ICON CONSOLIDATED NEWSLETTER, 2021B (July to Dec. 2021, #69-#74)

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

Karsjens v. Lourey, No. 18-3343 (8th Cir. 2021): On appeal for a second time, the Court clarified the legal standard applicable to the conditions of confinement claims brought by the civilly committed individuals in MN. The court concluded that the district court properly dismissed Count 3 of appellants' 3rd Amended Complaint after applying the "shocks the conscience" standard. However, the district court erred as a matter of law when it applied the "shocks the conscience" standard to Counts 5, 6, and 7, which appellants allege that they were subjected to punitive conditions of confinement. The court instructed the district court, on remand, to consider the claim of inadequate medical care under the deliberate indifference standard outlined in Senty-Haugen v. Goodno, 462 F.3d 876, 889-90 (8th Cir. 2006), and to consider the remaining claims under the standard for punitive conditions of confinement outlined in Bell v. Wolfish, 441 U.S. 520, 535 (1979).

Powell v Keel, Opinion No. 28033 (SC 2021): SC Sup Ct held SORA's lifetime registration requirement was unconstitutional absent any opportunity for judicial review to assess the risk of re-offending; those who demonstrate a low risk of re offending may have their names removed through judicial order.

People v Manaois (2021 CO 49): CO sup Ct ruled, "Sex offenses are different. Our General Assembly has historically acknowledged as much, handling sex offenses differently from other offenses for more than half a century. But exactly how different are sex offenses from other offenses? Today we are called upon to explore this question, as we determine whether a particular sentencing restriction governing felony offenses applies to sex offenses. Just last term, we decided in Allman v. People that a district court lacks authority under our general sentencing statutes to sentence a defendant to prison for one offense and to probation for another in a multi-count case. 2019 CO 78, 28, 451 P.3d 826, 833. But Allman received consecutive prison-probation sentences for non-sex offenses (forgery, theft, and related offenses), while the defendant in this case received consecutive prison-probation sentences that included a sentence to SO Intensive Supervision Probation ("SOISP") for a "sex offense" under the SO Lifetime Supervision Act ("SOLSA"). So, does Allman's sentencing restriction apply in a case where, as here, the defendant receives a prison sentence for a nonsex offense and a consecutive SOISP sentence for a sex offense? … After revisiting Allman (including the general sentencing statutory provisions to which its holding is largely tethered), examining the General Assembly's longstanding treatment of sex offenses, studying the significant differences between SOLSA and the general sentencing statutes, and considering the court of appeals' recent decision in People v. Ehlebracht, 2020 COA 132, 480 P.3d 727, we answer no… SOLSA is fundamentally different from the general sentencing statutes to which the Allman sentencing restriction is anchored. Of particular relevance here, while the general sentencing statutes reflect the legislature's disapproval of consecutive prison-probation sentences, SOLSA, by contrast, reflects the legislature's approval of such sentencing in cases including a sentence for a non-sex offense and a sentence for a sex offense. Therefore, we hold that Allman's sentencing prohibition, while alive and well, does not apply in cases where a defendant receives a prison sentence for a non-sex offense and a consecutive SOISP sentence for a sex offense."

People v Keen, (2021 CO 50): Companion to the People v Manaois ruling, CO Sup Ct ruled, "The supreme court now holds that Allman does not prohibit courts from sentencing a defendant in a multi-count case to prison for a non-sex offense followed by SOISP for another offense—regardless of whether the latter is a sex offense requiring an indeterminate sentence or a sex-related offense (i.e., an offense that does not qualify as a "sex offense" but that nevertheless falls within SOLSA's scope and involves participation in SOISP) requiring a determinate sentence. So long as the probation sentence in that scenario falls within the confines of SOLSA (as does every SOISP sentence), Allman's sentencing restriction is inapplicable. In this case, the defendant received a prison sentence for a non-sex offense and a consecutive determinate sentence to SOISP for a sex-related offense. The Sup Ct concludes that Allman's sentencing prohibition does not apply and that the consecutive prison-SOISP sentences imposed

were legal." In short, the CO Sup Ct said that a 2019 decision that stated that the state can't order both prison and probation for the same event does not apply to SOs.

People in the Interest of TB (2021 CO 59): CO Sup Ct ruled that lifetime registration for juvenile offenders with multiple adjudications violated the 8th Amdt ban on cruel & unusual punishment. Justice Monica Márquez wrote in her opinion, "Mandatory lifetime sex offender registration brands juveniles as irredeemably depraved based on acts committed before reaching adulthood. But a wealth of social science and jurisprudence confirms what common sense suggests: Juveniles are different. Minors have a tremendous capacity to change and reform." On 6/24/21, Gov. Jared Polis signed HB21-1064, which automatically removes juvenile offenders from the SOR when they turn 25 or 7 years after their second offense, as long as they haven't gone on to reoffend as an adult.

Commonwealth v. Alexander (2021 PA Super 134): Alexander appeals conviction on of 1 count of obscenity based on sexually explicit text messages he sent to an unidentified recipient. Alexander contends the evidence of obscenity was legally insufficient & that his text messages are statutorily and constitutionally protected communications. Because his texts do not fit the statutory definition of obscene material, we reverse the conviction and vacate the judgment of sentence. "Here, even assuming that Alexander's texts were obscene under the Miller test, private and consensual text messages between two adults are not 'material' within the meaning of 18 Pa.CS 5903(b). For the purposes of the statute, 'obscene material' unambiguously refers to content made for public dissemination. This is clear from the definition of 'material,' which encompasses 'any literature, including any book, magazine, pamphlet, newspaper, storypaper, bumper sticker, comic book or writing.'"

People v Landis (2021 COA 92): CO Ct of Appeals upheld an internet ban on an RC on SO Intensive Supervision Probation (SOISP), claiming the Packingham ruling does not apply to someone "still serving" a sentence.

People v Betts, Docket No. 148981 (MI Sup Ct, 7/27/21): Held MI's SOR Act, MCL 28.721 et seq., as amended by 2011 PA 17 and 18, when applied to registrants whose criminal acts predated the enactment of the 2011 amendments, violates the constitutional prohibition on ex post facto laws, US Const, art I, § 10; Const 1963, art 1, § 10. "In conclusion, the 2011 SORA bears significant resemblance to the traditional punishments of banishment, shaming, and parole because of its limitations on residency and employment, publication of information and encouragement of social ostracism, and imposition of significant state supervision."

Doe v. SORB, No. SJC-13032 (Mass. 2021): MA Sup Ct finds Due Process interests require that SOR classifications be performed at or near time of release even for individuals who waive classification hearings.

Jones v. Cuomo, No. 20-2174 (2nd Cir. 2021): Granted a motion for restoration of fees, finding a civilly committed person did not qualify as a "prisoner" under the PLRA and thus it was error to deduct the filing fees from his institutional account.

Desper v. Clarke, No. 19-7346 (4th Cir. 2021): Upheld lower court ruling that denied argument that state DOC regulations barring in-person visitation with SO's minor daughter violated Equal Protection and Due Process.

Powell v. Keel, No. 28033 (SC 2021): SC Sup Ct held lifetime registration requirement, absent any opportunity for review of one's likelihood of re-offense, violated Due Process; also held state law did permit the internet dissemination of registry information.

Davidson v. State, No. 2020-C-00976 (La. 2021): Davidson, a FL resident, had previously been convicted of sex offenses under Louisiana law & was given a diversionary disposition which resulted in his convictions being dismissed on successful completion of probation. Appellant sought to return to LA & filed an action for declaratory relief arguing he did not have to register under the law that existed at the time of his offense. LA Sup Ct held Davidson would be required to register if and when he decided to return to LA and that Ex Post Facto concerns were not implicated.

State v. Johnson, No. 98493-0 (Wash. 2021): WA Sup Ct held condition of supervision requiring pre-approval of all internet access by a supervision officer did violate the 1st Amdt.

Does v Whitmer, Case 2:16-cv-13137-RHC-DRG (ED MI, 8/4/21): There is a lot to unpack with this decision. First, a summary of the ruling from FAC, "Ex post facto application of the 2006 and 2011 amendments is DECLARED unconstitutional, the 2011 amendments are DECLARED not severable from the pre-2021 SORA, and the pre-2021 SORA is therefore DECLARED NULL AND VOID as applied to conduct that occurred before 3/24/21 to members of the ex post facto subclasses (defined as all people who are or will be subject to registration under SORA, who committed their offense or offenses requiring registration prior to 4/11/11, and who have committed no registrable offense since). The caveat to this order is, "As this litigation did not address the constitutionality of the new SORA, this injunction does not enjoin enforcement of any provision in the new SORA." Specific provisions that cannot be prosecuted include violations of residency/proximity restrictions (which were repealed by legislation earlier this year) and registration of Internet IDs, email, phone #s, and vehicle data; the court stated those could still be prosecuted due for infractions committed before this ruling. This is NOT a repeal of the registry itself, but merely certain parts of the law that were passed after the law was created.

Arthur v. US, No. 19-CF-5 (DC Ct. App. 2021): Ruled that requiring registration for pre-SORNA conviction did not violate ex post facto.

Doe v. SOMB, No. SJC-12908 (Mass. 2021): MA Sup Ct upheld registration for non-sexual kidnapping conviction

US v. Comer, No. 19-4466 (4th Cir. 2021): Upheld a supervision condition of requiring permission to open a social media account, finding that as applied to Appellant's case the condition prohibiting her from social network use without prior approval was not void for vagueness, that it did not constitute a greater deprivation of liberty than is necessary and that it was not an impermissible delegation of judicial authority. (Note: Comer was convicted of using social media to lure women into prostitution & violated probation by using social media to broker a drug deal.)

In re Griffin, No. 2018-001975 (SC Ct. App. 2021): Upheld a civil commitment order, finding that given the existence of other due process protections in the statutory scheme, a finding of mental competence is not a requirement for commitment.

Gamble v. Minnesota State-Operated Services, No. 16-cv-2720 (D. Minn. 2021): Civil committees in MSOP are not employees as defined by the Fair Labor Standards Act and thus their claims for violations for that act were to be dismissed. Furthermore, the state defendants were entitled to immunity under the Portal-to-Portal act.

State v. Johnson, No. 98493-0 (Wash. 2021): WA Sup Ct held requiring PO's permission before opening social media acct was not overbroad and did not infringe on Appellant's 1st Amdt rights when considered against the facts of his conviction (i.e., an online police entrapment operation)

US v Cordero, Case# 18-10837 (11th Cir 2021): Upheld a supervision condition requiring Cordero to disclose his registry status to clients of his home security installation business; lower court claims "the need to protect the public outweighs the Defendant's potential business loss."

In the Matter of Registrant J.D-F. (A-24-20) (084397): Court considered whether NJSA 2C:7-2(g), a Megan's Law provision that bars certain RCs from applying under NJSA 2C:7-2(f) to terminate their registration, applies to a registrant who committed Megan's Law offenses before the date on which subsection (g) became effective but was convicted and sentenced after its effective date. HELD: The relevant date for purposes of determining whether subsection (g) is effective as to a particular registrant is the date on which that registrant committed the offenses that would otherwise bar termination of registration under subsection (f). Thus, subsection (g) does not apply to registrant. The court noted, "[i]t is a fundamental principle of jurisprudence that retroactive application of new laws involves a high risk of being unfair. There is general consensus among all people that notice or warning of the rules that are to be applied to determine their affairs should be given in advance of the actions whose effects are to be judged by them. The hackneyed maxim that everyone is held to know the law, itself a principle of dubious wisdom, nevertheless presupposes that the law is at least susceptible of being known. But this is not possible as to law which has not been made."

Hope v. Commissioner of Indiana Department of Corrections, No. 19-2523 (7th Cir. 2021): This is a challenge to registration requirements when convicted in a different jurisdiction for an offense that would not have been a registerable offense if convicted in IN. "SORA does not violate the right to travel because it does not expressly discriminate based on residency, as consistently required by the Supreme Court. Plaintiffs' ex post facto claim is likewise precluded by precedent. Applying Smith v. Doe, 538 US 84 (2003), we hold that SORA is not 'so punitive either in purpose or effect' as to surmount IN's nonpunitive intent for the law. But because the district court did not address whether SORA passes rational basis scrutiny under an equal protection analysis, we remand for consideration of the equal protection claim."

State of Kansas v. N.R., No. 119,796 (KS Sup Ct, 9/17/21): Mandatory lifetime post-release registration under the Kansas Offender Registration Act, K.S.A. 2020 Supp. 22-4901 et seq., as applied to the juvenile in this case, does not constitute punishment for purposes of applying provisions of the Ex Post Facto Clause or the Eighth Amendment of the US Constitution and section 9 of the Kansas Constitution Bill of Rights, and does not infringe on the constitutional rights guaranteed under sections 1 and 18 of the Kansas Constitution Bill of Rights (Due Process & Right to Remedy).*

*I don't usually cover dissents, but KA Sup Ct Justice Eric Rosen's dissent is very scathing, "For more than 15 years I have been a proud member of a court that has historically taken an unyielding stand against the degradation of rights guaranteed by our Constitution… Today, I feel none of that pride. Today, the court eschews the United States Constitution and the citizens it stands to protect for reasons I cannot comprehend. Today, I dissent… I do not suggest that N.R.'s offense was inconsequential or should be overlooked. But I do suggest that we must follow our constitutional imperatives. N.R. is—very clearly—being punished by the Legislature's "civil scheme." The majority's refusal to acknowledge this is inexplicable. To put it plainly, in the words of my recently retired colleague, the majority's holding is "wrong-headed and utterly ridiculous. . . . [I]n the real world where citizens reside, registration is unequivocally punishment." State v. Perez-Medina, 310 Kan. 525, 540-41, 448 P.3d 446 (2019) (Johnson, J., dissenting). Consequently, I would hold that N.R.'s lifetime registration requirement violates the Ex Post Facto Clause because it was enacted and imposed after N.R. committed the actions that led to his adjudication." (The entire dissent is a worthy read but it is too long to share in this article.)

State of Kansas v. Davidson, No. 119,759 (KS Sup Ct, 9/17/21): Mandatory lifetime post-release registration under the Kansas Offender Registration Act, K.S.A. 22-4901 et seq., does not constitute

punishment for purposes of applying provisions of the Ex Post Facto Clause. Justice Rosen dissented, adding, "I opine in N.R, and emphasize it here, that it is time for this court to join the ranks of the many other courts that have rightfully recognized the punitive nature of registration requirements. Slip op. at 38 (citing *Does #1-5 v. Snyder*, 834 F.3d 696, 705 [6th Cir. 2016]; *People v. Betts,* No. 148981, 2021 WL 3161828, at *12 [Mich. 2021]; *Starkey v. Oklahoma Dep't of Corr.,* 305 P.3d 1004 [Okla. 2013]; *Doe v. Dep't of Pub. Safety & Corr. Servs.,* 430 Md. 535, 568, 62 A.3d 123 [2013]; *Wallace v. State*, 905 N.E.2d 371, 379-84 [Ind. 2009])."

State of NC v. Hilton, 2021-NCSC-115: In a 4-3 decision, the NC Sup Ct declared lifetime monitoring for "aggravated offenders" (usually people convicted of the rape of an adult or of sexual intercourse with a child) constituted a "reasonable search" under the US Constitution. However, the NC Assembly passed a law that will reduce the GPS program from lifetime to 10 years, which may make this decision a moot point.

Wimberley v. Williams, Case No. 20-1128 (10th Cir 2021): a 3 judge panel in a 2-1 decision upheld an indeterminate sentence for a man who has served 37 years in prison. "More than 24 years have passed. With passage of this time, Mr. Wimberly argues that the Constitution requires his release because he didn't receive a new hearing at the end of the 24-year determinate term (that the trial court chose not to impose). Without a new hearing, Mr. Wimberly claims that his continued confinement violates his rights to equal protection and due process… The state trial court provided adequate procedural safeguards when imposing the indeterminate term of confinement, and that term could last anywhere from a single day to the rest of Mr. Wimberly's lifetime. The State thus had no constitutional duty to provide a new round of procedural safeguards 24 years into Mr. Wimberly's indeterminate term."

SCOTUS: The US Sup St declined to take the LA appeal on the LA Sup Ct's ruling striking down the orange "SO" State ID/DL marks as unconstitutionally compelled speech. Earlier this year, the state tried passing a bill to reinstate (replacing the SO term with T1/T2/T3 to designate tiers) but it was defeated in committee by a narrow 6-7 vote.

TN: A new law has just passed that adds employer data onto the PUBLIC portion of the registry.

State v. Hubbard, Slip Opinion No. 2021-Ohio-3710: The OH Sup Ct declared the state's "Violent Offender" registry, aka "Sierah's Law," does not violate ex post facto. In 2010, the OH Sup Ct declared the SOR punitive (*State v. Williams*, 129 Ohio St.3d 344 (2011)). "The duty to enroll as a violent offender is far less burdensome than the registration duties imposed by Megan's Law, SB 5, or the AWA. In comparison to SOs, a violent offender has to register less frequently and in fewer places. And in contrast to a SO's registration duties under the AWA, a violent offender's duty to enroll annually for 10 yrs under Sierah's Law is far less burdensome than the requirement to register either once a year for 15 years, every 180 days for 25 years, or every 90 days for life. And unlike the database established under SB 5 and retained in the AWA, the violent-offender database itself is not a public record, cannot be accessed by the public over the Internet, and is available only to federal, state, and local LEOs. Violent offenders are not subject to community notification, and the information about them that is accessible through a public-records request differs little from information that is already available as public records." This demonstrates the state recognizes the difference between the punitive SOR registry and a less intrusive LEO-only list with a limited registration period, seen as not punitive.

State v. Hilton, No. 292A20 (NC 2021): The NC Sup Ct held that a search effected by the imposition of lifetime SBM upon due to Hilton's status as an aggravated offender is reasonable under the 4th Amdt and does not constitute a "general warrant."

US v. Goodpasture, No. 21-1264 (7th Cir. 2021): *Nonprecedential ruling* Appellant (a fed case) objected to a number of the imposed special conditions, including computer and internet monitoring and the prohibition of social media use, arguing that they were not warranted by his personal characteristics or criminal history; 7th Cir vacated in part the US Dist Ct's imposition of special conditions of supervised release concluding that the US Dist Ct did not adequately justify restrictions on computer and internet use.

Howe v. Godinez, No. 14-844 (S.D. Ill. 2021): So. Dist. IL found that the Sexually Dangerous Persons Program suffers from systemic failures which have resulted in Plaintiffs being detained indefinitely with "no real hope" of being released, depriving due process in violation of the 14th Amdt; a permanent injunction was warranted and necessary due to deficiencies in the delivery of mental health services.

In the Matter of the Civil Commitment of Kenney, No. A20-1007 (Minn. 2021): Kenney petitioned for a reduction in custody from MSOP (civil commitment). After conducting a de novo review of the recommendation by the Special Review Board (SRB), the Commitment Appeal Panel (CAP) granted Appellant's petition for provisional discharge. The court of appeals reversed stating that CAP "substituted its judgment for that of the experts who testified." Appellant filed a petition for review. MN Sup Ct reversed the decision of the court of appeals and remanded the case, concluding that clear-error review does not permit an appellate court to reweigh the evidence and that the evidence in the record reasonably supports CAP's decision to grant provisional discharge.

US v. Borum, No. 3:20CV6 (N.D. Miss. 2021): Gave order granting the government's motion in limine for advance ruling on admissibility, concluding that defendant's nolo contendere plea, which resulted in Defendant's SORNA registration, is admissible in a prosecution for FTR

Bomgaars et al., v. State of Iowa, No. 20–0375 (Iowa Sup Ct 2021): Rejected a suit claiming IA DOC has withheld treatment in order to delay parole. Court says it is a numbers problem where there are more SOs in IA's prison system than spots available for treatment.

ON FEDERAL PARDONS

If you're hoping for a Presidential Pardon to have your rights restored, these pardons are extremely rare across the board. First, the President cannot pardon to state-level crimes, only federal crimes (and crimes committed in DC). Each state has their own procedures for potential registry relief; some states may even extend these procedures to those convicted in other jurisdictions. Second, those listed as Tier 1 or Tier 3 for federal convictions can petition federal courts for a reduction after 10 years (Tier 1s) or 25 years (Tier 3s); unfortunately, those on Tier 2s get no way to reduce the registration period. In general, you can apply for a Presidential pardon if it has been 5 years after sentence or release from confinement and you're generally not eligible if on parole (28 CFR § 1.2). This does not expunge the record. There is no formal pardon advisory board.

There are no stats breaking down how many pardon petitions come specifically from people convicted of sexual offenses. At best, I can give you a general idea about the Presidential pardon habits from 1967 to the present, so let's begin by looking at the stats since Nixon took office in 1969 (full stats are at https://www.justice.gov/pardon/clemency-statistics). I chose Nixon as the starting point because the clemency stats were not divided into pardons and commutations were not separated until 1967, when Lyndon B. Johnson was in office, and thus I cannot get a full idea of Johnson's pardon habits (though he seemingly processed fewer pardons in his later years in office). On a related note, Nixon was the first elected President to officially declare a "war on crime," which began the trend of "tough on crime" rhetoric which still plagues the US Justice System.

Nixon (R) 1699 pardon petitions received, 863 granted (50.8%) ; Ford (R) 978 pardon petitions received, 382 granted (39.1%); Carter (D) 1581 pardon petitions received, 534 granted (33.8%); Reagan (R) 2099 pardon petitions received, 393 granted (18.7%); Bush, Sr. (R) 731 pardon petitions received, 74 granted (10%); Clinton (D) 2001 pardon petitions received, 396 granted (19.8%); Bush Jr. (R) 2498 pardon petitions received, 189 granted (7.5%); Obama (D) 3395 pardon petitions received, 212 granted (6.2%); Trump (R) 1969 pardon petitions received, 144 granted (7.3%)

The pardon trend has been in the decline since the "war on crime" began in the 1960s, and in the 21st century, pardons have remained below 10%. Also, with the exception of Bush, Jr., every president since Bush, Sr., has granted the majority of their petitions in the last year or so in office. With Obama and Trump, that trend was particularly pronounced; Obama granted 142 of his 212 pardons (67%) on his last days in office, while Trump granted 116 of his 144 pardons (80.6%) of his pardons on his last days in office.

Clinton outright denied 655 pardon petitions and refused action on 353 more (or, as it is officially stated, Petitions Closed Without Presidential Action"); Bush Jr outright denied 1742 petitions and refused action on 464 more; Obama outright denied 1708 petitions and refused action on 508 more; Trump outright denied 84 petitions and refused action on 625 more. The number of pending petitions had remained steady but jumped dramatically under the past two administrations; under Obama the number of unprocessed petitions jumped from 864 to 1920 (+1056) under Obama and to 2834 (+914) under Trump. Many past pardons have been high profile, too, mainly of white collar and political criminals.

A review of the list of pardon recipients (https://www.justice.gov/pardon/clemency-recipients) shows no one has officially been pardoned for a sexual offense since the national registry laws were enacted in 1994 (the Jacob Wetterling Act, as part of the same controversial 1994 crime bill that became a point of contention in the 20209 presidential election); Alabama judge Roy Moore was verbally "pardoned" by Trump at a Thanksgiving turkey pardon ceremony as he faced allegations of abusing an underage girl decades ago, but is not officially pardoned. Our current President as of this writing, Joe Biden, is a "tough on crime" politician who helped get sex crime legislation passed on the federal level, including the national registry laws and the Adam Walsh Act, and he is proud of that fact. (On a related note, no sentencing commutations have been granted, either).

Unfortunately, prospects for a presidential pardon seem to be non-existent on the federal level. Some states offer a chance at a pardon even if you were convicted in federal or out-of-state courts. Based on some anecdotal evidence, a push to change the federal pardon system to a board may help. For example, in AL, a state at the top of my "worst states for RCs" list, an RC still at least has a 2% (1 in 50) chance of obtaining a pardon from the pardon and parole board. That is still an extremely low number, but 2% is greater than 0%. Another problem in need of reform is our "tough on crime" mentality; in 2010, 1513 of 1554 pardon petitions by RCs in Canada were approved; a 2000 report noted that only 114 of the 4883 (2.8%) Canadians pardon for sex offenses from 1970-1998 reoffended, so granting pardons to RCs have not caused great harm to Canada.

To reiterate: If you are not a federal conviction, the US President cannot pardon you at all. The President can only pardon federal/military offenses, and the chances of obtaining a federal pardon is nearly impossible. If your only conviction is on the federal level, you can petition the courts for early termination with a clean record of 10 years if a Tier 1 or 25 years if you're a Tier 3 (for some reason, Tier 2s have no way to petition for early termination under federal law).

ON STATE PARDONS

I'm sure after last month's discussion on Presidential pardons (which only applies to federal cases), there are many hoping a particular state may grant a pardon. A pardon is not an expungement; your record will still show a criminal conviction. Pardons might provide registry relief but is not guarantee. This article covers pardons only; some states offer other forms of relief but that is not the focus of this piece.

First, for those who are hoping to "state shop" to find a state open to pardoning or offering an avenue of restoration of rights, few states extend the right of receiving pardons to those convicted in the federal or another state's court. Leaning heavily on data provided by the Collateral Consequences Resource Center (CCRC), only AL, AR, & TX explicitly offer pardons to convictions from outside jurisdictions; ME, MA, NY, RI, VI, VT, WV, & WY do not explicitly exclude federal and other state convictions by state law or in the pardon application. Additionally, FL, GA, IA, KY, NM, WA, & WY offer some various degrees of "Restoration of Rights" (ROR, or sometimes referred to as a "partial pardon") to those convicted of outside jurisdictions, which may restore specific rights like voting or firearms ownership.

ME specifically states, "Petitioners seeking a pardon for the sole purpose of having the Petitioner's name removed from the state's SO Registry will not be heard." (ME does not explicitly state out-of-state or federal convictions are ineligible & does not state it on the pardon application.) Based on the pardon applications, TX & VT apparently only grant pardons for convictions from other jurisdictions as a last resort, specifically if necessary for the applicant to achieve the pardon in three jurisdiction of conviction.

Out of the 50 states, only AL, CT, GA, ID, SC, & UT relies solely on a parole board; the governor is the final authority in the remaining states, although most are assisted by a review board. Only DC, ME, OR, & WI (in addition to the federal system) lacks a statutory advisory board process. According to the CCRC, the states that offer the most frequent pardons in general (30%+ of those who apply are AL, AR, CA, CT, DE, GA, DE, GA, ID, IL, LA, NE, NV, OK, PA, SC, SD, UT, & VA. States where pardons have been rare or non-existent in the past 20 years include AK, AZ, DC, KS, MA, MI, MS, MT, NH, NJ, NC, ND, OR, RI, VT, WV.

This does not necessarily mean moving to a state that may provide a pardon to an out-of-state or federal RC is the best path to registry relief. In fact, the one state that offers pardons to those convicted on another jurisdiction, has an independent pardon board, AND is noted as frequently offering pardons was my pick for the worst state in the nation for a Registered Person to reside—Alabama! And while pardons in AL are common for many offenses (according to the CCRC, over 800 pardons a year are granted), the AL Dept of Pardons and Parole claimed a few years ago that only 2% of people convicted of sex offenses are pardoned. (Despite claims they cannot restore voting rights to RCs, I received a restoration of voting rights back in 2007 so that claim was inaccurate.) But a pardon for a federal case I AL is only good for AL. Your mileage may vary. Based on what I've written here, it seems that a pardon board is superior to schemes where the Governor has more power to decide fates. Governors are elected; pardon board members are not.

REGISTRATION WHEN MOVING FROM OTHER STATES OR FEDERAL JURISDICTIONS

Many of my readers have federal or military convictions, so there is confusion over what registration laws they may face. The Federal system uses the Adam Walsh Act (AWA), an offense-based registry scheme, but only 18 states and 4 territories use the AWA scheme, and even among AWA states, the laws vary greatly. The feds don't have their own registry offices or their own registry (the NSOPW is just a search engine that scans public registry info for all states at once). So as a federal prisoner, you will register by the same laws as any state registrant in the state you'll reside in upon release.

If you are newly released or if you are planning to move to another state in the future, you must recognize that every state has different rules for registration, including whether your offense requires registration or how long you register if they have a different registry scheme than your state of conviction. What is listed below applies if you are moving to a state but were not convicted by that state's court. In my upcoming second edition of "Your Life on The List", this will be added to Appendix 2 as "out-of-state convictions", meaning convictions from federal or military courts, another state, or even another country.

Please note that some states are unclear on the rules. Many do not explicitly address out-of-state offenses in terms of length and frequency of registration, so the implication is often that RCs moving to a particular state abide by the same rules as RCs convicted in that state. The information below only applies to registration duration; each state has other rules you may abide by, like differing registration information, or residency/proximity laws. This also does not potential registration relief (which I have covered in recent ICoNs):

States where every RC registers for life by default, regardless of the requirements of the state of conviction (although some may offer relief from the registry): AL, AR, CO, FL, HI, GA, IL, MT, NJ, SC, TN, WI, WY

States that honor the registration requirements from the state of conviction (example: if your state of conviction requires only 10 year registration, this state only requires 10 year registration even if their laws are different for state convictions): CT, PA, TX, UT

States that require registration for the longer of the two registration periods when there is a conflict between the states (example, if state of conviction requires 10 year registration but offense in moving state requires 25 years, you'll register 25 years): IN, KS, LA, MN, NM

States that will classify you according to their rules (or by Federal AWA guidelines even in non-AWA compliant states), regardless of registration status from jurisdiction conviction: Am. Samoa, CA, CO, DE, DC, HI, Guam, IL, KY, ME, MS, MO, NE, NV, NH, NC, ND, No. Mariana Is., OH, OK, OR, Puerto Rico, RI, SD, USVI, VT, WI

States with unclear rules (difficult to determine guidelines, but assume you must register according to these state guidelines): AK, Amer. Samoa, AZ, MD, MI, WV

In regards to certain low level offenses, some states/territories only require registration if the offense is similar to registerable offenses in that state/territory, while some require registration for out-of-state convictions if required to register in convicting jurisdiction, even if the offense would not be registerable in the state you are moving to. Below is the breakdown:

States/territories that require registration if offense in another jurisdiction is comparable, similar, or equivalent to registerable offenses in the state/territory: AZ, AK, Am. Samoa, CO, DC, DE, FL, Guam, IL, KS, ME, MA, MN, MT, NE, NV, NJ, NM, NC, OH, OK, RI, SD, TN, TX, USVI

States/territories that will also require registration if the jurisdiction of conviction requires registration regardless of whether offense would require registration if convicted within the state: AL, AR, CT, GA, HI, ID, MD, MS, MO, NH, No. Mariana Is., OR, SC, UT, VT, VA, WA

States/territories that explicitly states in a statute require a review before determining registration status: CA, KY, NY, ND, OR, WY* (if offense is not otherwise registrable under WY law)

States that do not mention how extra-jurisdictional registration is determined (I can only assume all are required to register): AK, IN, Puerto Rico

STATES THAT DO NOT POST EVERY RC ON THE PUBLIC REGISTRY WEBSITE

I must be clear to those who are "state shopping"—there is no state or US territory in which you will not have to register if you were convicted for any registerable sex offense, and some states have registries for all "violent" crimes (and as a general rule, sex offenses are considered violent even if no violence is involved). However, if you were convicted of certain low-level offenses or classified in a lower tier, then you may have to register, but your information may not be listed publicly by the state.

There are many caveats to note: While the state may not post such information publicly, this does not stop private entities from accessing and disseminating non-public registry info. For example, in Washington State, a pair of online vigilantes – Curtis J. Hart of Kelso and Donna Zink of Mesa—have been collecting info of Tier 1s in the state and posting it on their own private databases. On Long Island NY, Parents For Megan's Law (PFML), a group that is currently trying to silence OnceFallen through a SLAPP Suit, have posted Level 1s in Suffolk and Nassau Counties, and have sought to expand their program statewide. You must also understand that even if you are not listed publicly, you are still required to register. Even if you are no longer required to register, your offense will still be in your criminal record, which might continue to cause problems with jobs and housing.

Here are the states that do not list all RCs on the PUBLIC registry (Note: Data came from the SORNA Implementation review at SMART.gov, and some of the reviews are from 2011, although some are as recent as 2019):

AR: ACA §12-12-913(j)(1)(A) mandates that information on RCs determined to pose the highest level of risk to the public (Lvl 3/4), must be available on the AR SOR website by 1/1/2004. Recent changes in the law have added public access to information regarding Lvl 2 offenders who were 18 or older and the victim was 14 or younger at the time of the offense.

AZ: Does not list Tier 1s unless convicted of sexual assault, commercial or non-commercial sexual exploitation of a minor, child prostitution, child sex trafficking, or the following if victim was under 12—luring or aggravated luring of a child for sexual exploitation, sexual abuse or continuous sexual abuse, child molestation, sexual conduct with a minor, taking a child for the purpose of prostitution

CA: Registrants whose only registrable offenses are for the following offenses may apply for exclusion from the public registry: (1) felony sexual battery by restraint (Pen. Code §243.4(a)); (2) misdemeanor child molestation (Pen. Code §647.6), or former §647(a); (3) any offense which did not involve penetration or oral copulation, the victim of which was a child, stepchild, grandchild, or sibling of the offender, and for which the offender successfully completed or is successfully completing probation; or 4) felony child pornography convictions (Pen. Code §311.1, 311.2(b), (c) or (d), 311.3, 311.4, 311.10, or 311.11) if the victim was 16+ years of age or older and that fact is documented in an official court document which you must submit to DOJ.

CO: Does not list juveniles or misdemeanor offenses. See CO Rev Stat §16-22-110 to 111

IA: Does not post an offense if RC was under the age of 20 at the time of offense and was convicted under IC 709.4(1)(b)(3)(d) [prior to 7/1/13 was under IC §709.4(2)(c)(4)]. Only this specific code section qualifies for the exemption. (Specifically, where a couple 4+ years apart in age cohabiting as married couple)

MA: Lvl 1s cannot be accessed by the public. The public can only access Lvl 2 offender data on the internet for RCs classified after 7/12/2013. Complete Lvl 2 offender data including those classified prior to 7/12/2013 is accessible through police departments and by named individual SORI requests through the SOR Board.

MI: Does not list RCs registered for a single offense of one of the following offenses: MCL §750.520E: Criminal sexual conduct in the fourth degree; misdemeanor-Adult victim; MCL §750.520G2: Assault with intent to commit criminal sexual conduct; felony-Adult victim, no penetration; MCL 750.10A: Sexually delinquent persons; MCL §750.335A(2)(C): Indecent Exposure by a Sexually Delinquent Person; MCL §750.449A(2): A person who engages or offers to engage the services of another person, who is less than 18 years of age and who is not his or her spouse, for the purpose of prostitution, lewdness, or assignation, by the payment in money or other forms of consideration; Any violation of state law or local ordinance that by its nature constitutes a sexual offense against an individual who is less than 18 years of age.

MN: Only Tiers 3s are listed on the state SOR. See Minn. Stat. §244.052, sub. 4

ND: All RCs appear on the website, but not all RCs are shown with photographs and full details. Offenders with a lifetime requirement for registration, those who have been deemed a high risk, and delinquent offenders are shown with full details and photographs. A searchable list of all RCs in ND (including moderate and low risk RCs) can be downloaded for a particular city, county, or the entire state, by clicking the link “List of all offenders” on the SOR website home page.

NH: The following offenses are not listed on the public website: §632-A:2, Aggravated Felonious Sexual Assault, where the victim is adult and the offender has no prior sex offense conviction from any jurisdiction; 18 USC 2241, Aggravated Sexual Abuse, where the victim is adult and the offender has no prior sex offense conviction from any jurisdiction; and 18 USC 2242, Sexual Abuse, where the victim is adult and the offender has no prior sex offense conviction from any jurisdiction.

NJ: Website limited to all high risk (Tier 3) offenders and some moderate risk/Tier 2s; All juveniles (except for Tier 3s) excluded; most Tier 2s whose crimes were committed against members of their families or households, and most Tier 2s whose crimes were considered statutory because of age also excluded. NJ Code at §2C:7-12 to 19
NM: The following offenses are not listed on the public website: §30-4-1 Kidnapping (of a minor); §30-4-3 False imprisonment; §30-9-1 Enticement of child; §30-9-11 Criminal sexual penetration 4th deg.; §30-9-12 Criminal sexual contact in the 4th deg.; §30-10-3 Incest; §30-28-3 Solicitation to commit sexual contact of a minor; §30-37-3.2 Child solicitation by electronic communication device

NV: Only information regarding Tier 1s with child victims, all Tier 2s/3s, and juvenile sex offenders convicted of certain sex offenses pursuant to NRS 62F are posted on this site. The registry does not provide information on Tier 1s w/ adult victims. See NRS 179B.250

NY: By law, DCJS only lists Level 2s/3s on its website. See NY COR § 168-q

OR: Website only lists RCs classified as Level 3 (who present the highest risk of reoffending and require the widest range of notification) under ORS §163A.100. ORS §163A.215 directs the OR State Police (OSP) to release information about level 3s on a website, unless the RC is under supervision of the Psychiatric Security Review Board. PSRB may authorize OSP to release information on a level 3 under their supervision, on this website, by request.
RI: Only those classified as a Tier 2/3 are listed publicly. RI General Laws §11-37.1-12

VT: There is a long list of offenses posted publicly, but SMART notes that some offenses are still excluded (but doesn't state which ones). See 13 VSA §5411a for the full list; the statute also explicitly excludes juveniles and offenses where age difference is <38 mos., if offense was age based if RC is under 18 and victim 12+, or if RC has a developmental disability.

WA: Does not list Tier 1s unless transient or out-of-compliance. See RCW §4.24.550

WV: Only those required to register for life are listed publicly (WVC §15-12-5), but ten year registration is required only if all of the following conditions are met—One conviction (one offense and one victim), non-violent sex offense, and victim was an adult.

QUESTION: CAN RCs POSSESS BODY ARMOR?

Answer: For those of us worried about protection against vigilantes, the law is not entirely clear; many body armor businesses simply state that felons cannot own or use body armor. Under 18 USC § 931, anyone convicted of a "crime of violence" (as defined by 18 USC §16) in any US court cannot use or possess body armor unless the person wearing the vest is an employee who is doing so in order to perform a lawful business activity and who has obtained prior written certification from the employer. Nearly every state simply enforces the federal laws on body armor.

So far, unsuccessful court challenges to this rule include 2nd Amdt., vagueness, & interstate commerce (the latter because it can be successfully argued parts were imported from out of the state). This brings up two possible arguments, the "necessity" defense and the argument that not all SOs committed violent acts. (Neither has been tried in court from what I can gather.) More research is being conducted on this issue. Background checks are not required for purchase, so while you can easily buy one online, do so at your own risk.

REPORT FROM OCEAN COMMUNITY RALLY, 7/18/21, ST PAUL MN

Members of OCEAN, a coalition of civilly committed persons and their loved ones, hosted a rally against the MSOP (Minn. SO Program), the state's civil commitment program. About 75 people gathered first at the steps of the MN State Capitol, then at the Governor's Residence on 7/18/2021 to demand an end to the MSOP. Speakers included family members of those incarcerated by the MSOP, activists including Derek Logue from OnceFallen.com and Vicki from Women Against Registry (WAR), and state Supreme Court candidate Michelle McDonald (who lost a close race in 2020).

This is part on an ongoing effort by OCEAN and the #EndMSOP campaign to compel the state to provide a pathway for release from civil commitment. From 1994-2012, no one had been released from the MSOP; since a lawsuit led to releases, only 14 have been fully released from MSOP, while 88 have "graduated" by death. In recent years, MSOP has faced costly litigation, and MSOP inmates and their loved ones have tried a variety of awareness campaigns including filing name changes, hunger strikes, and a "honk-in" (an event where loves ones gathered in front of the MSOP facility and honked their car horns as a show of support to the hunger strike). These actions have led to the legislature reviewing the program, but we can only wait and continue to devise public awareness campaigns to keep the conversation going.

The latter part is difficult. Although the hunger strikes led to an agreement for a series of meetings between MSOP inmates and officials, MSOP does not take the actions seriously, largely dismissing them as mere publicity stunts. And, despite every local media outlet coming to the event, none posted any stories about the event online. It seems the media has little interest in the educational part of our efforts, just the events that cause shock and outrage.

DISCREPANCY BETWEEN IL SOR AND THE NATIONAL SOR DISCOVERED

Strictly speaking, the "Dru Sjodin Nat'l SO Public Website (NSOPW)" is NOT a federal registry. It is essentially a database of registry databases, a website that links to the online registries for all US States and Territories. The info shared on the NSOPW is only supposed to be the same info listed on the state's website, no more, no less. But an activist at IL-Voices has sent out a notice that employer data, info NOT publicly listed on the state's online registry, IS listed on the NSOPW. I have confirmed this is true by searching the registry (using the name John Smith because it is two common names) and sure enough, I found employer addresses listed for IL. I wonder what other information the NSOPW is listing on their databases that are not publicized by the state registry.

When I emailed the NSOPW about this discrepancy, they responded, "NSOPW only receives data provided by the individual jurisdictions (states, territories, tribes, and DC) at the time of the search. NSOPW.gov does not manage offender information. For questions or comments about that data you need to contact the jurisdiction that lists the SO you are viewing. To find the jurisdiction that lists the offender, click on the offender name in the search results list. You may contact the jurisdiction through its registry site."

The SMART Office SORNA Implementation Review admits that IL violates federal guidelines by not posting employment data publicly, so why is the IL Employer info listed on the NSOPW when it is not listed on the IL state registry? The feds are shifting responsibility to the state. It also makes me wonder what else the feds are posting that is not posted on state registry websites.

SCAM ARTISTS ADAPT TO REGISTRY CHANGES

I have written about scam artists a few times already in the ICoN and in my book, Your Life on The List." This should not be a surprise, then, that scammers are adapting their strategy to changes in the law. In 2021, CA switched over to a three-tiered registry scheme (a scam of a different kind), so the scammers are already hard at work exploiting the news, as discussed in this Oct. 2021 Humboldt Co. CA Sheriff's Office (HCSO) press release:

Phone scam targets local PC 290 Registrants
(Source: https://humboldtgov.org/CivicAlerts.aspx?AID=4286)

The HCSO has recently received reports of a phone scam targeting local PC 290 Registrants.

As part of this scam, the caller claims they are from the HCSO and tells the victim that due to "new laws", they are now out of compliance with current PC 290 registration requirements. The scammer tells the victim that they must purchase a pre-paid debit card and make a payment over the phone to come into compliance, or face arrest. The HCSO would like the community to know that this is a scam. The HCSO does not charge fees for PC 290 Registration. While LE may contact you regarding a warrant or investigation, we will never demand payment in exchange for dropping a warrant or stopping an investigation. Additionally, no government agency will ask you to mail large sums of cash or pay with gift cards or pre-paid money cards.

Remember these tips to help protect yourself from fraud:

1. Spot imposters: Scammers often pretend to be someone you trust, like a gov't official, a family member, a charity or a company with which you do business. Don't send money or give out personal info in response to an unexpected request – whether it comes as a text, a phone call or an email.

2. Do online searches: Type a company or product name into your favorite search engine with words like "review," "complaint" or "scam." Or search for a phrase that describes your situation, like "IRS call." You can even search for phone numbers to see if other people have reported them as scams.

3. Don't believe your caller ID: Technology makes it easy for scammers to fake caller ID information, so the name and number you see aren't always real. If someone calls asking for money or personal information, hang up. If you think the caller might be telling the truth, call back to a number you know is genuine.

4. Talk to someone: Before you give up your money or personal information, talk to someone you trust. Con artists want you to make decisions in a hurry. They might even threaten you. Slow down, check out the story, do an online search, consult an expert—or just tell a friend.

5. Don't rely on personal information: Living in the digital age, access to information is easier than ever. Scammers are often able to get their hands on very personal information, providing it to their victims to make their scam look more legitimate. Don't trust a scammer who is able to provide your personal info. If you followed the above tips and still aren't sure, call back at a publicly listed number for the organization from which the scammer claims to be or contact your loved one directly.

IN NEED OF A NEW STRATEGY

If you're a college football fan, you probably don't have ambivalent feelings about Alabama Crimson Tide head coach Nick Saban. You either love his success or loathe it. Perhaps you even tire of seeing the Tide stay in the championship hunt year in and year out. He's not invincible. The Tide has lost games under Saban (23 times in fact) although most were in the first year as head coach. There are other great coaches, and some have even beaten Saban and went on to win a football championship. But the Tide has been the gold standard for college football for well over a decade with little signs of slowing down.

One of Saban's biggest keys to continued success is changing his strategy. His first championship team at Bama relied on powerful running backs and a stifling defense, but the same was changing to flashier styles of play that emphasized speed over power. A speedier receiver can simply outrun a defender, get behind the slow defense and score. So Saban, long known as a defense guru, hired coaches that could develop this same offensive heavy style of play at run-first Alabama. Saban didn't wait until the Tide had a few mediocre seasons. Saban's teams never lost more than two games a year in the past decade, save the 2010 team that went 10-3. It has been said if Saban had his way, the game would go back to the way it was, but he has adapted.

The University of Alabama also had to adapt. It already had a legendary coach in Paul "Bear" Bryant, winner of 6 national championships in the 1960s and 1970s, and for the most part, the school was stuck in that era, and slumped to the status of bottomfeeders of the SEC, with three losing seasons, a coaching scandal, and NCAA sanctions all a part of the team. How times have changed!

Like Bama football in the 2000s, this movement to reform (or abolish) post-release sanctions like the registry is seriously in need of a new strategy. It is easy to get comfortable and do something that got us a nominal amount of success even if subsequent results are lacking. In 2007-2008, this movement I like to call an "Anti-Registry Movement" formed into the structure that remains today because people were tired of the status quo. In 2007 there was a single group called "SOHopeful" and they were conservative, content with merely grumbling on online forums and sending an occasional letter to the editor. People who wanted more action decided to hold a public outdoor rally at the Ohio Statehouse to protest Ohio's decision to be the first state to adopt the federal Adam Walsh Act rules. The conservative brass at SOHopeful condemned the rally, and most SOHopeful members left the group because they saw

SOHopeful as a sinking ship. The former members joined SOSEN and RSOL (which later became NARSOL).

Over the next few years this movement has gotten more organized and had a few early successes, but now I feel we have not changed strategies. The current leaders of this cause are just as conservative as the defunct SOHopeful group. The movement decided to stop taking chances on new and innovative strategies, preferring to perform "easy" or "safe" actions like closed conferences and online petitions. The biggest two groups – NARSOL and ACSOL—no longer openly advocate abolishing the registry. ACSOL boasts of helping California adopt the three tiered registry scheme!

This movement does not agree on anything, even an endgame. Are we trying to abolish these laws are merely "reforming" them, and if so, who must be sacrificed to achieve that goal? I asked Janice Bellucci, head of ACSOL, this question back in 2016, and did not get a straight answer. I believe my answer is in the 2020 book "The Feminist and the Sex Offender" by Judith Levine and Erica Meiners, where the authors had a very negative—and very accurate—view of the current movement:

"Unfortunately, these groups' lobbying efforts sometimes scrape the sharp edges of the worst proposals, making them collateral enough to gain wider support among lawmakers – yet still bad for people with sex-related convictions. For example, California's ACSOL was a key factor in the 2017 amendment to the state SORA that established three tiers of registrants based on the conviction and risk assessment, affecting the length and conditions of registration. At first glance this legislation looks like a win: it replaces a system that required, essentially, lifetime registration for the approximately 100,000 people on CA's public registry. Yet the terms are still severe: 10 years registration for tier, 20 for tier 2 and lifetime registration for tier 3. The legislation also plays everyone convicted of child pornography offenses on tier 3 and required a judge and the district attorney to authorize each removal from the registry. Most critically, the campaign left in place the assumptions underlying the registry, namely that some people do deserve to be on the list – just a smaller number, for less time."

"As the most visible face of the movement, NARSOL is studiously moderate. It wants to 'reform civil commitment processes' – not abolish civil commitment. It supports 'removal of residency and proximity restrictions against registrants after their court imposed sentence is satisfied' – but not complete repeal of restrictions that have no positive effect on public safety yet render thousands of registrants homeless. In fact, an activist in one local group told Judith that 'everyone is against the registry and civil commitment,' but 'making those positions public would get us laughed off the map.'"

Whatever you want to call this strategy (namby-pamby, i.e., "lacking energy, strength, or courage; feeble or effeminate in behavior or expression," is my choice of words), it just is not very effective these days. There is a lot of room for improvement. We need a better strategy than the status quo, but the big groups are resistant to change. You must start by looking at what has worked well and not-so-well, and educate yourself.

If I had a dollar for every ICoN subscriber told me to preach low recidivism rates or that they have the case to end the registry, I'd never have to fundraise. Lawsuits require attorneys who won't work for free, and attorneys tend not to listen to their clients. The political climate in the courts is not the same as they were in the civil rights era; SCOTUS is arguably the most conservative it has ever been.

Legislators, the media, and the courts are all aware of the fact recidivism rates are low. For the most part, they just don't care. In 2007, North Dakota Sen. Tim Mathern told NPR, "Sometimes what happens is lawmakers don't want to know the facts, or the facts don't make any difference. There really are two things that affect public policy. One is the facts. The other is the feelings and political pressure. There are legislators who will say, 'Don't confuse me with the facts. I've made up my mind.'" Mathern was the rare

exception—he changed his mind after doing the research. KS Sup Ct Justice Eric Rosen has been a rare exception in the courts, standing alone in condemning lifetime registration. (This is more impressive since KS justices are elected officials & Rosen has been reelected despite his stance on the registry.) Criminal justice committee panels in a few states like KS & OH have called for sweeping reforms to the registry, but legislators fail to act on them.

Sadly, this "anti-registry" movement has hindered more than helped at times. The strategy of our cause over the years is to throw new (untrained) activists into the pool with little-to-no instruction. For my part, I've taken part in efforts to create a handbook for those wanting to become an activist, but ACSOL and NARSOL chose not to help. (Both groups also chose not to take part in the July 2021 anti-civil commitment rally.) Both NARSOL and ACSOL have largely sold people on the lame primary strategy of "send us money for lawsuits and do little else." The effort to get accurate and helpful information into your hands is done in spite of these two groups, not because of them. We can't wait for these groups to get with the times.

We are at a crossroads in efforts to abolish the registry. WE can't be afraid to take chances if we want real change. The more successful movements of the past few decades have taken chances, and they didn't all wait for the equivalent of a Coach Nick Saban to turn the tide in their favor. The facts are on our side but are largely ignored, so we must look at what works and what has not worked, and plan a strategy around that. Start by educating yourself and your loved ones.

PRISONER SUBMISSION: THOUGHTS ON PRIVACY & THE RC BY DAVID MCDANIEL

I strongly believe the controversial issues of registration, supervised release, & the utilization of invasive pseudo-sciences (polygraphs, voice-stress analysis, & PPGs) & the surveillance of America's Registered Citizens through GPS & Internet Monitoring can be summed up as a single word – PRIVACY.

In regards to our personal standing & the 14th Amdt, nowhere in the text of the US Constitution of the Constitutions of the individual states within its borders, is it implacably stated (or even remotely suggested or implied) that an individual convicted of any criminal offense, regardless of category, is to be relegated to the status of "second class citizen" with a reduced expectation of privacy. Any courts which concedes otherwise stands in error and commits a most grievous act of injustice upon the citizens of the US. See the application of "reasonable expectation of privacy" in Roe v. Wade, for example. If one has the right to an abortion under the 14th Amdt premise of "reasonable expectation of privacy," surely the sanctions placed upon Registered Persons are more contrary to an individual's 14th Amdt right to privacy and clearly unconstitutional.

Any local, state, or federal policy, rule, ordinance, law, statute, or code that strips, limits, reduces, or revokes an individual's right to privacy in any, manner, shape , or form, is unconstitutional and must be repealed. An individual cannot be stripped of, lose, relinquish, or otherwise be subjected to a reduction of their individual rights and personal liberties; doing so reduces one's constitutional rights to mere social privileges subject to the whims of governmental authority, subject to regulation, restriction, and revocation at any time (like a Driver's License).

This is not what the framers of our beloved Bill of Rights had in mind for the citizens of our nation, but unfortunately, this is what "We the People" have allowed to happen. If we truly believe in "Liberty & Justice for All", we must DEMAND Liberty & Justice for ALL – including the Registered Citizen. Think about it, then do something about it; write your state & federal Representatives today, because tomorrow, you may no longer have that right.

"YOUR MILEAGE MAY VARY"

As I'm heading into my 8th year of the ICoN and my 15th full year of OnceFallen.com, and I've released the second edition of the best (and really, the only) guide to surviving the Registry out there. Over the years, I have received thousands of inquiries from those new to life on "The List," and while many ask about common concerns like registration, travel issues, community notification, etc., some ask about what life will really be like while having to register. Some worry a lot of the social ostracism and vigilantes who have used the registry, while others believe it is not really as bad as people make it out to be.

In the Second Edition of "Your Life on The List," you may see the phrase "Your Mileage May Vary." I'm sure you can figure out what I mean by that. I use this expression when people write/call/text me to ask what's the least restrictive state, because one day I can tell them which state I think is the least of the worst, only to have someone contact me the next day from that very state complaining how bad things are and he/she wants to move. Every state has registration. You will be on a registry and it will be on a background check. But you may or may not have community notification, parole/supervised release, job, housing, vigilante, or other issues. But you may experience none of these issues.

My intent with the ICoN, my website, and my books are to help those on the registry prepare for life on the list and hopefully join the fight against these oppressive laws. Part a part of our challenge comes from the fact that most of those who reach out to me and other similar organizations do so when life is going bad, not when they've beaten the odds and they're thriving despite the restrictions they may face. That is why there are so few success stories to share. Telling success stories comes with risks for those featured in these stories, so many RCs want to keep a low profile, and understandably so.

I feel my job as an anti-registry activist and a Registered Person offering advice is to tell you the truth, not simply what you want to hear. You should live by the motto of, "Hope for the best, but expect the worst." I'd rather you be prepared in case of an emergency that you may never face than for you to be in a position where you find yourself needing help you cannot get.

In February 2019, I lost almost everything I owned in a fire. Five days later, I was falsely accused of a theft that occurred 1100 miles from my home. I was fortunate enough to have a support network to help me rebuild my life. But I had let my renter's insurance lapse, and so it took me longer to recover, not to mention the PTSD I suffered from the events of that time. But without the help and support from friends and others who have experienced similar hardships, I may not even be writing this today.

Over the next few months, I hope to cover topics specific to activism. I'll start by discussing what we've done that has worked, in addition to things you can do to become an effective advocate, space permitting. January is typically the start of legislative sessions for most states, so that is a busy time for activists. An "activist handbook" is also in the works and will hopefully be released sometime in 2022. We do have a gameplan and hope to inspire readers to advocate for real change. But change begins with preparing yourself. Bettering yourself starts with educating yourself and preparing for life on the list. Take advantage of classes to improve your education, especially communication skills (public speaking, effective writing, etc.). Start a group with fellow SOs and discuss the laws and how to deal with them once released. These are all small things you can do today. But a little preparation today could save a lot of heartache tomorrow.