sheriff's Office began a case against Goesel in Oct 2017 when the NCMEC received an automated transmission from Chatstep, an anonymous online chat room. Chatstep reported that a single image of possible CP had been uploaded to one of its chat rooms, court documents said. A warrant was issued; While the warrant described in detail a nonpornographic photo reported in 2016, it contained no description of the Oct 2017 photo, the 2DCA panelists said. Nor was the photo attached to the application. The Court ruled the cop's affidavit "contained nothing to support the detective's conclusory assertion that the photo at issue qualified as CP." "Here, there simply

was no information from which the magistrate could independently verify the detective's conclusion that the photo was illegal CP, as opposed to lawful, nonobscene nudity." The detective also had no training or expertise in ID'ing CP.

**FEDERAL SUPERVISION TRANSFERS**

Answering federal questions can be difficult at times because the federal system is different than the state system in many ways, including supervision transfer. State level inmates who want to move to another state must apply for an Interstate Compact, but Federal Inmates have it a little easier to move to a new area because the process is simpler.

Below is an article I found that discusses moving while under Federal supervision, written in 2018 by Root & Rebound, a CA-based 501c3. A caveat- this is not specific to SOs, and it is noted that SOs may find getting a transfer

Source: "Road to Reentry: How can I move if I am on federal supervision (like federal probation, federal supervised release, or federal parole)?" Root & Rebound. 2018. Accessed 13 May 2020 at https://roadmap.rootandrebound.org/parole-probation/federal-community-supervision-federal-probation/transfer-locations-on-federal-probation-federal-su/how-can-i-move-if-i-am-on-federal-supervision-like/

*How can I move if I am on federal supervision (like federal probation, federal supervised release, or federal parole)?*

If you are currently incarcerated and preparing for your release:

You may be able to request a transfer to another district. The request must be submitted to your Case Manager with the Bureau of Prisons since you will not yet have a Probation Officer.

If you are formerly incarcerated and already release and living in the community:

The process depends on whether you are asking to move to a new residence within the same district OR to a new residence in a different district. Because federal supervision is based on districts, it is not a question of whether you are asking to move across state lines but, instead, whether you are asking to move into a different district. The Interstate Compact on Adult Offender Supervision (ICAOS) does not apply to federal supervision. In a nutshell, it's easier to move within the same district than to move to a new one. The steps below outline both possibilities:

POSSIBILITY #1: If you are moving to a new residence within your current district, it's suggested that you follow these steps:

Improving your chances of having a TRANSFER request approved

Your request is much more likely to be approved if you have a good track record – clean drug tests, always going to your meetings with your Probation Officer, staying out of trouble with law enforcement.

Notify your Probation Officer that you want to change your address, and submit that address and the contact information for anyone else living at that address. You must get permission from your Probation Officer to move within your current U.S. Probation District—even if it's across the street.Your Probation Officer will investigate the new address—so long as it is located in the same U.S. Probation District. As part of that investigation, your Probation Officer will:

- Make sure the new address actually exists;
- Make sure that other people living at the new address are willing and able to have you in their home;
- Run a background check on everyone living at the new address (PLEASE NOTE: Since it is a standard condition for all people on federal supervision to avoid associating with anyone else who has a felony conviction, your request to move/transfer to live with someone who has been convicted of a felony will likely be denied);
- Make sure that everyone at the new address knows about and agrees to the "Search Condition" of your supervision.(1)
- Make sure there are no weapons at the new address.

POSSIBILITY #2: If you are moving to a new residence outside of your current U.S. Probation District, it's suggested that you follow these steps:

Before you ask for a formal transfer to a new district—which can be a longer, more challenging process—ask your probation officer for what is called "courtesy supervision" by another district.

This technically keeps your case in the original district, but allows you to live in and travel to the district of your choice. Your probation officer AND the probation officer of the other district have to agree. After doing this, it is much easier to transfer to the courtesy district than to just transfer from one district to another without "courtesy supervision" being set up first.

If "courtesy supervision" is denied or doesn't work out, you can still request a formal transfer.
Tell your Probation Officer that you want to change your address, and submit that address and the contact information for anyone else living at that address. You must get permission from your Probation Officer to move to a new address in a different U.S. Probation District.

Your Probation Officer must submit a "Transfer Investigation" to the new district.

The Transfer Investigation generally takes 30 days or longer, since both your current district and the new district must investigate your new proposed address and approve the transfer. As part of the "Transfer Investigation," a Probation Officer in the receiving District will:

- Make sure the new address actually exists;
- Make sure that other people living at the new address are willing and able to have you in their home;
- Run a background check on everyone living at the new address (PLEASE NOTE: Since it is a standard condition for all people on federal supervision to avoid associating with anyone else who has a felony conviction, your request to move/transfer to live with someone who has been convicted of a felony will likely be denied);
- Make sure that everyone at the new address knows about and agrees to the "Search Condition" of your supervision.
- Make sure there are no weapons at the new address.

The receiving District must approve or deny the transfer after conducting the "Transfer Investigation."
The receiving district can deny your request to transfer/move for any reason. The sending district where you are currently supervised must wait for a response before it can act to transfer your supervision. (2)

IMPORTANT: Some districts have hard and fast rules about certain offenses—for example, that they won't accept people with sex offenses, or the receiving district will require a more intense investigation of that person.

Footnotes

1. The Search Condition might read something like "The defendant is prohibited from possessing controlled substances. To ensure that the defendant is in compliance, the defendant will submit to search of his person, home, or vehicle at any time of the day or night by any law enforcement or probation officer without cause." This means your friends may get searched if at your home (or vice versa). If either of you have any contraband, there is a good chance both of you will be getting in trouble.
2. Phone Call with Amy Rizor, Supervisory Probation Officer, U.S. Probation (Oakland, CA office).

**REGISTRATION IN THE TIME OF COVID-19**

I have covered the impact of natural disasters in a previous ICoN, but COVID-19 has been a different type of disaster. Below is an edited version of my OpEd. This is a good time to stress a disaster preparation plan after you are released, including saving money and keeping a reasonable amount of supplies for emergency situations.

(Derek Logue. "Sex Offender Registration During the Pandemic: 'A Recipe for Disaster'". The Crime Report, 28 Apr 2020. https://thecrimereport.org/2020/04/28/sex-offender-registration-during-the-pandemic-a-recipe-for-disaster/#)

The coronavirus pandemic has led to an unprecedented shutdown of many American institutions, from professional sports to many government agencies, including the suspension of many non-essential law enforcement services from fingerprinting to vehicle registration. However, people required to register under the complex public SOR scheme must still register in person. This puts the health of registrants, their families, agency employees, police officers, and the general public in danger.

Over the past month, I have searched press releases, news reports and social media posts, along with direct contact with law enforcement agents, to determine what changes have been made to registration during this pandemic. Of the 182 agency responses, only a dozen have suspended registration, and just 44 agencies are taking registry over the phone or Internet. The rest still require in-person registration.

Some agencies tried to reassure registrants their safety has been taken under consideration. Several police agencies have placed barriers in offices and required appointments to be made to limit the number of registered persons at the stations.

I believe these agencies could do more.

In reviewing registry office reactions to COVID-19, I've come to realize just how confusing registration laws can be in America. Some states require registration with the state police; others at the sheriff's office or local police station; and some have to register at multiple agencies. Many agencies posted notices on social media outlets like Facebook or NextDoor, two websites that prohibit RCs from creating accounts.

It's not surprising that RCs are confused by the registration laws—even without the added complication of a global pandemic. Here are a few examples of the vastly different registration duties during this pandemic:

- In Greely CO, registration is conducted over the phone, but in Weld Co, where Greely is located, registration is still being conducted at the Weld Co Courthouse.

- In MS, all of the state's estimated 11,000 registrants must update their registration at one of only nine state Highway Patrol stations instead of the local Sheriff's offices, placing a huge travel burden on some registrants.
- In Palm Beach Co FL, criminal registration is conducted over the phone, but SO registration is still being conducted in-person.
- Pinal Co AZ and Hernando Co FL suspended all fingerprinting services except for SO registration.
- The Broward Co FL courthouse closed to the public, moving registration to the Probation office in a different building a block away.
- In TX, registrants cannot renew their driver's license annually due to office, and must contact the local registration office to express their intent to follow this law; the burden to watch for reopening of agency offices falls on the registrant.
- Jasper Co IA is conducting registration by phone but will be conducting random compliance checks at the registrant's home.
- Registrants in Caddo Parish LA must register at the Caddo Correctional Center and be subjected to a health screening before being allowed to register.

Reactions to registrations during COVID-19 on a state level have also varied immensely. HI passed an executive order suspending in-person registration. In OR, registrants must contact their local police agency to see if they accept over-the-phone registration, and if their agency is unavailable, the registrant must contact the state police. NM granted local agencies the authority, but not the obligation, to conduct registration by phone. ND allowed registration forms to be completed by phone. OH and OK have stated they were making no changes to in-person registration. In MI, a federal judge placed a temporary restraining order on sex offense registration, but in CA, lawsuits filed to suspend in-person registration have been rejected by the courts. PA suspended all in-person registration; registrants can download a form on the state police website and send in the completed form by mail.

In the landmark SCOTUS decision of Smith v Doe (2003), registration was upheld under John Robert's oral argument that AK's by-mail registration scheme was no more intrusive than a "Price Club" application. The majority of registrations in America are conducted in person, mostly in busy police stations or courthouses across the country. Many registrants are poor and rely on public transportation, and roughly a fifth of registrants are over age 55. Many RCs also have families of their own; thus, continuing to require in-person registration in a recipe for disaster.

Apathy towards RCs has not been limited to natural disasters; registrants have been denied shelter during natural disasters or extremes in temperatures. But if law enforcement agencies are concerned enough about COVID-19 to suspend vehicle registrations, fingerprinting services, and accident reports, the same can be done for the SOR.

The public SOR was created in response to a handful of rare, stranger kidnappings. In reality, most sex crimes occur at home, by someone known to the victim and who is far more likely to have no prior criminal record. Recidivism has always been low among RCs (<%1 annually), although the registry increases social ostracism which in turn could increase the likelihood of re-offense. At least some police agencies have recognized the registry is not an "essential" service during this pandemic. I believe this service is unnecessary even in the best of times.

My own registration duty was performed this month in person. The registration officer met me outside the Law Enforcement Center to have me sign a piece of paper. She was wearing a surgical mask, while all I had was an ill-fitting paper mask. Within days of my in person registration, the nearby Smithfield meatpacking factory reported a major outbreak.

Is placing my life at risk worth a mere signature?

**STATE ID/DL LAWS**

State issued Identification Cards or Driver's Licenses (ID/DLs) are the most commonly carried and used means to prove one's identity, so placing marks on state-issued identification cards can potentially cause problems. We show our State ID/DLs when we write or cash a check, open up a bank account, applying for credit, vote, buy certain products (such as beer or tobacco), pick up a prescription, go to a club for adults, sign up various services, getting a job, board a plane, or entering many government or private buildings. Only a handful of states place distinguishable marks of infamy on State ID/DLs. Some states may limit the validity of a registrant's State ID/DL to a single year, forcing registered persons to pay more over time for identification than the average citizen.

The states listed below have specific regulations regarding State ID/DLs for Registered Persons. This does not imply there are no regulations in states not listed below; here it means there are no existing state laws in place:

- States that mark State ID/DLs: AL, AZ, DE, FL, KS, LA, MS, OK, TN, UT, WV
- States requiring annual State ID/L renewals: AZ, IL, KS, MS (quarterly), NV, OK, TX
- Those not marking cards or requiring annual renewals, but still requiring IDs to be current (meaning must update if move): IN, MI, UT
- States that will not grant license without proof of adherence to Sex Offense Registration laws: MA, NC

AL: In response to Doe v. Marshall, 2:15-CV-606-WKW, Alabama State ID/DLs no longer have "Criminal Sex Offender" printed on the front; it has been replaced by a letter designation (Code of Ala. 15-20A-18). Also, a registrant may be required to carry a special ID card made by the Sheriff's office and both must be presented when approached by authorities.

AZ: Registrants must renew their licenses annually (ARS 13-3821(J)). According to the AZ DPS, State ID/DLs have an identifying mark that trained law enforcement would recognize as belonging to a registrant.

DE: Places a "Y" designation on a registrant's State ID/DL, with $5 fee for replacing prior license. (21 DE Code §2718(e,f)).

FL: Registrants must update their state ID/DLs within 48 hours of initial registration or change of address. (Fla. Stat. Ann. 775.21 (6)(f) to (g)(1); F.S. 943.0435). If you are classified as a "Sexual Predator," your card will have "Sexual Predator" spelled out on the front while those designated "sexual offender" have "943.0435, F.S." listed in this area. (F.S. 322.141)

Illinois: State IDs/DLs are only valid 12 months, requiring annual renewal (625 ILCS 5/6-115). Does not mark ID/DL.

IN: You must have and keep with you a valid driver's license or state issued identification card from your state of residence. Your driver's license or state issued identification card MUST contain your CURRENT address and physical description. (Does not mark licenses or require annual renewals, however.)( IC 11-8-8-15)

KS: Required to renew State ID/DL annually, and marks the cards to identify registry status. (K.S. 8-1325a)

LA: Marks State ID/DLs with "Sex Offender" in orange letters, and requires annual in-person renewal, thus not allowing ID/DL renewals by mail (LRS 32:412(I); LRS 40:1321). Registrants are disqualified from obtaining free ID cards (LRS 40:1321(H)).

MA: Registrar of Motor Vehicles can suspend or reject renewal of valid State ID/DL if the SO Registry Board determines you are not complying with registration laws (MGL. Ch. 90, Sec 22(j)).

MI: No marks on State ID/DL but must keep the cards current.

MS: Registrants ages six and above (MCA 45-35-3) must report to the Drivers' License station quarterly to obtain a new "sex offender card" (MCA 45-33-31; 63-1-35). Based on news articles, it appears "sex offender" is written on the card.

NV: Does not mark State ID/DLs, but all State ID/DL/CDL must be renewed annually. (NRS 483.283; NRS 483.861; NRS 483.929)

NC: Will not issue a State ID/DL unless registrant has proven registration has been completed within the state (NC Gen. Stat. 20-9; 20-37.7). Does not mark State ID/DLs or require annual renewals.

OK: State ID/DL cards of registered persons will be marked with the words "Sex Offender" (OK Stat § 47-6-111). Must be renewed annually, with costs the same as a regular license. (OK Stat. § 47-6-105.3; 47-6-115).

TN: State ID/DLs are marked with a special mark known only to law enforcement (TCA 55-50-353), and registrants must carry this marked State ID/DL at all times (TCA 40-39-213).

TX: State ID/ DLs must be renewed annually (Tex. Code Crim. Proc Art. 62.060)

UT: Requires registrant to keep state ID/DL current (Utah Code 53-3-806.5); no special mark is placed on the card nor are required to renew annually.

VA: State ID/DLs can be issued up to 8 years for the general public, but those issued to RCs expire at the state minimum of years. (Code of Va. § 46.2-330); if you obtain a CDL for passenger transport, you will receive a "Q" restriction preventing you from driving a bus for schools/ day cares. (§ 46.2-341.9)

WV: Those considered SVPs have must have a special mark on State ID/DL cards. (WV Code §17B-2-3) According to the DMV, the mark is a "U" designation (for "Sexual Deviant") under the "License Restrictions" section. (See page 12 of the WV DMV Driver's manual, accessed 27 June 2020 at https://transportation.wv.gov/DMV/DMVFormSearch/Drivers_Licensing_Handbook_web.pdf)

Federal: Those convicted of "covered sex offenses" (i.e., against anyone under age 18 and currently required to register) can only obtain a passport with an endorsement, currently printed inside the back cover of the passport book, which reads: "The bearer was convicted of a sex offense against a minor, and is a covered sex offender pursuant to 22 United States Code Section 212b(c)(l)." (See 22 USC 212b) Since endorsements cannot be printed on passport cards, covered sex offenders cannot be issued passport cards.

State ID/ DL mark legal challenges:

Starkey v. Okla. Dep't of Corr., 305 P.3d 1004, 1030 (Okla. 2013): The OK Sup Ct recognized the act of marking State ID/DLs with a mark of infamy as at least resembling a traditional punishment, but since this mark was not a part of the law being challenged in this case, the Court refused to elaborate further.

McGuire v. Luther Strange in His Official Capacity, 83 F. Supp. 3d 1231 (M.D. Ala. 2015): The court found that the branded-identification requirement is not "punishment" and thus is not an ex post facto law. The branded-ID requirement is not punitive because it is not similar enough to traditional "public shaming." Though the requirement is humiliating, defendants in colonial times were "without any power to contain or control the extent or timing of the humiliation." ASORCNA registrants, by contrast, "have some degree of control over when and where to present identification." The court thus rejected an ex post facto challenge to the branded-ID requirement. At the same time, however, the court recognized that "there may be other constitutional concerns with requiring registrants to carry a branded license."

Carney v. Oklahoma Dept. of Public Safety, No. 16-6276 (10th Cir. 2017): The 10th Circuit affirmed a US District Court ruling upholding Oklahoma's State ID/DL marks against a challenge based on 8th and 14th Amendment arguments. Carney had also attempted to argue 1st Amendment rights but was rejected as had not been raised during lower court proceedings.

Doe v. Marshall, CASE NO. 2:15-CV-606-WKW [WO] (M.D. Ala. Feb. 11, 2019): Ruled against registrant on 14th Amendment challenge; but citing a four-part test derived from Wooley v. Maynard, 430 U.S. 705 (1977), a case in which forcing NH residents to have the state's "Live Free or Die" motto on license plates was considered compelled speech, the Court held printing "Criminal SO" in scarlet letters was compelled speech because it is personalized against registrants. As a result, the state changed their ID/DL cards to remove the scarlet letters but placed a different (albeit less conspicuous) mark on future State ID/DLs.

**REGISTRANT SELF-DEFENSE**

In May 2020, a twice-convicted Registrant was murdered by a man who was armed with a gun, registry data, and info from a Facebook vigilante page. There have been roughly 200 murders of RCs that can be linked to the public registry. Studies have found that most RCs will experience some form of vigilante violence against them at some point in their lives, whether it is vandalism, harassment, threats, assaults, and murder. Registrants must plan for self-defense measures.

There are a few self-defense measures you can take that do not require any special training or special permissions, such as installing a home security system or buying a dog. Learning martial arts/ boxing/ wrestling may be useful to fend off attackers. But in situations where the vigilante is armed with a weapon, being decent in hand-to-hand combat may not be enough.

The laws surrounding our rights to bear arms are a convoluted mess. State and federal laws clash. As a general rule, most states prevent those with criminal records from possessing firearms. Some states may also prohibit other types of weapons, like blades or brass knuckles. Other states may only prohibit certain types of firearms, such as pistols, while allowing other kinds of firearms like hunting rifles. These laws are out of my specific area of expertise, so I suggest consulting a legal guide, such as the one from the Collateral Consequence Resource Center (CCRC), as well as consulting state statutes.

When defending yourself, there are two things to consider:

1. The Necessity Defense: To establish a necessity defense, a defendant must prove that:
    a. There was a specific threat of significant, imminent danger;

   b. There was an immediate necessity to act;
   c. There was no practical alternative to the act;
   d. The defendant didn't cause or contribute to the threat;
   e. He or she acted out of necessity at all times; and
   f. The harm caused wasn't greater than the harm prevented.
2. Learn the laws regarding self-defense for your state: Each state varies differently on the amount of force you are allowed to use and under which circumstances force can be used. Although some states use a blend of doctrines, self-defense laws generally fall into the following three categories:
   a. Stand Your Ground: No duty to retreat from the situation before resorting to deadly force; not limited to your home, place of work, etc. These laws are utilized in over half of US States.
   b. Castle Doctrine: No duty to retreat before using deadly force if you are in your home or yard (some states include a place of work and occupied vehicles)
   c. Duty to Retreat: Duty to retreat from a threatening situation if you can do so with complete safety.

Below is an excerpt from a CCRC book covering firearms rights and other issues. This summary is not specific to RCs but useful as a brief overview of firearm restoration rights. The CCRC is the same resource that publishes the 50 state registry relief spreadsheet.

Source: Chapter I of CCRC, "The Many Roads to Reintegration: A 50-State Guide to Restoration of Rights and Opportunities after Arrest or Conviction (forthcoming August 2020), Draft 7/24/20 (Slightly edited only by abbreviating states and adding citation to SCOTUS decision)

See also: https://ccresourcecenter.org/state-restoration-profiles/chart-1-loss-and-restoration-of-civil-rights-and-firearms-privileges/

"In every state except VT, the right to possess at least some firearms is lost after conviction of at least some felonies. Even in VT, a court may prohibit firearm possession as a condition of granting probation. The 50-state chart from the Restoration of Rights Project attempts to chart a way through legal terrain that is even more complex and potentially treacherous than the one that governs penal disenfranchisement. It is more complex because federal law superimposes another layer of regulation on firearms possession after conviction, and because the right to possess firearms has a degree of constitutional protection even for people who are dispossessed by virtue of a conviction. It is more treacherous because the risk of criminal prosecution by one or both sovereigns is very real, while prosecutions for mistaken voting are considerably rarer (though even these have increased in recent years). Furthermore, while each state is entitled to enforce its own law on firearms dispossession within its borders, it is uncertain what effect relief granted in one jurisdiction will be given in another.

Just to sketch the general state law picture, in 28 states a person convicted of any felony loses the right to possess any firearm. A few of these 28 states extend dispossession to violent misdemeanors or domestic violence convictions. In 12 other states and the DC, only people convicted of specific crimes (usually violent, drug or sex crimes) lose any firearms rights. In 6 states (AL, AK, CT, IN, OK, SC) only handgun rights are ever lost. In 3 states (LA, NJ, TN) there are different rules for dispossession of long guns and handguns. In VT conviction does not affect the right to possess a firearm, but a court may prohibit a person from having a firearm as a condition of granting probation.

Provisions for regaining lost rights vary widely. In a minority of states dispossession is time-limited and restoration is automatic for at least some types of convictions. In 11 states, including KS, MI, MN and RI, restoration is automatic for many convicted of nonviolent crimes as early as completion of sentence, or after a brief waiting period. In MT, the only people not allowed to have firearms when they complete their sentences are those who used a dangerous weapon in their crime. In North Dakota, even people whose

offense involved "violence or intimidation" automatically regain their firearms rights 10 years after completion of sentence.

But in most states, firearms dispossession is indefinite, and everyone who lost rights must petition a court for discretionary relief or ask for a pardon. Some states mix and match the two approaches depending either upon the type of conviction or upon the type of firearm. In 11 of the 26 states in which all firearms rights are permanently lost upon conviction of any felony, a pardon is the exclusive restoration mechanism. In the other 15 states judicial relief is also authorized for at least some types of convictions, though expungement has a role in only a few (AR, MO, OR, UT). Arizona reorganized its restoration scheme in 2019 so that courts may now grant relief for most felonies subject to differing waiting periods, but only the governor may restore rights to those convicted of 'dangerous felonies.' In TN, a pardon may restore rights to those who lost only handgun rights, but expungement is the only remedy available to those convicted of a violent or drug crime who lost all firearms rights. A few states (CA, NY, OK) make no provision at all for restoring firearms rights to those convicted of violent crimes or offenses involving a dangerous weapon.

According to a 2011 study by the New York Times of firearms restoration mechanisms across the country, courts in many jurisdictions restored rights with little consideration of an individual's circumstances, while pardon boards and governors were more cautious. Even so, the GA Board of Pardons and Parole grants between 200 and 300 pardons every year specifically restoring gun rights, and the NE pardon board has reported dozens of firearms pardons granted each year.

Separate and apart from state dispossession laws, federal criminal law also restricts firearm rights and privileges based on conviction in any US jurisdiction. Under federal law, no one may possess any firearm (other than an antique) after conviction of a felony punishable by more than one year's imprisonment, a misdemeanor punishable by more than two years' imprisonment, or a domestic violence misdemeanor. For people with state-court convictions, the federal prohibition may be lifted by various state law relief mechanisms, including pardon, expungement, and general civil rights restoration (as long as the person is not barred from possessing firearms under state law), but the effect of specific state relief mechanisms on federal firearms rights is varied and complex. In contrast, after a conviction in federal court, the federal ban can only be lifted by a presidential pardon.

District of Columbia v. Heller, 554 U.S. 570 (2008), which recognized a federal constitutional right to possess a firearm "in defense of home and hearth," opened a new avenue of challenge to the application of dispossession statutes. Heller itself anticipated and sought to deflect such challenges by declaring them to be "longstanding" and "presumptively lawful," but some lower courts have characterized this statement as dictum, and scholars have questioned its historical accuracy. One federal court of appeals has upheld an "as applied" challenge to the categorical firearm ban by two individuals with dated state misdemeanors, but another federal appeals court reached the opposite conclusion in the case of a man convicted of felony credit card fraud. At least one state court has relied upon a "right to bear arms" provision of its state constitution in refusing to apply a newly enacted categorical dispossession statute to an individual whose conviction was decades old, when his firearm rights had been restored under an earlier law, and he had long since demonstrated rehabilitation."

In summary, in all but the six states that limit dispossession to handguns, conviction of some or all felonies results in loss of all firearms rights for varying periods of time, but usually indefinitely. At the same time, relief appears to be available in most states from the courts. However, in a substantial minority of states, and for all those convicted in federal court, the only way to regain firearms rights is through a pardon. To the extent dispossession is permanent or relief hard to obtain though this political channel, this collateral consequence looks more like punishment than regulation, and should be subject to constitutional challenges on this ground, particularly in light of recent Second Amendment jurisprudence.

That courts are reluctant to go there is understandable, however, so it will be up to legislatures to devise acceptable and less complex forms of relief."

**ARM DENVER PROTEST**

On 9/24/20, about 25 Anti-Registry Movement activists headed by the group Women Against Registry (WAR) protested in front of the 10th Circuit Courthouse in Denver in response to the Millard v Camper ruling which overturned a lower court decision that had declared the registry is cruel and unusual punishment. Unfortunately, our efforts were overshadowed by BLM protests that had taken place the night before, so we received no media coverage of the event. However, it was still an important event to help raise awareness that the public registry is indeed cruel and unusual punishment. Getting two dozen activists together while the country is still compromised by COVID-19 is an amazing feat. While this ended up being a low-key event due to the pandemic and BLM concerns (as many businesses downtown, even government buildings, were boarded up), we are preparing for a possible DC event. SCOTUS could possibly take up Maryland v Rogers, which addresses whether registration is "punishment" within the meaning of the 6th and 14th Amdts.

**VOLUNTEERING & SUPPORTING CHARITIES AS A REGISTRANT**

We all have different interests, motivations, and life concerns, so we may look to volunteering as a way to atone for past mistakes or simply to make the world a better place. However, even acts of kindness are bound by the registry which can affect both volunteering and charitable donations.

First, in-person volunteering is considered work so you will have to report it to your registration office as you would a regular job. Second, many states have laws that specifically prohibit registered persons from volunteering wherever children are present, which can severely limit your options. Even if the charity could allow Registrants to volunteer, they may prohibit volunteering or even reject financial contributions or tangible property donations due to liability or prejudice. I have read anecdotal examples of financial donations rejected because of the donor's background.

You want to better the world but your options are limited because of your status, so what do you do? One thing you can do is assist the Anti-Registry Movement. In a previous ICoN, I discussed ways to become an activist – volunteering, fundraising, and supporting the cause in various ways. There are large-scale strategies (letter writing campaigns, protests, lawsuits) and small-scale strategies (leaving brochures at the registry offices, word of mouth to fellow RCs). Some of these things can even be done behind bars.

The best thing you can do with your time behind bars is educate yourself. Take the time to learn the arguments for and against the registry. In order to fight back against the registry, you must understand the opposing side and the typical arguments they use. If there is some kind of public speaking or debate course at your facility and you are able to attend, do so.

If you want to volunteer and/or volunteer for a good cause, then throw your efforts behind the various anti-registry groups. This movement needs both money and manpower. At least then, you won't have to worry about rejection and ostracism, and you'll be helping a worthy cause, that of your own well-being.

**WHAT RBG'S DEATH MEANS FOR ARM**

SCOTUS Justice Ruth Bader Ginsburg passed away on 9/18/2020, and with her passing, a fierce fight over the next nomination begins. When Scalia passed away in 2016, Republicans argued we should let the voters decide the next Supreme Court Justice with our Presidential vote, but before funeral plans for RBG were even announced, Mitch McConnell has vowed to announce a replacement in record time.

Many folks in the ARM lean to the right politically, but conservative justices have not been our allies. For many years, Justice Kennedy was the swing vote on an evenly divided SCOTUS, leading to many 5-4 decisions. To understand what losing a liberal justice has means for our cause, you must understand the political alignment of the justices and how that impacted many SCOTUS cases:

Kansas v Hendricks, 521 US 346 (1997): A 5-4 split, with conservative justices Thomas, Scalia, Rehnquist, and O'Connor joining Kennedy in upholding civil commitment based on a lower standard for commitment and a lower burden of proof. Justices Ginsburg joined Breyer, Stevens, and Souter in dissent.

McKune v. Lile, 536 US 24 (2002): A 5-4 split, with conservative justices Thomas, Scalia, Rehnquist, and O'Connor joining Kennedy in denying the Kansas Sexual Abuse Treatment Program violate inmates' Fifth Amendment privilege against compelled self-incrimination. Justices Ginsburg joined Breyer, Stevens, and Souter in dissent.

Smith v Doe, 538 US 84 (2003): A 6-3 split, with conservative justices Thomas, Scalia, Rehnquist, and O'Connor joining Kennedy and liberal justice Souter in denying the Alaska SOR is punitive and thus violating the ex post facto clause. Justices Ginsburg wrote the dissent, joined by Breyer and Stevens.

"What ultimately tips the balance for me is the Act's excessiveness in relation to its nonpunitive purpose," Ginsburg wrote in her dissent. "The Act applies to all convicted SOs, without regard to their future dangerousness. And the duration of the reporting requirement is keyed not to any determination of a particular offender's risk of reoffending, but to whether the offense of conviction qualified as aggravated. The reporting requirements themselves are exorbitant: The Act requires aggravated offenders to engage in perpetual quarterly reporting, even if their personal information has not changed. And meriting heaviest weight in my judgment, the Act makes no provision whatever for the possibility of rehabilitation: Offenders cannot shorten their registration or notification period, even on the clearest demonstration of rehabilitation or conclusive proof of physical incapacitation. However plain it may be that a former SO currently poses no threat of recidivism, he will remain subject to long-term monitoring and inescapable humiliation." (Citations omitted.)

Kennedy v Louisiana, 554 US 407 (2008): A 5-4 split, with liberal justices Ginsburg, Stevens, Souter, and Breyer joining Kennedy in a majority opinion declaring a person cannot be executed for a sex offense where no death was involved. Conservative justices Roberts, Alito, Scalia, and Thomas feel it is perfectly fine to execute a Registered Person if his offense did not result in death.

Packingham v North Carolina, 582 US _ (2017): While this decision was unanimous on upholding a registrant's right to social media (8-0, as Justice Gorsuch was not a part of the vote), the conservative justices Roberts, Alito, Roberts, and Thomas wrote a concurring opinion that state states should be allowed to regulate activity on certain websites.

US v Haymond, 588 US _ (2019): In a 5-4 split that ruled 18 USC 3583(k) violates the 5th & 6th Amdts by imposing a mandatory minimum punishment on a criminal defendant upon a finding by a preponderance of the evidence that the defendant engaged in certain criminal conduct during supervised release, Ginsburg joined liberal justices Breyer, Kagan, and Sotomayor and conservative justice Gorsuch in the majority opinion. Conservative justices Alito, Roberts, Thomas, and Kavanaugh dissented. The case involved a Registered Person sentenced on a parole violation based on a "preponderance of the evidence" finding the registrant's computer may have recently contained illicit photos.

While this pattern has not been universal (See US v Comstock, 560 US 126 (2010), where only conservative justices Alito and Thomas rejected the majority opinion that Congress had the constitutional

authority to enact the Adam Walsh Act under the Necessary and Proper Clause), the majority of landmark cases impacting RPs have been divided, with liberal justices more likely to vote against registry laws and other draconian sanctions.

This upcoming battle for the next Supreme Court nominee affects Registered Persons more than you realize. With Ginsburg's death, only liberal justice Breyer and conservative justice Thomas remain from the Rehnquist court that gave us the Smith v Doe decision. However, John "Price Club" Roberts was the man who argued for the state of Alaska in Smith v Doe. We're currently left with three left-leaning justices – Sotomayor, Kagan, and Breyer. The conservative justice voted to uphold the registry, uphold civil commitment, and even voted to execute registered persons. Even when they voted for free speech in Packingham, they failed to commit fully to that belief by writing a concurring opinion.

A conservative majority is not great news for registry legal reforms. That is evident by a quarter-century of landmark legislation listed in this article. Many of us continue to hope to see Smith v Doe overturned in our lifetimes. In my opinion, having a sixth conservative justice would pretty much kill that faint glimmer of hope.

Trump's pick, Amy Coney Barrett, will not be good news for us. In Beley v. Chicago, for example, she wrote an opinion rejecting a homeless man's claim that the city's refusal to register him under the IL SORA deprived him of due process. The reason he wanted to be registered is to avoid an arrest, conviction and up to 5 years in prison for FTR. The homeless man's attempt to register was rejected by the city of Chicago because he had no identification card or proof of an address. He was later arrested for FTR.

In her decision, Coney Barrett was unforgiving: "[S]aying that one has the right to register under SORA is like saying that one has the right to serve a sentence or the right to pay taxes." She rejected the suggestion that the government must "provide due process…for actions that create the potential for a later loss" of the man's freedom from incarceration due to a SORA violation. Coney Barrett identified no "way in which the possibility of incarceration burdens" a homeless person. Case dismissed.

**SORNA TIERS UNDER THE ADAM WALSH ACT**

The AWA covers federal prisoners as well as 18 US states (AL, CO, DE, FL, KS, LA, MD, MI, MS, MO, NV, OH, OK, SC, SD, TN, VA, WY) and all US Territories except Puerto Rico and DC. SORNA's ideal registration system classifies registered citizens into three tiers based on the official crime. Note that since the AWA is a "floor" not a 'ceiling", states can implement harsher systems than the suggested AWA tier system. For example, FL & AL require lifetime registration for all adult RCs but are still considered "AWA compliant." Some AWA compliant states also deviate from the list of offenses below by adding other crime types to the registry or placing some offenses on a different tier.

The AWA is an "offense-based" scheme, meaning you are classified by the statute of your criminal conviction instead of by risk assessment tests. The result is those subject to AWA will be MORE likely to be classified in a higher tier than if convicted in a state that uses risk assessment tests to assign tiers. The only advantage is that there are no surprises in regards to your assigned tier.

The FEDERAL version of the law breaks down the tiers as follows:

Tier I Offenses (annual registration for 15 yrs) — Convictions that have an element involving a sexual act or sexual contact with another, that are not included in either Tier II/ 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, 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 sec. 115(a)(8) (C)(i) of Public Law 105-119 (10 USC 951 note)

Tier II Offenses (biannual registration for 25 yrs) — Convictions that involve: A person previously convicted of a tier I offense whose current sex offense conviction is punishable by more than 1 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 CP; 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 CP; 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 (quarterly registration for life) — 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 USC §951 note)

**YOUR LIFE ON THE LIST BOOK ADDENDUMS:**

“Your Life on The List” by Derek Logue, OnceFallen’s prisoner survival guide, is now available to order on Amazon.com. The book version was published in September 2020 and sells for $12.95 plus shipping. A free PDF version is available on OnceFallen.com as well. The print book will be updated annually each October, while the PDF version is more easily and frequently updated. This means that inevitably, the PDF version may differ slightly from the printed version with typo fixes and the addition of new info. Although multiple people proofread and fact-checked the info, there may be a few things we missed. Already, a couple of addendums have been made in my online version. Thus, I’ll be sharing book addendums in the ICoN as they are made.

Between 9/17/20 and 12/1/20, the following addendums were made to the book:

Chapter 5: The section “LEOs and the Public Duty Doctrine” will be removed because it is already posted in chapter 8, where it is more appropriately placed.

Chapter 8: Adding the following sentence, “Self-defense, Pepper spray: Info from a 10/2019 article from MDCreekmore.com states CA, FL, MA, MN, NJ, & NY have laws prohibiting felons and/or those convicted of assault from carrying pepper spray.”

Addendum 2: WI Registry fees - WI has $100 annual fees ($100 annually (WS §301.45(10))

In regards to the housing list, unfortunately my info is only as good as the network sharing it. Just because I don't have a property listed does not mean there's nothing out there. Some places don't want to be

advertised, or there are no anti-registry activists in that state, or there is simply no information online. The smaller the state, the more likely this is a problem. I continue to seek more housing leads but if a desired state lacks housing, there is nothing more I can do but suggest contacting what other transitional housing is operating in that state and asking them if they know any program or landlord who accepts those forced to register. And if you have a lead I don't have listed, please share.