ICON CONSOLIDATED NEWSLETTER, 2022A (Jan. to June 2022, #75-#80)

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 1/30/2023.

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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/

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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

US v. Hawkins, No. 18-1330 (DC 2021): Appellee pled guilty in 2018 to one count of misdemeanor sexual abuse of a child. Because Appellee had already been convicted of misdemeanor sexual abuse of another child two years prior, the government argued that the court should subject him to lifetime registration pursuant to the District's SOR Act, DC Code § 22-4000 et seq. The trial court disagreed with the government's argument, concluding that the recidivism provisions in the statute required 2 prior adjudications of guilt and sentencing, not including the instant offense. For that reason, the trial court imposed a ten-year registration requirement on Mr. Hawkins. The gov't appealed. The DC Ct of Appeals reversed the decision of the trial court, concluding that the "two or more" requirement in DC Code § 22-4002(b)(3) and (4) applies to individuals upon their second qualifying disposition, inclusive of the instant disposition.

State v. Strudwick, No. 334PA19-2 (NC 2021): NC Sup Ct ruled lifetime GPS is reasonable and permissible under the 4th Amdt because it promotes a legitimate and compelling governmental interest that outweighs the program's "narrow, tailored intrusion" into defendant's expectation of privacy.

Frank A. v. Donnie Ames, No. 20-0024 (W.Va. 2021): WV Sup Ct of Appeals concluded that any retroactive application of the supervised release statute (WV Code §62-12-26) to an individual who committed any of the enumerated sex offenses prior to the effective date of the supervised release statute violates the constitutional prohibition against ex post facto laws.

Does #1-9 v. Lee, Nos. 21-00590; 21-00593; 21-00594; 21-00595; 21-00596; 21-00597; 21-00598; 21-00624; 21-00671 (M.D. Tenn. 2021): Opinion granting a preliminary injunction preventing enforcement of TN's registration act against plaintiffs whose respective offenses were committed prior to enactment of the registration scheme, noting that well established 6th Cir. precedent supports the conclusion that ex post facto application of TN's registration statute is unconstitutional.

In re Commitment of Snapp, No. 126176 (Ill. 2021): IL Sup Ct ruled that under the amended Sexually Dangerous Persons Act, it is unnecessary to make a separate express finding that the respondent is substantially probable to re-offend after finding the respondent is a "sexually dangerous person."

People v. Codinha, No. D077651 (Cal. Ct. App. 2021): Ruling affirming denial of appellant's motion to dismiss guilty plea based on ineffective assistance, concluding that counsel was not obligated to advise appellant that an SVP commitment was a possible consequence of his plea.

Federal: New SORNA regulations will take effect 1/7/2022. "The DOJ received over 700 comments on this rulemaking from individuals and organizations. Most of the comments amounted to general criticisms of SOR or SORNA. Some of the comments proposed specific changes to the provisions of the proposed rule. Having carefully considered all comments, the DOJ has concluded that the regulations in this rulemaking should be promulgated without change from the proposed rule, except for amendment of §72.8(a)(1)(i)-(ii) to specify the circumstances in which SORNA violations may result in Federal criminal liability."

US v. Hunt, No. 20-1009 (1st Cir. 2021): Hunt was civilly committed under the AWA in 2009, discharged from commitment in 2012 under certain conditions, including that he receive mental health treatment & remain under supervised probation. In 2018 Hunt moved for an unconditional discharge, which requires a showing that the committed individual would not be "sexually dangerous to others" if so released. The Dist Ct concluded that Hunt failed to make the required showing despite consistently compliant behavior. Appellant is now 75, partially paralyzed from a medical condition, & confined to a wheelchair. 1st Cir affirmed the Dist Ct's judgment denying unconditional discharge holding that deference would be given

to the Dist Ct's determinations. Court noted "some concern" that the Dist Ct "gave seemingly little weight to [Appellant's] physical impairments" but affirmed the ruling noting the difficulty of determining whether the Hunt's "spotless record" was dependent in part on the conditions of supervision he sought to remove.

People v. Edwards, No. 20-01300 (NY App. Div. 2021): Edwards challenges an order determining that he is a Lvl 2 risk pursuant to SORA, arguing the lower court erred in refusing to grant him a reduced risk level where he established that he had not reoffended for 7 years between release from prison & his SORA hearing, despite being unsupervised. The App Ct ruled in favor of Edwards, noting "the fact that defendant was at liberty while unsupervised for an extended period of time without any reoffending conduct is a mitigating factor not adequately taken into account by the guidelines."

Commonwealth v. Santana, No. 23 MAP 2021 (Pa. 2021): Santana was convicted of rape in NY in 1983, prior to the enactment of an SOR in NY or PA. Santana moved to PA & was later arrested for FTR. One day after Santana pleaded guilty for the FTR, the PA Sup Ct ruled retroactive application of SORNA violated the state & federal ex post facto clauses (*Commonwealth v. Muniz*, 164 A.3d 1189 (Pa. 2017)). The lower court tossed out Santana's FTR, the state appealed. The PA Sup Ct affirmed the holding of the Superior Ct's en banc panel, & held that (1) retroactive application of SORNA to defendant was punitive, supporting a finding that such application amounted to an unconstitutional ex post facto law, & (2) the federal constitution does not require a defendant asserting a claim of an unconstitutional ex post facto law to prove that he was in fact disadvantaged by the retroactively-applied law.

Pierre v. Vasquez, et al., No. 20-51032 (5th Cir. 2022): A TX man was convicted in Fed Ct in AZ of 18 USC § 2421 (knowingly attempting to transport a person across state lines for prostitution); he was not required to register, But the TX SOR Board stated Vasquez would be required to register 15 yrs even though offense was not a registry offense in TX. A US Dist Ct upheld TX's SOR Board decision. The 5th Cir's unpublished opinion reversed the decision of the Dist Ct & remanded the case, noting that the Dist Ct erred in evaluating whether Appellant could identify a "liberty interest" where the relevant question is whether Pierre's alleged injury is "concrete," "particularized," & "actual or imminent." The Court concluded that the damaging reputational consequences of bearing the SO label are a "concrete" form of injury sufficient to support standing, that the harm is "particularized" to Pierre, & that the injury is "imminent" based on TX's continued efforts to require Pierre to register; Appellant has a sufficient "personal stake" to satisfy the injury-in-fact requirement of standing.

Koch v. Village of Hartland, No. 21-cv-00503 (ED WI 2021): Koch challenged a municipal ordinance which prohibited "designated offenders" from living in town until the saturation level for designated offenders reached a factor of 1.1 or lower. The Ct dismissed the case, stating that it was bound to follow 7th Cir precedent, *US v. Leach*, 639 F.3d 769 (7th Cir. 2011) & *Vasquez v. Foxx*, 895 F.3d 515 (7th Cir. 2018) concluding under that precedent the Ordinance did not apply retroactively because it only applied to conduct occurring after enactment, i.e., the Ordinance only applies to Koch because he now desires to move to Hartland.

State of Arkansas v. Darrell Lamont Scott, 2022 Ark. 8: AR Sup Ct ruled Scott must register for non-sexually motivated offense even if person is found not guilty by reason of mental defect. Scott stole a truck that was left running & abandoned it when he discovered kids were inside, & was not accused of harming the kids in any way, but was still charged with kidnapping & false imprisonment of minors, "sex offenses when the victim is a minor & the accused is not a parent."

McClendon et al. v. Long et al., No. 21-10092 (11th Cir. 2022): Ruled Butts Co Gary Long violated 1st Amdt protections against compelled gov't speech, & was not narrowly tailored, by placing signs on the yards of RCs declaring "No Trick-or-Treat At This Residence." Long also falsely claimed GA RCs were

prohibited from participating in Halloween activities. None of the three plaintiffs have been classified as posing an increased risk of recidivism under GA law. It is important to note that two of the Plaintiffs lived with others &in those instances (both lived with their parents), the court noted the property owners can decide to keep the signs or not (of course, both Plaintiff's parents decided not to allow the signs on their property).

Jones et al. v. Stanford, Case 1:20-cv-01332-RJD-JRC (ED NY 2022): The parties settled on a suit over a total internet ban on all registrants on supervision; under the agreement, NY can now ban RCs on paper if the victim of the offense was under the age of 18 at the time, was classified a Tier 3, & the internet was used to facilitate the commission of the crime.

Doe v. Settle, No. 20-1951 (4th Cir. Jan 28, 2022): Upheld lifetime registration even as the court acknowledges the law is stupid. "Two months after he turned 18, John Doe was caught having sex with his 14-yr-old GF. Given the facts of his arrest, Doe may well have been charged with "carnal knowledge of a child," a Class 4 felony that prohibits sex with 13- & 14-yr-old children. But instead he was charged with & pleaded to a lower-class felony, "taking indecent liberties with children," which only prohibits behavior like propositioning a child for sex. Doe's plea may have gotten him a shorter prison sentence, but due to a quirk in VA law, it also led to worse treatment by VA's SOR. Both crimes generally put an offender on the highest tier of the registry for life, but there is a narrow exception to that rule. When an offender is less than 5 years older than his victim, he may be removed from the registry in time. But that mitigating exception only applies to carnal knowledge, the crime with the higher sentencing range, & not to indecent liberties. So while Doe may have felt lucky to only be charged with indecent liberties, given the potential for a lower prison sentence, that plea ended up condemning him to worse treatment on the registry. Because of that oddity, Doe will spend the rest of his life on VA's SOR with no hope for relief… The judiciary is not meant to revise laws because they are clumsy, unwise, or — even in some cosmic sense — unfair. In cases like this, courts are asked to make judgments about what is inside & what is outside the precise lines drawn by the Constitution. And whatever else they may be, VA's SOR & its narrow Romeo-and-Juliet provision are constitutional."

US v. Englehart, No. 21-8007 (10th Cir. 2022): 10th Cir vacated the lower court order imposing conditions of supervision prohibiting Englehart from viewing sexually explicit materials, concluding that the lower court failed to make particularized findings of compelling circumstances to justify the revised Sexual Material Prohibition & failed to give even a generalized statement of reasons to justify the Mental Health Condition, emphasizing that even where Sexual Material Prohibitions serve a rehabilitative, deterrent or penological purpose that purpose needs to be balanced against the serious 1st Amdt concerns of such a restriction.

Ortiz v Breslin, 595 US __ (2022): Certiorari denied in NY case involving NY's practice of detaining Lvl 3s in prison after granted conditional release, & sending those who completed sentences to a "residential treatment facility" that looks & acts like prison. (In NY, only Lvl 3s on supervision are subject to residency restrictions). It is rare, however, for SCOTUS justices to write a reprimand, but Justice Sotomayor wrote a scathing rebuke of the law, recognizing ample research that residency restrictions are counterproductive to public safety, adding, "Because of the grave importance of these issues & the frequency with which they arise, it seems only a matter of time until this Court will come to address the question presented in this case. NY should not wait for this Court to resolve the question whether a State can jail someone beyond their parole eligibility date, or even beyond their mandatory release date, solely because they cannot comply with a restrictive residency requirement. I hope that NY will choose to reevaluate its policy in a manner that gives due regard to the constitutional liberty interests of people like Ortiz.

American Law Institute "Modern Penal Code": Despite condemnation by 35 State AGs, the ALI approved most revisions to the MPC, including (1) significant reduction in the number of offenses that require registration, (2) maximum registration period of 15 years, (3) elimination of all public registries with LEO only lists, & (4) prohibition against many collateral consequences including residency restrictions, access to schools, & the Internet. While the MPC is only model legislation, many states follow ALI's recommendations.

People v. Ramirez, Case # 18CA2385 (CO App Ct, 2/17/22): Unpublished case; Douglas Co judge mistakenly let an expert witness vouch for the credibility of a child victim, prompting the state's Court of Appeals to reverse the defendant's sexual-assault convictions. "Our appellate courts have long held that when an expert's testimony breaches the boundary of educating the jury and instead comments on an accuser's veracity, the testimony is 'plainly inadmissible,'" wrote Judge Timothy J. Schutz. A social worker was allowed to testify in a manner that suggested that some process existed to screen out unfounded allegations from children. Second, by testifying that studies showed between 1.5% and 2.5% of children made false accusations, that meant the jury had a 97.5% to 98.5% chance of convicting Ramirez correctly. Given the lack of physical evidence of an assault, Ramirez's conviction hinged in substantial part on whether the jury believed the alleged victim had told the truth.

Lindsey v. Swearingen, No. 21cv465 (N.D. Fla. 2022): Lindsey moved from OK to FL & back to OK after OK removed him from the registry, but FL kept him on their SOR. The Dist Ct ruled that FL may require a new resident to register based on a crime committed in a state where the individual lived previously, even though a court in that state terminated that state's registration requirement & FL is not required to purge or deny public access to prior registration records where an individual has left the state.

Atryzek v. State, No. 2019-215 (R.I. 2022): RI Sup Ct held that date of offense, not conviction, determines timeline for registry violation.

Gardei v. Conway, No. S21G0430 (Ga. 2022): A lawsuit against lifetime SOR allowed to proceed over State claims it violates statutes-of-limitation claims (Gardei first registered in 2009) because each period of registration constitutes a new injury. "The correct inquiry as to when the cause of action accrues does not focus on when Gardei became aware of sufficient facts to pursue a constitutional claim, but rather when Gardei suffered the injury that completed the tort. The Registry Act creates a lifetime requirement that Gardei report in person to his local sheriff's office each year to renew his registration. See OCGA § 42-1-12 (f) (4). Although Gardei incurred the same or similar consequences upon his initial registration and each subsequent renewal, he was subject to a new felony prosecution on each of these occasions – in other words, each year – if he failed to comply. Assuming for purposes of the appeal that application of the Registry Act violated Gardei's constitutional rights since 2009, or became a violation at some point in the interim, a wrongful act occurred each time Gardei was required to register in violation of his rights. Each such renewal extended the allegedly illegal consequences of registration for another year and resulted in a new wrongful act, a new injury, and the accrual of a new cause of action."

PA tourist to stay on FL's SOR – A Leon Co FL circuit judge has dismissed a PA man's challenge to a FL law that kept him on a after a 10-day family vacation to Disney World in 2015, in part finding that a statute of limitations had expired (SOL is 4 yrs). John Doe, reported to the Orange Co Sheriff's Office when he came to FL in 2015 because he was on the PA-SOR at the time as a result of a CP conviction in 2002. Doe was removed from the PA-SOR in 2016. Doe filed suit in 2020 contending FL violated his constitutional privacy and due-process rights. That is because Doe registered in FL in 2015 but didn't file the lawsuit until 2020.

US v. Wells, No. 19-10451 (9th Cir. 2022): Appellant knowingly and voluntarily agreed to the plea agreement and the waiver to appeal his sentence, yet the Court concluded that a waiver of the right to

appeal a sentence does not apply if (1) the defendant raises a challenge that the sentence violates the Constitution; (2) the constitutional claim directly challenges the sentence itself; and (3) the constitutional challenge is not based on any underlying constitutional right that was expressly and specifically waived by the appeal waiver as part of a valid plea agreement. In this case, a waiver of the right to appeal a sentence does not apply to certain constitutional claims and concluding that a special condition of supervised release restricting the possession of a computer was unconstitutionally vague where the definition of computer could be interpreted to include common kitchen appliances.

People v. Magana, No. B311611 (Cal. Ct. App. 2022): Opinion remanding matter to the trial court for further consideration and noting a likelihood of merit in claim that the trial court's failure to provide Appellant with a full advisement of his right to a jury trial in the context of a civil commitment proceeding pursuant to the Sexually Violent Predator Act violated his right to equal protection under federal and state law.

Gamble v. Minnesota State-Operated Services, Case No. 21-2626 (8th Cir 2022): Civil detainees who participate in voluntary Vocational Work Program in the MSOP sued state defendants that they failed to pay minimum wage under the Fair Labor Standards Act. Detainees are paid $10 per hour but the state withholds up to 50% of the wages for the cost of their care. The district court concluded the detainees were not employees and alternatively that defendants were immune under the Portal-to-Portal Act. Sexually dangerous civil detainees are not state employees, there is not bargained-for exchange of labor for mutual economic gain; detainees are under the control and supervision of the detention facility; the purpose of the program is to provide treatment; the program does not generate profits; the detainees have their basic needs met by the state, including medical care and meals. The detainees' arguments that used of their labor creates unfair competition is not convincing, as the program does not provide goods or services to private entities and program must consult with the labor market to ensure the activities are in the best interests of the stakeholders. Because the detainees are not employees, we need not decide if defendants are immune.

Alvarez v. Annucci, No. 50 SSM 35 (NY 2022): Petitioner pleaded guilty to sexual abuse of a child, was sentenced to three years' imprisonment and seven years' post-release supervision, and was ultimately adjudicated as a level one offender under SORA. As a result, the Board of Parole imposed various conditions on Petitioner including Sexual Assault Reform Act ("SARA") residency restrictions. Due to these restrictions, after serving a full prison term, Petitioner was not placed in a residence shelter in his city of choice and was instead transferred to two correctional facilities, referred to as "residential treatment facilities." Petitioner brought a CPLR Article 78 proceeding seeking to compel the Acting Commissioner of New York State Department of Corrections and Community Supervision to release him. Petitioner argued that he cannot lawfully be kept confined for a failure to secure SARA-compliant housing because SARA's residency restrictions do not apply to him since he is neither on conditional release nor subject to parole. The Court of Appeals affirmed the lower court decisions that Petitioner has not established a clear legal right to relief and held that residency restrictions of SARA applied equally to eligible offenders released on parole, conditionally released, or subject to period of post-release supervision.

Powers v. Doll, et al., No. 20-MR-424 (Ill. Ct. App. 2022): The Court affirmed the decision of the circuit court holding that an individual presently committed under the SVP Commitment Act may not file suit for legal malpractice without first alleging that he is not, in fact, a "sexually violent person." In so holding the Court stated that "just as a criminal defendant cannot state a claim for legal malpractice without asserting actual innocence…an SVP must plead that he is not an SVP in order to assert a claim for damages arising from legal malpractice in the underlying SVP proceedings."

Fields v. State of Missouri, No.WD84506 (Mo. Ct. App. 2022): Appellant testified in an evidentiary hearing that his plea counsel never informed him that, following the completion of his sentence, his conviction could result in a lifetime civil commitment to the MO Dept of Health as an SVP Appellant stated that he would not have accepted the plea offer had he known about the possibility of future civil commitment. The Court of Appeals affirmed the judgment of the motion court, concluding that unlike the risk of deportation assessed in *Padilla v. Kentucky*, 559 U.S. 356 (2010), civil commitment under Missouri's SVP statute is a collateral consequence of a guilty plea as opposed to a presumptively mandatory consequence. For that reason, the Court declined to conclude that plea counsel was obligated to inform Appellant of this potential consequence. The Court also deferred to the motion court's determination that Appellant's testimony about the involuntary nature of his plea was not credible, and held that Appellant failed to establish the prejudice necessary to obtain postconviction relief for ineffective assistance of counsel.

Cornelio v Connecticut, No. 20-4106-cv (2nd Cir 2022): Reinstated a lawsuit against CT's state law requiring disclosure of online identity to registry officials, stating the law likely violates the right to free & anonymous speech. The Court noted, "the disclosure requirement burdens a registrant's 'ability and willingness to speak on the Internet'… The disclosure requirement targets 'conduct with a significant expressive element"—the use of communications identifiers—and therefore "has the inevitable effect of singling out those engaged in expressive activity'… the disclosure requirement prevents a registrant from speaking anonymously… The disclosure requirement does not avoid First Amendment scrutiny because the identifiers are disclosed to the government rather than to the general public."

Doe v. Wilson et al., Civil Action No. 3:21-04108-MGL (USDC SC 4/22/22): SC settles lawsuit allowing removal of consensual adult sodomy cases to be removed from the state's SOR to conform with the SCOTUS ruling in *Lawrence v. Texas*, 539 U.S. 588 (2003).

ACSOL joins Pacific Legal Foundation in challenge to SORNA regulations: The Alliance for Constitutional Sex Offense Laws (ACSOL) today signed a Memorandum of Understanding (MOU) with the Pacific Legal Foundation (PLF) to challenge the federal SORNA regulations that became effective in January 2022. As a signatory to the MOU, ACSOL has agreed to serve as a named plaintiff in the lawsuit which will be filed in the Central district of CA. The remaining plaintiff is an RC who resides in CA and will be known as "John Doe." The lawsuit will include a request for preliminary injunction which, if granted by the court, would stop enforcement of the SORNA regulations. The lawsuit will also request a final judgment declaring the SORNA regulations to be invalid. PLF is a nonprofit, public interest law foundation established to advance the principles of limited government and individual rights. The organization has won 14 of the 16 cases filed in SCOTUS on a variety of topics. The anticipated lawsuit will argue that the SORNA regulations are an exercise of an unconstitutional delegation of legislative authority, conflicts with relevant statutes and violates both the 1st Amendment as well as the 5th Amdt's due process clause. It is anticipated that the lawsuit will be filed in May 2022.

Brown v. Maher, No. 21-CV-1018 (N.D.N.Y. 2022): District Court granting Plaintiff a preliminary injunction where Plaintiff's right to live with his wife and step-children was prohibited by parole conditions preventing him from contacting any person under the age of eighteen, concluding that Plaintiff's right to live with his wife was fundamental, that he was likely to succeed on the merits of his §1983 due process claim, that he faced a likelihood of irreparable harm, and that the balance of equities and public interest favored issuance of a preliminary injunction.

DECIPHERING THE SORNA RULE CHANGES

The new SORNA rules that are set to be enforced is what could be described in the current term "hot mess" (i.e., a person or thing that is spectacularly unsuccessful or disordered, especially one that is a source of peculiar fascination). It is unlikely I can cover this in its entirety but I'll try.

The AG was given authority to make SORNA rules, upheld in the recent Gundy ruling & other past rulings. The Federal Register (FR, the congressional rules report) says about the new rules:

"While this rule does not make new policy, as discussed above, it is expected to have a number of benefits. The rule will facilitate enforcement of SORNA's registration requirements through prosecution of noncompliant SOs under 18 USC §2250. By providing a comprehensive articulation of SORNA's registration requirements in regulations addressed to SOs, it will provide a more secure basis for prosecution of SOs who engage in knowing violations of any of SORNA's requirements. It will also resolve a number of specific concerns that have arisen in past litigation or could be expected to arise in future litigation, if not clarified & resolved by this rule. For example, as discussed below, the amendment of §72.3 in the rule will ensure that its application of SORNA's requirements to SOs with pre-SORNA convictions is given effect consistently, resolving an issue resulting from the decision in *US v. DeJarnette,* 741 F.3d 971 (9th Cir. 2013). Beyond the benefits to effective enforcement of SORNA's requirements, the rule will benefit SOs by providing a clear & comprehensive statement of their registration obligations under SORNA. This statement will make it easier for SOs to determine what they are required to do & thus facilitate compliance."

So they claim (in a condescending manner, particularly as it relates to "benefiting" RCs), but in reality SORNA rules are a set of minimum standards & thus rules still vary even within AWA states. (Example: AL & FL have lifetime reporting for all adult RCs & no tiered systems, while OH has the AWA 3-Tiered system.)

Florida Action Committee summarized some of the lowlights of this rule change, which I'll list below. Keep in mind this is one summary of the rule changes, & note that some of these concepts already existed in SORNA before the proposed changes:

1. Bad: Federal SORNA requirements are independent of each State's requirements. Last year's *Willman v US*, No. 19-2405 (6th Cir 2021) held that SORNA applies even though something might not be a requirement in your State. If your state requires registration for 10 years, but SORNA requires 25, it's 25. You may not be prosecuted in state court but can be prosecuted in federal court.

2. Bad: Ideally, the AG could have held that SORNA sets the standards (rather the minimum standards), but it's up to the state to implement & enforce those standards. He didn't. Technically, the same failure to register could constitute both a Federal & a State offense.

3. Bad: This rule already existed in SORNA (as upheld by the *Gundy* case) but was just reinforced by the AG: SOs must also provide '[a]ny other information required by the AG'." Normally, when registry requirements change, it passes through the lawmaking process, you have some opportunity to present opposition or support, it's debated in several committees, it's voted on & finally it's sent to the Governor where there's one last shot of a veto, but the AG can change SORNA on a whim.

4. Good: AG reinforced a scienter requirement to registration violations (i.e., a standard of guilt that requires the person had knowledge that their action was illegal). In response to many people's concern; he writes, "Section 72.8(a)(1)(iii) in this rule moots fair notice concerns by explaining that SOs are not held

liable under 18 U.S.C. 2250 for violating registration requirements of which they are unaware." This may be important in fighting FTR charges since federal & state laws conflict & leads to confusion.

5. Good: AG gave some leeway when it comes to Int'l Travel. Under IML, RCs are required to report intended int'l travel at least 21 days in advance. Under most interpretations, if your child was traveling outside the US & suffered a medical emergency, you were unable to travel to their hospital bedside because you didn't anticipate the emergency three weeks in advance & give notice. AG recognized that exceptions to that requirement may be necessary & appropriate in certain circumstances. In these cases where a registrant "does not anticipate a trip abroad that far in advance 18 U.S.C. 2250(c) would excuse a SO's failure to report the travel 21 days in advance". Similarly, the AG excused violations where it is impossible to comply with a requirement.

There were over 700 comments sent to the Fed Reg during the "open comment period," & some came from ICoN readers while many more were from anti-registry activists. While this sounds like a lot of opposition, it pales in comparison to other issues (by contrast, a Soc Sec rule proposal running at the same time had over 11k public statements). AG did respond to many comments:

"Having carefully considered all comments, the DOJ has concluded that the regulations in this rulemaking should be promulgated without change from the proposed rule, except for amendment of § 72.8(a)(1)(i)-(ii) to specify the circumstances in which SORNA violations may result in Federal criminal liability."

The KS Public Def. Office argument is summarized as follows:

"Much of the proposed rule conflicts with SORNA's text & purpose. As the DOJ knows, it cannot impose its own construction of unambiguous statutory text… In four ways, they purport to define crimes Congress never envisioned, punishing SOs in non-SORNA-compliant jurisdictions for the jurisdiction's noncompliance, & otherwise permitting the prosecution of SOs who are in full compliance with SORNA's registration requirements."

1. "Proposed §72.3 is inconsistent with 34 U.S.C. §§ 20919, 20924, & 20927. Proposed §72.3 includes language requiring SOs to comply with SORNA in jurisdictions where compliance is impossible. But SORNA itself makes clear that Congress did not intend to hold SOs criminally liable in such circumstances."

2. "Proposed § 72.7(d) conflicts with § 20913. Proposed § 72.7(d) requires a SO to inform a jurisdiction "if the SO will be commencing residence, employment, or school in another jurisdiction or outside of the US." (Incl. advance notification of termination)… "Before a SO moves to another jurisdiction (or before a sex offender obtains employment in another jurisdiction or begins schooling in another jurisdiction), he must report that change prior to the change. This proposed rule runs directly contrary to § 20913."

3. Third, proposed § 72.7(c) is inconsistent with § 20913(c). Under § 20913(c), a SO need only update his registration in "at least 1 jurisdiction involved," not in one or more specific jurisdictions… Yet, proposed § 72.7(c) requires a sex offender to update the registration in a specific jurisdiction – "the jurisdictions in which [the changes] occur."

4. "Proposed §§ 72.7(e) & 72.7(f) should be amended to permit the SO to inform any involved jurisdiction of changes in information or intended international travel.

5. "SORNA's delegations to the Attorney General violate the nondelegation doctrine" (which was sadly upheld in *Gundy*)

If you want to read the SORNA rules yourself, the link is at:

https://www.federalregister.gov/documents/2021/12/08/2021-26420/registration-requirements-under-the-sex-offender-registration-&-notification-act

Link to the KS PD Office Statement: https://floridaactioncommittee.org/wp-content/uploads/2021/12/85-Fed.-Reg.-49332-FPD-Comment.pdf

ABOUT THE AMERICAN LAW INSTITUTE (ALI) AND THEIR PROPOSED CHANGES TO MODEL PENAL CODE (MPC)

Why is there an attack on the ALI and their proposed changes to their MPC by the AGs of 37 States & NCMEC? The MPC is a model act designed to stimulate and assist state legislatures to update and standardize the penal law in the US. The MPC is a project of the ALI, and was originally published in 1962 after a 10-year drafting period. The MPC itself is not legally-binding law, but since its publication in 1962 more than half of all states have enacted criminal codes that borrow heavily from it. It has greatly influenced criminal courts even in states that have not directly drawn from it, and judges increasingly use the MPC as a source of the doctrines and principles underlying criminal liability. Suffice to say, changes to the MPC can lead to massive changes in both criminal cases and the SOR. This is NOT law, but a model of law. Still, it will influence public policy in many states. A description of the significance of this law is below:

ALI Adopts Revisions to MPC That Include Major Changes to SORs
By Ira Ellman, 6/9/21

On 6/8/21 the membership of the American Law Institute gave its final approval to a revision of the Model Penal Code's chapter on Sexual Assault & Related Offenses. This project was initially authorized by the ALI Council in 2012. The appointed Reporters, Professors Stephen Schulhofer and Erin Murphy of the NYU School of Law, began work immediately, preparing drafts for discussion with the appointed project Advisors and the Members' Consultative Group. As is normal with ALI projects, these groups included practicing attorneys, judges, and scholars who are experts in the subject. Portions of the project were presented to the full membership at the annual meetings in 2014, 2015, 2016, and 2017. The ALI Council agreed on 1/22 to recommend the membership's final approval of the completed project. Tentative Draft #5 was then considered and approved by the Membership at the 2021 annual meeting held on 6/8. The Reporters will now prepare the final published version reflecting the discussion at the Annual Meeting as well as editorial improvements.

The complete Tentative Draft, 600 pgs. long, addresses the substance of the full range of sexual assault crimes. It contains the Blackletter provisions setting forth the code's statutory language for each section, official Comments interpreting and explaining each section, and Reporter's Notes providing background and citations to sources relied upon by the Reporters in the draft. The original version of the Model Penal Code was published by the ALI in 1962. It was and remains highly influential. According to Wikipedia more than half the states enacted criminal codes that borrowed heavily from the MPC, and even courts in non-adopting states have been influenced by its provisions. It was a forward looking document. One important and influential contribution of the 1962 MPC was the removal of noncommercial sexual acts between consenting adults, such as sodomy, adultery and fornication, from the criminal law. In 2001, however, the Institute concluded that revision of some portions of the 50-year-old MPC had become necessary. This project, revising the portions of the MPC addressing sexual assault, is one of three separate revision projects on different portions of the code. The original MPC contained no provisions on

a sexual offense registry; the inclusion of that topic in the MPC is among the most significant revisions to it now approved by the Institute.

The MPC's registry provisions are contained in 11 sections. Including an official comment providing an Executive Summary, they are set forth in the final 120 pages of Tentative Draft #5. While the MPC adopts something called a registry, its substance departs significantly from existing registry laws, federal and state, as the Comments acknowledge. Key differences are:

1. Many sexual offenses that are registrable in the federal and most state laws are not registerable under the MPC provisions, which provide that no offense is subject to registration other than those it specifies as registerable. Only these five offenses (as defined by other sections of the MPC) trigger a registration obligation:

a. Sexual Assault by Aggravated Physical Force or Restraint
b. Sexual Assault by Physical Force, but only when committed after the offender had previously been convicted of a felony sex offense.
c. Sexual Assault of an Incapacitated Person, but only when committed after the offender had previously been convicted of a felony sex offense.
d. Sexual Assault of a Minor, but only when the minor is younger than 12 and the actor is 21 years old or older.
e. Incestuous Sexual Assault of a Minor, but 1 only when the minor is younger than 16.

2. There is no public notification that individuals are on the registry, whether through a public website or any other means. Access to the registry is limited to law enforcement personnel. The knowing or reckless disclosure of registry information to others is a felony.

3. The maximum registration period for the small group who remain on the registry is 15 years, but those who do not re-offend, and comply with parole, probation, or supervised release conditions, are removed after ten years. Failure to register cannot be the basis of parole or probation revocation; it is punishable only as a misdemeanor offense.

4. General rules that required location monitoring of persons convicted of a sexual offense are barred, as are most restrictions on residency, access to schools or the internet. Judges could impose such restrictions in particular cases, but only on persons currently required to register, and only upon an evidentiary showing that there are special circumstances in that particular case that justify it, and only for a limited period of time. In no case may a judge require public notification. Mandatory restrictions on employment applicable primarily to persons convicted of a sexual offense that are created by other state laws are not repealed by the MPC, but anyone subject to them may petition a court for relief from the employment bar

The American Law Institute, established in 1923, is the leading independent organization in the United States producing scholarly work to clarify, modernize, and otherwise improve the law. The current Council of the ALI includes 7 members of the United States Courts of Appeal as well as Justices on the highest courts of California, Arizona, Texas, and New Jersey. The recommendations of the ALI Council become the official position of the Institute when (as with these revisions to the MPC contained in T.D. 5) they are adopted by the members, which consists of leading attorneys, law professors, and judges who have been nominated and elected to membership.

THE BATTLE OVER LABELS & PUNISHMENT

The stereotypes used to denigrate those convicted of sex offenses have existed long before any of us were born. The 1931 German film "M" depicted a child killer in a trenchcoat whistling menacingly. A Nazi propaganda poster later depicted a Jew in a trenchcoat luring children with candy. In the 1950s & 1960s, the FBI distributed a poster of a man with his hat pulled down, lurking behind a tree with a bag of candy in his hands, waiting to lure a young girl. At the top it read, "Boys & Girls, color the page, memorize the rules." The now-infamous 2003 Smith v Doe SCOTUS ruling was the result of the myth of "frightening & high" recidivism rates.

During my 16+ years of anti-registry activism, the debate over labeling those of us who have committed actions that require public inclusion on the SOR has been an ongoing debate. Within this anti-registry movement, we've evolved from the SO label by adding ex- or former- to that term to using terms like "Registered Person/Citizen" or "Registrant." Some used terms like "Persons Forced to Register," & those who find themselves attracted to minors use "Minor Attracted Persons" (MAPs) instead of the term "pedophile," which has become a term used as among the worst insults used in American society today.

In recent months, efforts to alter this blanket "SO" label have been met with great resistance.

Last November, the Colorado SO Management Board (SOMB) initially voted to replace language only within the treatment language used within the program. (Removing the SO label in the name requires legislation.) When I testified during the SOMB hearing, I stated, "Referring to me by a label for something I did half my life ago is inappropriate & downright offensive."

At least a third of the 22 active members of the CO SOMB are victim advocates & reps from prisons, community corrections, polygraphers, & prosecutors; only about half of the SOMB are treatment providers or have any experience in the mental health field. These victim advocates & criminal justice "stakeholders" (as they were called) vehemently opposed the changed & ultimately used their influence (& public outrage) to indefinitely table the proposed language change. These stakeholders referred to the label as part of the punishment. Ironically, openly gay CO Gov. Jared Polis also pressured the SOMB despite the fact that the LGBTQ+ community had often been the target of past legislation.

. The right-wing focused Denver Gazette wrote a vile editorial entitled, "Say it out loud — sex offender," bashing the proposal as left-wing "woke-ism." (In current culture, "woke" means "alert to injustice in society, especially racism" but is often used derogatorily by conservative pundits along with "cancel culture," a conservative buzzword mocking organized efforts to change language to become less demeaning & hateful.) The OpEd ended with, "They don't need to be coddled with kinder, gentler labels. They urgently need help — & they should be getting it behind bars, preferably while serving out their full sentences. Meanwhile, the SOMB could use a little therapy, too. Members who voted for the change should be required to repeat the words, "sex offender" aloud 100 times. Acknowledging who they truly are is the first step toward helping them. I was also personally attacked by right wing media & pundits because of my statement to the SOMB.

UT State Sen. Michael Kennedy had also proposed SB0052 last fall, which would have potentially allowed RCs to go to places like schools & parks, if they are with another adult. The bill would also have replaced the term SO with Registrant. The bill was tabled by Kennedy, who said in a statement, "I will always listen to my constituents & ensure their voices are heard while standing for law & order to ensure criminals are held accountable & victims are protected. This legislation was brought to me by concerned constituents & I allowed the bill to be made public well before the legislative session… this bill is already dead in my eyes."

ACSOL has reported the American Law Institute (ALI) delayed the final vote over the proposed changes to the Modern Penal Code, presumably as a response to opposition by 37 AGs & USDOJ.

Victim advocates & criminal justice stakeholders have made their intentions clear—keep the label alive at all costs because it justifies continued punishment after release from a government-sanctioned sentence. These agents do NOT care about rehabilitation or about second chances. These groups have stated on many occasions the label is a part of the punishment. That is why changing "sex offender" is important.

Change is not going to come easily (I have to remind myself to use certain terms) but it begins with you. These terms are used by subscribers. But "sex offender" implies a current danger. A very small minority of those placed on registries will commit a subsequent offense, but most of you will not. But many are too willing to use a term that implies you'll never be cured, will always be doomed to reoffend, & society needs a public shaming tool to keep you in check forever. My readers need to discuss the importance of language & labels. Only when we change ourselves can we think about changing the minds of others.

Years ago, I received a strange attempt at a compliment from someone I didn't know very well. That woman said, "You don't act like an SO." What does that even mean? I know the stereotypes, so perhaps that's what she meant. But even if the compliment fell flat, I hope this means she reconsidered what it means to be a person forced to register. We are not a homogeneous group; we are diverse in backgrounds, ideas, & education level. Unfortunately, it will take a long time to change societal views but consider the fact that other disenfranchised communities spent decades fighting to become recognized as persons deserving of rights & dignity.

RED LIGHT CAMERAS TARGET RCs

Raymond Schultz left the Albuquerque PD in 2013 under multiple scandals (excessive force, police-led shootings, & no-bid contracts with a taser company) & scrutiny by the media & the USDOJ. Schultz is now the chief for Memorial Villages (a suburb of Houston TX) & is hawking red light cameras, as told by KHOU:

"In addition to stolen vehicles & missing persons, the Memorial Villages Police Department is alerted each time a RSO drives past their cameras. 'For the month of December, I had 5 SOs come through the Villages,' Schultz said. Because the chief said there are no RSOs living in the villages – he took a closer look. 'I was getting hits, but only on Sundays,' he said. 'It was someone coming here to go to church.' The chief said he doesn't have a problem with that, but he said if there's ever an issue at a school or a daycare, the plate numbers collected by the cameras could be useful."

FAC readers reported many have been pulled over for Driving While Registered, so this may be a big problem as red-light cameras proliferate.

TREATMENT WHILE IN PRISON

A lot of people are worried about taking treatment in prison. While I understand the skepticism and concerns that signing up for SOT may backfire, many can benefit from gleaning programs while incarcerated.

I was an Alabama state prisoner; they had no formal treatment program, merely a "SOA" (SO's anonymous) group that utilized the remnants of a once-utilized treatment program the state cancelled because it was too successful (as prison scuttlebutt claimed). In addition, I utilized religious and self-help offerings. There are also companies like the Safer Society Press (PO Box 340, Brandon VT 05733-0340) where you can order treatment oriented books. So there are options even for those without access to

treatment, even if it is not optimal. However, I only endorse positive forms of treatment, not the one-size-fits-all approach that treats every participant as an irredeemable monster.

Christopher Zoukis of the Zoukis Consulting Group, which counsels those soon to enter federal prison, writes the following regarding concerns about taking SOT (this is specifically about the federal system, slightly edited):

"Participation in treatment programs can lessen the risk of being civilly committed, but disclosures made during treatment can be used to prove the need for civil commitment… Before taking the SOTP, you need to think about whether you feel you need help. These programs can be an excellent opportunity to receive that help. But risk can come along with participating in such programs. Most Psych Dept staff leading SOTP programs honestly want to help those in their groups.

But the BOP does have a dark history of abusing these groups. This abuse is seen by prison staff using them as a mechanism to collect the admissions necessary to civilly commit SOs. This is well documented in the Butner Study and resulting research and articles. Today, more than a decade later, it appears as though the BOP has stopped using the SOTP programs for such nefarious purposes.

If you want to balance your safety while still taking the SOTP program, feel free to participate in SOT. But do not admit new victims or discuss a mental inability to control yourself or stop yourself from reoffending. It's essential to get help for such matters, but admitting new victims will place you at significant risk. If you fall into this category, consider the residential treatment program seriously, but be careful what you disclose."

One prisoner, David E. Shares his own person experience with the federal SOTP:

Treatment While In Prison by David E.

A lot of questions and fear surround treatment for SOs who are in prison. While there is solid justification for hesitancy, some of the concerns may be exaggerated. Of course, this is only MY perspective and opinion. In this article I will share my personal experience with SOT in prison as well as the sentiments and perspectives of others.

My SOT bio: While at a USP (I'm talking federal system), I took SOTP-NR (non-residential sex offender treatment program). (Depending on your conduct history you will qualify for either non-residential or residential treatment). It was a 12 month program that met twice a week in a group of about 10 inmates with highly trained psychology staff. (We started with 20; after attrition, we graduated with 8.) Fortunately for me, the mission of the prison is to house and treat SOs - we made up 75% of the yard. This is an important distinction, as I did not have to contend with the fear of being attacked or shamed for being an SO or being in treatment. Other spots have a different atmosphere making concerted, open and honest treatment (which is the only way to make it worthwhile) extremely difficult if you want to stay safe. My PSR was 90% accurate and I was not in the process of any appeals; it was easy for me to disclose all relevant conduct. Others have a more difficult time as they deny the accuracy of the PSR or their charges/conviction. Some had to leave the program since their full honesty and disclosure were in question (legitimately or not, I can only guess). I never felt pressured to disclose more than was obvious from my case. At the program's completion I received a full report of all the notes they took about me as well as a final report/summary which included a clinical diagnosis for my sexual deviancy. To be honest, it was difficult to read on paper, but it was fair regardless of how crumby it felt.

For me, the whole experience was excellent. It was rigorous and very uncomfortable at times, but I felt supported and cared for by the psychology staff and my fellow participants. I am not exaggerating when I

say that I made significant and transformative strides in my well-being with the skills and knowledge I gained. I feel free from what was the biggest vice of my life, which I attribute largely to this SO program. I know I am not alone in this. Most of the other participants in my group as well as in other groups (4 groups were running simultaneously) feel the same way. This may be a unique experience, but it is my reality. Prior to my cohort, the prison had an SO psychology staff with a poor reputation of being coercive. Many reported having a negative experience: being shamed, forced to disclose things, feeling dismissed by staff. Because of the many complaints and problems, these staff members were relocated or fired. Hence, I was blessed with a new generation of professionals that seemed to know what they were doing and cared.

I also experimented with SA (Sexual Addiction Anonymous). This is based on the AA, 12-steps model. There was no in-house SA program where I was, so I participated through the mail. The mail arrives in discrete envelopes to maintain some level of privacy. I found a lot of the material and teaching worthwhile. Unfortunately, I had a non-responsive sponsor and the snail-mail proved a challenge, so I stopped participating. I know some who find this approach, which is faith-based, very helpful. SAA and SLA are other versions that I've seen. The up-side: there is little to no exposure of your personal conduct. Down-side: there is little support or accountability, especially for the minimally motivated.

The biggest concern I hear from those seeking treatment, aside from the sheer discomfort of reflecting on and discussing your sexual deviancy, is how the information you share can be used against you. Some inmates declare that what you say and your final diagnosis can be used to your detriment should you seek sentence relief (on appeals, compassionate release, etc.). The fear of being civilly committed is also a big bogeyman that keeps people from getting treatment. While these scenarios are certainly possible, from what I've seen in my 10 years in the BOP meeting hundreds of people who took treatment, this just doesn't happen. Civil commitment is EXTREMELY rare, used only for the most severe and repetitive cases. In my personal situation, nothing new came up through treatment that my judge did not already know or believe. I've seen firsthand 3 guys who completed the program get paroled early (DC or old cases). So, obviously it didn't hurt them, it helped. The reality is, however, it's too early to tell the effects of treatment on resentencing relief. Myself and many others have very long sentences so we are far from getting any play.

Bottom line: deciding whether or not you take SO treatment in prison is a very individualized decision: depending on your own willingness and motivation, the facility you are at, and your resentencing prospects. I wish I could discuss personal situations with each and every one of you and answer specific questions. But, alas, we work with what we got... Best of luck!”

TO TREAT OR NOT TO TREAT?

In response to the article in the April 2022 ICoN (#78), a few prisoners wrote me with dissenting opinions. One concern revolves around typical prison politics; in such treatment programs, some prisoners may try currying favor by targeting others in the group. As one prisoner wrote, the “BOP wants hardened criminals to pyscho-analyze the other hardened criminals in the Group---instead of doing their 'yab', I think and fear!”

The other chief concern regards whether there is truly any benefit to going to treatment before release. That’s up to you. If your motivation is simply to shave time off your sentence or reduce post-release treatment time, then the answer is murky.

One prison posed this question to the PO for the US Dist Ct for the N Dist of AL. This was the response:

"I received correspondence from you requesting information on the SOMP program and how it might impact your conditions of supervised release. Participation in SOMP is highly encouraged and any treatment records could be provided to and reviewed by a SO treatment provider during your term of supervised release. Participation in SOMP will not exclude you from the requirement to participate in SO treatment during your term of supervised release. However, any progress that you make an SOMP would be considered by your treatment provider and may result in you progressing from the primary phase of treatment to the maintenance phase more expeditiously than if you have not participated in SOMP. Participation in SOMP will not necessarily lessen the overall time that you are a treatment, but it may impact the frequency of treatment. Treatment considerations are made through the cooperation of the probation officer, treatment provider, and polygraph examiner. I hope that this assist you in your consideration of participation and any and all programs offered during your custodial sentence."

The prisoner who sent me the letter added, "BUT, reading between the lines one should receive credit for the time spent in the SOMP in the outside course. As she said, one should move quicker from the Intake phase to the Treatment phase. I think the over-all time required in the outside course may not be affected BUT the amount of attendances in the course should be fewer so instead of going to class for 1.5 years w/ 50 attendances it may be 1.5 years w/ 25 attendances!!"

Please note this applies specifically to the federal system, but some states may have similar programs. As my focus is on post-release issues, I cannot elaborate any deeper on this issue. If you feel you need treatment then do it; if you don't feel you don't need treatment, don't. That's your choice.

CAN AN RC BE A LANDLORD?

QUESTION: What laws are in place that may prevent an RC from investing in real estate, such as an apartment building dedicated to RCs? I have dreamt of building a transitional living center where by RCs have custom amenities. Such amenities would include; an on-site treatment center, a library, a recreational room, and perhaps even a custom ISP that could monitor communications via proxy. Each r/c would have a motel style room or efficiency apartment to live in.

ANSWER: At this time I don't know any specific laws that would prevent us from being a landlord although some other restrictions may cause some difficulties in our ability to act as a landlord.

For example, there are some states that restrict where a registrant can work (in a few states, you can't work too close to a school) but if you rented out a house you own in a restriction zone, then you had to perform maintenance on it, then that may be a problem. Some states have laws that prohibit RCs from performing certain service jobs (such as realtor or home inspector), so it might prevent an RC from fixing up a rental property that is currently occupied. This can be rectified by hiring others to make repairs in the occupied rental property. Some states will prohibit you from working in any place designated as assisted living centers or nursing homes so you would be unable to set up a home for this purpose. You might not be allowed to rent out property if you're placed on supervised release as POs can make discretionary rules.

Now, some of this may be speculation since renting out property is a gray area. It may or may not be considered self-employment depending on a number of factors that vary by state. However, other registrants have worked as landlords so it is possible. One notable example is landlord Randy Young. Young owns six houses near Dade City (and many properties in a handful of counties in FL) that comply with local ordinance and rents individual rooms to RCs. Each house fits three people, Young told the Tampa Bay Times in 2016.

CYBERBULLYING & SOCIAL MEDIA

(For the sake of those who have been incarcerated a long time, "social media" is a website that allows you to create a profile to share photos, videos, news & personal thoughts, & connect with like-minded people. The most popular of these include Facebook & Twitter, but there are many more.)

Thanks to Packingham v NC, RCs can use social media, though the fight for those on supervised release is ongoing (& as covered in previous ICoNs, mostly going our way). However, social media websites are private business & are allowed to discriminate against us. At the least, Facebook (which also owns Instagram) and NextDoor.com outright ban us & Facebook even has an official policy allowing hate speech against RCs. FB also has a "Report an SO" page. From online vigilante groups directly targeting RCs to "memes" suggesting robbing SOs because their houses are easily found online & they can't own guns, social media is rife with anti-RC hate speech. Police even use social media for community notification. This is a concern for RCs. In 2020, a vigilante even used info from Facebook & the registry to plan a murder against an RC.

About 72% of the general public use social media; 44% report being bullied online. Facebook is the second most popular social media outlet (behind YouTube, mostly known for videos), but is #1 in reported harassment. Of those who reported online harassment (about 44%), 77% involved Facebook.

But in a March 2022 survey by OnceFallen.com of 402 RCs, their loved ones, & anti-registry activists, 62.8% reported experiencing or witnessing higher levels of harassment; This result is 46% more likely than all Respondents to a survey by the Anti-Defamation League (44%), and 14.2% higher than those who reported being targeted due to political views (55%). About 26.6% have witnessed threats of violence against them; 28.7% of those who were harassed on social media were harassed off social media (either by harassing messages, calls, or email, or in real life).

Facebook is simultaneously the most utilized and the most despised social media website according to the Respondents to this survey. While four out of five Respondents (81.4%) use Facebook, nearly an equal amount (80.4%) chose Facebook as a purveyor of hate speech and online harassment, over twice that of Twitter (37%) and YouTube (30.3%). Nearly half of Respondents (48.45%) pointed to Facebook as being most in need of improved efforts to combat hate speech and online harassment, more than twice the rate for Twitter (24%) and YouTube (20.75%). Of those who faced online harassment, roughly seven in ten (69.1%) found the attacks on Facebook, more than three times the amount found on Twitter (21.2%) and YouTube (19.3%). While nearly half of online harassment originated from individual online posts with no connections to organized groups, 20.6% was the result of announcements by law enforcement agencies (LEAs) & 17.5% were from organized online vigilantes or "anti-pedo" groups, or simply "troll" groups (i.e., those seeking to antagonize others online by deliberately posting inflammatory, irrelevant, or offensive comments or other disruptive content). And 27.1% lost accounts due to their status as opposed to 1.7% who lost accounts due to online anti-registry activism. When LEAs posted info on social media, 37 of 53 Respondents (69.9%) reported harassment as a result of the post.

It is unlikely this will change so you must consider just how valuable social media is to your well-being. It is easier to connect to new people with similar interests. But it can be an extremely hostile place where nasty messages can easily spread. Some even say losing social media was a blessing in disguise.

WHY JUDGE KETANJI BROWN JACKSON IS A GREAT SCOTUS PICK

I wasn't crazy about Biden announcing he'd pick the next SCOTUS Justice using race & gender rather than on merit alone, but I believe Judge Jackson is a great choice. A former public defender who worked in liberal SCOTUS Justice Breyer's office, she wrote an article criticizing the sex offense registry in 1996 & had sentenced some CP offenses below the recommended federal guidelines. While it will not change the current 6-3 supermajority (since she is replacing Justice Breyer, who is retiring), it will help us immensely to have a person critical of harsh sentencing & registry laws on the bench in the highest court of our country. Liberal justices have been on our side more often than not.

The confirmation hearing for Judge Jackson should prove to readers the Republican Party is not on our side. Ted Cruz, Josh Hawley (currently under investigation for his role in inciting the Capitol riots) & Lindsey Graham used CP sentences & her 1996 Harvard Law Review article as political dig whistles. The QAnon conspiracy, a revival of the 1980s Satanic Panic which included the belief that the gov't is run by a secret underground cabal of cannibalistic "pedophiles", cheered them on. Unfortunately, the QAnon conspiracy is popular among many right-wingers & promoted in right-wing media outlets. Our fight to reform the justice system is part of the larger culture war.

PROTEST AGAINST TEXAS CIVIL COMMITMENT CENTER

From: Protestors make alarming allegations about statewide sex offender treatment program in Littlefield
by: Elizabeth Fitz 4/11/22, Everything Lubbock

"Protestors gathered in front of the Civil Commitment Facility in Littlefield on 4/9 to shine a light on the injustices they said are happening within the barbed-wire fences of the former prison… In 2015, Gov Abbott reformed the program and worked with private contractors to set up a treatment facility in Littlefield, but the advocates said the program isn't doing what it was created to do. Protestors told KLBK News that they believe residents' civil rights have been violated. "We don't support anyone committing crimes- I want to make that clear. This is supporting people being released [from treatment] after they've served their time," said Kevin Word with Texans Against Civil Commitment.

…The (The TX Civil Commitment Office) said it focuses on public safety, supervision and treatment, but protestors argued that the program is a for-profit scheme by private groups. "Murderers are being let out. They're not being post-convicted and held because they might do something. That's why these men are here- because they might do something," Word said.

The treatment program is not clearly defined by legislators and it leaves room for interpretation. Because of this, family members with loved ones in the facility said there's no telling when these individuals will be released. "My son has been in Civil Commitment longer than he was in prison. And he's still at tier one. This is his 7th year in Civil Commitment," said Linnell Hanks, mother of a Civil Commitment resident.

The treatment program consists of five tiers which residents must complete before being released. However, protestors said that's an insurmountable task when punishments for breaking arbitrary rules can and have caused residents to move back a tier in their treatment. "The program has released less than six [residents] since 2015 and there have been 29 that have died in the facility. Medical care is non-existent," Word explained, adding these individuals were originally in a successful, outpatient program before the facility opened.

TCCO said in a statement to KLBK News today that these allegations are not true and said 13 people have been released from the program since 2016 and only 3 "SVPs have passed away."

"DORMAMMU, I'VE COME TO BARGAIN": A LESSON IN PERSISTENCE

First, a "spoiler alert" to anyone who has not seen the Marvel movie "Doctor Strange" but wants to, so if you don't want an important plot point ruined, stop reading.

In the "final battle" scene, Dr Strange traps Dormammu in an infinite time loop to prevent Dormammu from engulfing Earth into his "dark dimension." Dr Strange approaches Dormammu, saying, "Dormammu, I've come to bargain." You've come to die," Dormammu replies. "Your world is now MY world," then attacks & kills Dr. Strange. But Dr. Strange reappears. "Dormammu, I've come to bargain." "You've come to die." Dormammu suddenly realizes something is amiss. Dormammu kills Dr Strange again but another Dr Strange appears to bargain. Exasperated after a few repeats into this infinite, Dormammu says, "You cannot do this forever!" Dr Strange replies he can, "This is how things are now. You & me, trapped in this moment. Endlessly." Dormammu asks why Dr Strange is doing this (to save Earth, of course). Dormammu replies "But you will suffer." "Pain's an old friend," Dr Strange counters. After repeatedly killing Strange to no avail, Dormammu finally gives in to Dr Strange's demand that he permanently leaves Earth alone & take Kaecilius & his zealots with him in return for Dr Strange breaking the loop.

This is exactly the kind of persistence you will need in life whether you choose to become an activist after release or simply trying to reintegrate. There will be times, whether online or in a job or home search, when you will face a Dormammu. They don't want you to exist. Dr Strange didn't win by direct combat, but through persistence. Most folks shrink after a little adversity. It is easy to reach out to someone else in hopes to an easy path after release. & I try my best to provide a guide for you, but there are many things I cannot provide you.

If you want to be an activist for reforming laws, trust me, you will likely endure some suffering. I have. People may murmur, or flip you off. Persist. Just go on about your life. When dealing with politicians, remember they smile & act like they listen, hoping just getting your grievances off your chest one time will be enough. If you follow up, they know you're serious. Persistence. It takes effort, & it isn't always pleasant, but a lot of how your life progresses in the future will depend on your willingness to fight for the right to exist. You may not save Earth but you may just save yourself & those you care about.

THE FIRST STEP IN BECOMING AN ACTIVIST IS EDUCATION

The Anti-Registry Movement (ARM) is currently working on an "activist handbook" to help those considering activism upon release. I am also planning to release a book on SO Myths. But in the meantime, there are things you can do right now to prepare yourself.

How do you normally get a job? You must be qualified for that job. A mechanic doesn't work in a lab, and a scientist doesn't work on your car. If you go to college to prepare for a career, you are required to take a variety of courses. In anti-registry activism, understanding how law, the media, public speaking, and legislation works will help. You must also study arguments for and against SO laws and the myths that promote these laws. These are all things you can do either by taking classes on law, government, writing, and public speaking if you have access to such classes, or by reading books on the subject if you must self-study. You can also obtain information about SO myths through anti-registry groups. If you are incarcerated with other SOs, you can form groups to discuss these laws and how best to challenge them.

If you have family on the outside willing to print materials for you or if you have some degree of Internet access, the website oncefallen.com is a treasure trove of knowledge to help educate those desiring to be activists. The website is free of ads and paywalls and any material from the website (even my book) can be printed for free. Feel free to write and ask questions!

NEW BOOKS

Thinking of becoming an anti-registry activist? The Anti-Registry Activist Manual: A Guide To Effective Advocacy by Jonathan Grund (Price: $13.50) is a teaching and reference handbook for those who are new to this advocacy. We believe it contains valuable information for seasoned activists as well. I highly recommend it. Amazon Link: https://www.amazon.com/dp/B09T893TNR

You might also want to read: Manufacturing Criminals: Fourth Amendment Decay in the Electronic Age Paperback – December 20, 2020 by Bonnie Burkhardt (price: $19.99), which covers potential legal arguments against predator sting operations & ICAC. Amazon Link: https://www.amazon.com/Manufacturing-Criminals-Fourth-Amendment-Electronic/dp/B08R68BTQ4