LOTL QUARTERLY 2026A (Jan.-Mar. 2026)

"Life on The List" (LOTL) Newsletter is a quarterly newsletter with legal news & relevant info for those forced to register upon release, or those new to life as a person forced to register. Comments & inquiries should be sent to: Derek Logue, OnceFallen.com, 2211 CR 400, Tobias NE 68453. Current & previous issues of LOTL & the former ICoN newsletters can be accessed & printed out for free at https://oncefallen.com/icon/

LEGAL NEWS

(Note: Many legal summaries are derived from summaries from other resources, Sex Offense Litigation and Policy Resource Center at Mitchell Hamline School of Law (SOLPRC) or Florida Action Committee (FAC). Source of analysis is mentioned at the end of each entry, if applicable.)

U.S. v. Cohen, No. 25-1746, 2025 WL 3268700 (7th Cir. 2025): Cohen admitted accepting payments for falsely stating that a registrant lived at his address and was convicted of knowingly and willfully making a false statement in a matter within the jurisdiction of the U.S. He challenged the four-level punishment increase under the federal sentencing guidelines for an offense that "relates to" a "a sex offense," arguing that complicity in failing to register does not qualify. The court disagreed. – (SOLPRC Dec. 2025 newsletter)

Commonwealth v. Michael Diebold (PA Common Pleas Court, 12/3/2025): On 12/3/2025, Judge James J. Panchik of the Court of Common Pleas of Armstrong County, ruled SORNA's internet identifier provision is unconstitutionally vague. The *Com. v. Michael Diebold* case arises from a new FTR charge filed after Diebold, in litigating a habeas petition in an earlier SORNA case, disclosed a list of 66 websites he used and a Craigslist email exchange about brush-cutting services. In response, PSP and the Armstrong Co. DA treated both Craigslist itself and a Craigslist-generated relay email address as "internet identifiers" that had to be registered within three business days under 18 Pa.C.S. §4915.1(a)(3) and 42 Pa.C.S. §§9799.15 and 9799.16. The court, as noted by PARSOL, "Tthe court resolved the case solely on the statutory-vagueness issue as to 'internet identifiers.'."his is only a trial court ruling so it holds no precedent & can be appealed but notable because the prosecutor used the Craigslist email exchange as part of the case against Diebold. Generally, messages sent through Craigslist doesn't show the actual email address of someone you exchange messages with, instead you will get an email with a long string of random characters followed by "@reply.craigslist.org". You don't set the identifier and you don't even know what it is unless you get a response. This makes for an absurd demand from anyone using the Craigslist website for procurement of goods and services. – (PARSOL, NARSOL's PA chapter)

Commonwealth v. Richard Arnold, #SJC-13768 (MA 2025): The Massachusetts Supreme Judicial Court considered whether the duration of GPS monitoring imposed as a condition of probation under G. L. c. 265, § 47 is constitutionally permissible under art. 14 of the Massachusetts Declaration of Rights. Section 47 mandates that defendants convicted of certain sex offenses "shall" be subject to GPS monitoring for the entire length of probation. However, in *Commonwealth v. Feliz*, 481 Mass. 689, 690-691 (2019), S.C., 486 Mass. 510 (2020), the Court previously held that automatic, mandatory GPS monitoring without an individualized assessment of reasonableness constitutes an unconstitutional search. Building on Feliz, the Court clarified in this case that the duration of GPS monitoring is a critical factor in determining whether the monitoring is reasonable. Because GPS monitoring is a continuous and intrusive search, its reasonableness depends not only on the nature of the offense and the defendant's circumstances, but also on how long the monitoring lasts. A judge conducting the required individualized assessment must therefore explicitly consider the length of the proposed GPS monitoring when deciding whether it is constitutionally permissible. The Court further held that the Commonwealth bears the burden of proving that GPS monitoring is reasonable for the entire duration ordered. Even though § 47 states that monitoring should last for the full probationary term, that statutory language cannot override constitutional protections. As a result, a judge may impose GPS monitoring only for such period, if any, that the judge determines is reasonable, even if that period is shorter than the defendant's probation. Applying these principles, the Court vacated the Superior Court's June 5, 2024 order denying the defendant's motion challenging the GPS condition. The case was remanded for further proceedings consistent with the Court's opinion, including a new individualized determination of reasonableness that accounts for duration. – (FAC)

People of Michigan v. Kardasz, MSC 165008 (2025): The Michigan Supreme Court acknowledged that that modern registration laws, despite being labeled "civil" by legislatures, operate in many ways as punishment. Lifetime registration, public disclosure, and ongoing in-person reporting impose significant, affirmative restraints on individuals long after they have completed their criminal sentences. Nonetheless, the Court concluded that these burdens, at least as applied to Kardasz, did not rise to the level of "cruel or unusual punishment." The majority reasoned that the severity of the underlying offense, combined with the state's asserted interest in public safety, justified lifetime registration under Michigan's constitution and under federal constitutional standards. Kardasz also challenged the imposition of lifetime electronic monitoring, arguing that it constituted an unreasonable search and an excessive punishment. The Michigan Supreme Court declined to fully revisit those claims, effectively allowing the lower court's ruling upholding lifetime monitoring to stand. – (FAC)

People v. Klinesmith, 2025 WL 3691388 (Mich. 2025): Adhering to Kardasz's holding (see above) that Michigan 2021 SORN law is punitive, the Court in a brief order states that as such a registration requirement is "part of the sentence and must appear on the judgment of sentence." In the instant case, the only provision directing the defendant to register was in an August 2017 order of probation, which became inoperative upon the revocation of probation. The subsequent February 2020 revocation order committing him to the department of corrections did not impose a registration duty. "This was not a mere clerical error that may be corrected at any time…, as the trial court made no mention of registration at the 2020 sentencing for the probation violation." Therefore, the defendant could not be required to register. – (SOLPRC Jan. 2026 newsletter)

LA: Days after an RP assaulted a woman & was fatally stabbed, the St. Tammany Parish quickly passed Ord.# 24-7530, which requires transitional housing programs to install six-foot fences around housing where more than 15% of residents are registeredpersons. There can be no more than one RP per 1,000 square feet in such housing, and the ordinance imposes permit requirements on landlords, including a $5,000 annual fee. landlords Abraham and Lorraine Williams sued the parish, arguing the requirements violated state law and the U.S. Constitution. U.S. District Judge Wendy B. Vitter of the Eastern District of Louisiana said in her "conditional dismissal" on 12/28/2025 that the parish and landlords had indicated in an email they had reached the settlement, but that the case could be reopened if the settlement is "not consummated within a reasonable time." Vitter had previously denied the landlords' request for a temporary restraining order to prohibit enforcement of the ordinance. – (NOLA News)

Doe #1-9 v. Lee, 2025 WL 3110802 (M. D. Tenn. 2025): Court grants relief on ex post facto claim barring state from (1) designating individuals as "violent sexual offender" and "offender against children" (because the resulting ignominy flows from the challenged law, not only the past offense) and (2) application of geographic restrictions regarding employment, residence, and library use, without individualized assessments. – (SOLPRC Jan. 2026 newsletter)

Cortes-Martinez v. Torres-La Court, No. CV 25-1269 (RAM), 2025 WL 3563788 (D.P.R. 2025): Section 1983 claim challenging Puerto Rico SORN, alleging infringement of First Amendment (compelled speech) and procedural due process. The Court denied the compelled speech claim reasoning that the public registry information is government speech. The Court denied the due process claim reasoning that being subject to SORN was permissible under both the English and Spanish translations of the SORN law and that Connecticut Department of Public Safety v. Doe (SCT 2003) permits SORN on the basis of a conviction alone. – (SOLPRC Jan. 2026 newsletter)

In re Urbanek, No. A25-0808, 2025 WL 3623348 (Minn. Ct. App. 2025): Under Minnesota sex offense civil commitment law, there is a right to counsel but court holds that the petitioner lacked a constitutional right to self-represent. Also, assuming arguendo that petitioner had a statutory right to self-represent, the denial of the request did not qualify as structural error, requiring reversal on the commitment. – (SOLPRC Jan. 2026 newsletter)

Sanderson v. Hanaway et al., No. 24-3120 (8th Cir. 2026): Ruled that Missouri's statute requiring registrants to post a sign at their residence on Halloween, to be compelled speech and a violation of the First Amendment. The 8th Circuit Court of Appeals concluded, "In short, we agree with the district court that the sign mandate compels speech and, thus, is unconstitutional unless it can survive strict scrutiny… there was no convincing evidence presented that [the signs] add anything to advance the goal of protecting children… there is insufficient evidence to support the State's assertion that the sign mandate is the least restrictive means of achieving its goals [of protecting children]…

Accordingly, the sign mandate burdens more speech than necessary and fails strict scrutiny." (The 8th Circuit refused an appeals request for a review by the full benc, so this ruling stands unless overturned by SCOTUS.)

Doe v. Burlew, Nos. 24-5669/5743 (6th Cir. 2026): Court ruled that, "Kentucky passed a law requiring covered (RPs) to put their legal names on their qualifying social-media accounts. John Doe (a covered (RP)) sought to have the statute declared unconstitutional and moved for a preliminary injunction. He argued that the law violated the First Amendment because it barred regulated parties from speaking anonymously online. Yet he did not attempt to enjoin the law as applied to any specific speech or any specific social-media account. Rather, he sought broad relief by arguing that the law was facially overbroad. Although the district court agreed with Doe, it did not engage in the demanding comprehensive review that a facial challenge requires." District Court's ruling was overturned and remanded. This doesn't mean that a future challenge to KY's statute barring RPs from anonymous online speech can't be done, but future challenges would have a higher chance of winning if they are as-applied rather than facial challenges.

People v. Collier, No. 118, 2026 WL 51959 (N.Y. Ct. App. 2026): Collier pled guilty in New York to a registerable offense, served prison time (one year), and was released. However, he was not evaluated for a SORN risk level until five years later, during which time he had no other criminal legal system involvement. After the Board of Examiners realized its mistake, he was evaluated and designated as a Level One, with the required 20-year registration period commencing nunc pro tunc from the date of his prison release. Collier challenged his registration, arguing that it violated his state and federal substantive due process rights. The Court of Appeals rejected the claim, stating that while under New York law he possessed a liberty interest regarding registration, the right was satisfied by the state's belated registration process. Moreover, the delay did not cause him any prejudice (and did not "shock the conscience," as required by due process), as he was designated at the lowest possible risk level. [In a footnote the court added: "To the extent it has been suggested that a defendant may be certified as an "unclassified" sex offender without a designated risk level or without corresponding community notification requirements, those cases should not be followed…SORA requires that a risk level be assigned without exception to those convicted of certain sex offenses, and defendant here was given all the relief available."] Nor did the delay, when he was free of SORN, "crystalize" to the point of becoming an independent protected liberty interest. Ultimately, the court concluded that the state's delayed assessment passed rational basis scrutiny and denied Collier's claim. – SOLPRC

Hammond v. State, No. 0615, 2026 WL 252103 (Md. Ct. App. 2026): Hammond was charged with knowingly failing to register, seeking to justify his failure because he "forgot" to do so (due to depression). The court rejected the argument, concluding that he was on notice because he received notice of the requirement on prior occasions and had previously been convicted of FTR. While the court condoned the trial court's mitigation of sentence based on forgetfulness, it rejected forgetfulness as a defense, and elaborated: "We agree with the trial court that 'I forgot doesn't mean you didn't know, it simply means I forgot. There's a distinction between not knowing and a forgetting.' In simplest form, you cannot forget what you do not know; you must have known in order to forget. We hold that "forgetting" does not negate mens rea." – SOLPRC

United States v. Quintanilla-Matamoros, No. 25-20191, 2026 WL 74273 (5th Cir. 2026) Quintanilla-Matamoros challenged his federal conviction under section 2250 for failing to register, arguing that his prior Texas conviction did not justify a Tier III designation, resulting in a longer sentence. The Fifth Circuit, applying the "categorical" approach regarding the Texas law on which his conviction was based, agreed that the Tier III designation was improper. Moreover, analysis did not support Tier II designation. The proper designation was Tier I, and the court remanded for a new sentence determination on that basis. – SOLPRC

Cooper v. Montana Dept. of Justice, 2026 MT 4, 2026 WL 91134 (Mont. 2026) Cooper pled guilty in another state--North Dakota--to misdemeanor sexual assault and was told that he was not required to register in that state. In 2019, Cooper moved to Montana, and in only in 2024 did Montana officials tell him that he had to register in Montana, based on Montana SORN requiring registration of person convicted of sexual contact with a victim less than 16 years old. Only Cooper's North Dakota charging document listed the victim's age; Cooper's plea agreement did not. The court noted that it had previously held that the applicable Montana SORN provision was punitive (State v. Hinman, 2023); that Montana law required analysis of only the elements of the offense justifying conviction, not information in a charging document; and the U.S. Supreme Court held in Apprendi v. New Jersey (2000) that any fact resulting in an increase in maximum sentence must be decided by a jury on the basis of proof beyond a reasonable doubt. In Cooper's case, Montana authorities erred: they--not a jury—decided the factual issue, based on

the charging document (not the plea agreement), to determine a fact resulting in SORN (a punishment), based on a preponderance of the evidence (not beyond a reasonable doubt). Finally, based on the "categorical" approach, the absence of knowing the age of the victim obliged a finding that the North Dakota offense was not "reasonably equivalent" to a registerable Montana offense. – (SOLPRC)

CHICAGO TO ENFORCE LAW BANNING RPs FROM SEEKING SHELTER ON PUBLIC BUSES & TRAINS

Unhoused people get desperate in the winter, especially in colder places like Chicago. Back in 2009, a man named Thomas Pauli froze to death in Grand Rapids, MI after being denied shelter due to the state's residency restriction law. Now, Chicago is poised to do the same as it prepares to prevent unhoused (homeless) RPs from using bus and train shelters during inclement weather.

A notice given out to unhoused RPs included the following statements:

Per 730 ILCS 150/3, (those with offenses against those age<18) cannot live or loiter within 500 feet of a school, playground, or daycare. Any location you report will be checked for compliance. You can call Criminal Registration between 7am - 3pm to verify if an address is located within a prohibited zone. 312-840-7902 or 312-742-0101. When listing where you stayed, only include overnight stays (PM to AM). If you work overnight hours, list the address you stayed during daylight hours.. CTA buses and trains are for travel only. Loitering is not allowed. Riding for more than 2 hours without getting off is considered loitering and is prohibited.

Here are some details from a recent news article from the Chicago Reader. (Source: Shawn Mulcahy. "'An impossible situation'." Chicago Reader. 12/26/2025. https://chicagoreader.com/news/reader-investigative-reports/sex-offense-registry-cta-cpd-homeless/)

"Terrance has followed the same routine for years. Once a week, he gets in his car around 7 AM and drives to the Second District police station, a rectangular, two-story building of beige bricks at 51st and Wentworth in Chicago's Fuller Park neighborhood. Inside, he joins a handful of other people sitting on worn wooden benches in the dimly lit waiting area. After a time, he steps up to meet a detective behind the front desk and hands over a white sheet of paper on which he's written the address of every place he stayed the previous week.

Terrance, who asked to use only his first name for his safety, is homeless—but not because he doesn't have a place to stay. He could be living at home with his wife of two years, but the state's amalgamation of housing banishment laws has made vast swaths of Chicago illegal for him and hundreds of others similarly situated. A sex offense conviction from more than 20 years ago means he's barred from living within five hundred feet of a school, playground, or day care...

Terrance is meticulous; anything less could spell disaster. If he misses a single week or transcribes even one address incorrectly, he could be hauled off to jail on the spot and charged with a new felony. "It's a life-and-death situation," he says. By law, he can't stay at the same address more than twice in one year, otherwise he'd have to register it as a "temporary residence." This means he has to find 183 different places to stay annually.

Yet, beginning January 1, he and the rest of the city's weekly registrants will have even fewer options for shelter as Chicago plunges into the depths of winter. The Chicago Police Department (CPD) is planning to enforce a policy that bars people with sex offense convictions from riding public transit for more than two hours at a time, say multiple registrants and advocates in interviews with the Reader. The change, the latest in a constantly shifting landscape of rules governing nearly every aspect of the lives of people with sex offense convictions, coincides with a sizable investment in policing on city trains and buses and a surge of arrests in recent months targeting unhoused people for allegedly providing false information on weekly registration forms—a class three felony.

"The fact that every day is something new with the registration and the police department, it makes you question your motives," Terrance says. "What are you living for? How much life do you have to live?"...

City ordinance defines loitering as "remaining on the CTA system for more than one continuous trip without exiting the paid area and re-entering by paying a second fare or riding on the system continuously in excess of two hours

without exiting the system." While sleeping on trains might technically violate the transit agency's rules, it's a practice known and expected by both the CPD and the CTA, which has dedicated funding and partnerships with social service providers to connect unsheltered people to resources.

"It just leaves a lot of questions," says David, a weekly registrant who likewise asked only to use his first name, of the CPD memo. "It just makes you nervous. You're trying to say you don't want people staying on the train. However, where do you expect people to go if they have nowhere to go? Nobody does that as option number one. You're just trying to not freeze." ...

The enhanced enforcement of rules for people with sex offense convictions comes as the CPD is increasingly charging weekly registrants with new felonies—many of which are later thrown out. Chicago police charged two dozen people with providing false information on their weekly registration forms between September 2024 and October 2025, records show. That number, while small in comparison to the thousands of people arrested annually, represents a dramatic increase over previous years. Police charged just six people with providing false information between 2020 and 2023. In 2022, the CPD didn't arrest anyone under the charge.

Of the 24 cases filed since September 2024, prosecutors have ultimately dropped charges in 14 and struck plea deals in three, court records show. Another seven cases are still pending. In multiple hearings observed by the Reader, prosecutors shared no specifics with defense attorneys or judges regarding alleged wrongdoing, instead relying on vague descriptions authored by police. One arrest report, for example, simply states, "An investigation . . . revealed the offender was providing false information when he registers." At one first appearance hearing, prosecutors struggled to describe the false information allegedly provided to the CPD. In another case, even the judge seemed unclear, admonishing a person for failing to keep an updated address on file despite them being accused of lying on their weekly registration form...

All but four of the arrests are tied to one detective: Jonathan Washkevich of the CPD's Criminal Registration Unit, the division that oversees local compliance with the four state public conviction registries. (LOTL Note: Washkevich was named in a police brutality/false arrest lawsuit in 2009 that was setlled out of court; Washkevish was forced to pay $32k for his role in the police misconduct.) Washkevich wrote in an October 2024 case report that he's both registered and "investigated and brought felony charges" against people with sex offense convictions during his time at the agency. "This experience," he wrote, has led him "to begin to audit the homeless...registrants in Area One," which encompasses much of the city's south side, where Washkevich has occasionally helped out with weekly registration.

Washkevich frequently received support from the Great Lakes Regional Fugitive Task Force, a joint law enforcement operation led by the U.S. Marshals Service that includes almost 50 local, state, and federal agencies across Illinois, Indiana, and Wisconsin. Among other members of the task force are the CPD, Cook County Sheriff's Office, Illinois Department of Corrections, and U.S. Immigration and Customs Enforcement (ICE). Reports in 17 cases mention the task force assisted with either the investigation or arrest.

Many of the false information arrests follow a similar pattern. For example, Washkevich began investigating the weekly log of Alex in October 2024 "because every day it listed a different address, which were all churches and schools," he wrote in an investigative report. Alex, whose real name the Reader is not using to protect their safety, logged an overnight stay at Casa Catalina, a food pantry at 4537 S. Ashland in Back of the Yards. Washkevich claims his investigation revealed "that location has closed and is now naples pizza." However, Naples Pizza is actually two doors down from the still-open food pantry, at 4527 S. Ashland. He also talked to church secretaries at two local parishes listed on Alex's weekly registration form. The secretaries "stated they don't let any homeless stay on the grounds or in the church," he wrote. That appears to be enough evidence for Washkevich to conclude Alex lied.
The detective filed an investigative alert, and Alex was arrested in the police station lobby a few days later when they showed up for their weekly report. Prosecutors moved to drop Alex's case at the second hearing, but the arrest proved destabilizing nonetheless. Alex tried in vain to find a legal place to live. They were terrified of being sent back to jail for violating a rule and eventually resorted to sleeping in the police station lobby—the same place they were arrested weeks earlier. Not much later, Alex, a lawful permanent resident who'd lived in the U.S. for 26 years, was snatched by ICE agents and deported...

The reality is that people, both on the registry and otherwise, will violate the law by sheer nature of surviving without shelter. Illinois's overlapping residency restrictions, passed piecemeal by the state legislature over decades, make life for weekly registrants arduous as it is. Add on to that the criminalization faced by all unhoused people—laws prohibiting loitering and sleeping in public places, the dearth of public restrooms, forced eviction from public parks—and it becomes evident that the system was designed to perpetuate a cycle of homelessness and incarceration.

"A lot of people don't understand what we're going through daily," says Robb, a weekly registrant who asked only to use his first name for his safety. "It's like you're playing dodgeball, but your life depends on it. They come with new things, and we got to dodge and try to come up with some type of solution to get past it. We need help."

REGISTERED PERSON MURDERED BY ICE AGENTS IN DETENTION CENTER

ICE agents are openly murdering people, and it has been proven they don't care who they nab. If you look too brown, they will assault and kidnap you, possibly even murder you. Even if you are an American citizen who was born here, you could be detained and assaulted by ICE agents. And those of you who are on the registry or will be forced to register upon release, know that your registry status will be used to justify their violent assault if you become the victim of an ICE attack. (I watched a video of one man beaten, pistol whipped, then shot by agents even after he was pinned to the ground.)

And for those thinking that they're not using the SOR as justification, there was a highly publicized case in late January of ICE agents breaking into a home and dragging an elderly man out in his boxers and slides in subzero temperatures. The official justification? The U.S. Department of Homeland Security described the ICE operation at Thao's home as a "targeted operation" seeking two convicted sex offenders. "The US citizen lives with these two convicted sex offenders at the site of the operation," DHS said. "The individual refused to be fingerprinted or facially ID'd. He matched the description of the targets." (Source: "A U.S. citizen says ICE forced open the door to his Minnesota home and removed him in his underwear after a warrantless search." PBS. 1/20/2026. https://www.pbs.org/newshour/nation/a-u-s-citizen-says-ice-forced-open-the-door-to-his-minnesota-home-and-removed-him-in-his-underwear-after-a-warrantless-search)

If they're doing this in the open, I can ony imagine it is much worse behind bars. There has been one report where a person was murdered by ICE thugs behind bars and officials justified it based on his conviction status. It is getting bad out here, folks.

(Source: "Autopsy finds Cuban immigrant in ICE custody died of homicide due to asphyxia". Associated Press. 1/22/2026. https://www.npr.org/2026/01/22/g-s1-106773/cuban-immigrant-ice-custody-died-homicide)

"A Cuban migrant held in solitary confinement at an immigration detention facility in Texas died after guards held him down and he stopped breathing, according to an autopsy report released Wednesday that ruled the death a homicide. Geraldo Lunas Campos died Jan. 3 following an altercation with guards. U.S. Immigration and Customs Enforcement said the 55-year-old father of four was attempting suicide and the staff tried to save him. But a witness told The Associated Press last week that Lunas Campos was handcuffed as at least five guards held him down and one put an arm around his neck and squeezed until he was unconscious..."

"The autopsy report by the El Paso County Medical Examiner's Office found Lunas Campos' body showed signs of a struggle, including abrasions on his chest and knees. He also had hemorrhages on his neck. The deputy medical examiner, Dr. Adam Gonzalez. determined the cause of death was asphyxia due to neck and torso compression. The report said witnesses saw Lunas Campos "become unresponsive while being physically restrained by law enforcement..."

"ICE's initial account of the death, which included no mention of an altercation with guards, said Lunas Campos had become disruptive and staff moved him into a cellblock where detainees are held away from others... Last Thursday, after Lunas Campos' family was first informed the death was likely to be ruled a homicide, Department of Homeland Security spokesperson Tricia McLaughlin amended the government's account, saying he had attempted suicide and guards tried to help him. 'Campos violently resisted the security staff and continued to attempt to take his life,' she said. 'During the ensuing struggle, Campos stopped breathing and lost consciousness.' After the final

autopsy report was released Wednesday, McLaughlin issued a statement emphasizing that Lunas Campos was 'a criminal illegal alien and convicted child s*x pr*dator.' New York court records show Lunas Campos was convicted in 2003 of sexual contact with a person under 11, a felony for which he was sentenced to one year in jail and placed on the state's... registry."

ACTIVISTS HOLD HOPE NEW SCOTUS RULING IN ELLINGBURG COULD CAUSE SMITH V. DUE REVERSAL

A recent SCOTUS ruling has given some people hope that an opening to revisit the infamous 2003 Smith v Doe ruling that upheld the government hitlist that is the sex offense registry. However, I'd like to exercise caution. First, read the argument set forth on the FAC website:

Source: "Does the Ellingburg decision open the door to revisiting Ex Post Facto as it relates to sex offender laws? Florida Action Committee. 1/21/2026. https://floridaactioncommittee.org/does-the-ellingburg-decision-open-the-door-to-revisiting-ex-post-facto-as-it-relates-to-sex-offender-laws/)

"The Supreme Court's decision in *Holsey Ellingburg v. United States* 607 U. S. ____ (2026) should reopen a long-overdue conversation about the constitutional foundations of modern sex offender laws. In Ellingburg, the Court made clear that labels do not control constitutional analysis: when a legal consequence operates like punishment, is imposed as part of a criminal judgment, enforced through the criminal justice system, and carrying real, coercive consequences, it must be treated as punishment for purposes of the Ex Post Facto Clause. That reasoning directly undercuts the legal fiction that has insulated sex offender registration and notification laws from meaningful constitutional scrutiny for more than two decades."

"Since *Smith v. Doe*, 538 U.S. 84 (2003) , courts have relied on a rigid civil-versus-criminal distinction to uphold increasingly severe registration schemes, even as those laws have expanded far beyond passive record-keeping. To compound; the Federal government, states, counties and municipalities have viewed Smith as a blank check to expand laws as much as they want to, all under the excuse that it's "civil". Today's registries impose lifetime reporting, public shaming, housing and employment bans, in-person reporting at police stations, residency and proximity restrictions, internet use restrictions, and criminal penalties (felonies) for technical violations – even unknowing ones. These burdens sure look far more like punishment than regulation. Yet Smith rested on assumptions about limited scope, minimal restraints, and public safety benefits that no longer reflect reality and have since been disproved by decades of empirical research."

"Ellingburg signals that courts must look at how laws function in practice, not how legislatures describe them. Like restitution in Ellingburg, sex offender laws are imposed because of a conviction, enforced through criminal sanctions, and deter, incapacitate and deprive liberty. These are classic hallmarks of punishment, regardless of legislative disclaimers."

"Revisiting sex offender laws does not mean abandoning public safety. It means restoring constitutional honesty. The Constitution does not permit the government to impose retroactive punishment by relabeling it regulation, nor does it allow courts to ignore the real-world effects of laws that permanently mark people as dangerous long after they have completed their sentences. Ellingburg reminds us that constitutional protections are not frozen in time and that precedent built on outdated and disproven assumptions must yield to evidence and experience."

"If the Supreme Court is willing to acknowledge, as it did in Ellingburg, that substance matters more than form, then it should be willing to reexamine Smith v. Doe and the vast legal regime built upon it. FAC calls on our sister organizations and advocates around the country to come to the table and come up with a game plan. The door is now open; we just need to walk through it!" – FAC

Here is my counterpoint here and why I feel we should NOT get too excited yet—the court has clearly stated the Ellingburg case differs from Smith v. Doe because restitution was stated as punitive in intent. There is a reason why every time a new bill targeting Registered Persons contains a disclaimer that the registry is not INTENDED to be punitive. If a law is declared criminal/punitive, then constitutional safeguards instantly apply, but if the courts claim the law is civil/regulatory, then we have to prove that law is punitive.

From SCOTUS Syllabus on *Ellingburg*: “Restitution under the MVRA is plainly criminal punishment for purposes of the Ex Post Facto Clause. Whether a law violates the Ex Post Facto Clause requires evaluating whether the law imposes a criminal or penal sanction as opposed to a civil remedy. That question is one “of statutory construction” that requires the Court to “consider the statute’s text and its structure.” *Smith v. Doe*, 538 U. S. 84, 92 (quotation marks omitted). When viewed as a whole, the MVRA makes abundantly clear that restitution is criminal punishment. The MVRA labels restitution as a “penalty” for a criminal “offense.” 18 USC §3663A(a)(1). Only a criminal defendant convicted of a qualifying crime may be ordered to pay restitution. Restitution is imposed at sentencing for that offense together with other criminal punishments such as imprisonment and fines. And at the sentencing proceeding where restitution is imposed, the Government, not the victim, is the party adverse to the defendant. Further, the federal MVRA restitution regime is codified in Title 18, “Crimes and Criminal Procedure,” and the statutory provisions authorizing restitution orders are contained in Chapter 232 of that Title, entitled “Miscellaneous Sentencing Provisions.” A district court imposing restitution must follow the procedures applicable to other criminal penalties.”

“The Court’s precedents have understood restitution under the MVRA to be criminal punishment. See Manrique v. United States, 581 US 116, 118. And the Court’s precedents on related issues further buttress the conclusion that MVRA restitution is criminal punishment. See *US v. Bajakajian*, 524 US 321, 328; *US v. One Assortment of 89 Firearms*, 465 U. S. 354, 363– 366.”

“Finally, while Congress intended restitution under the MVRA to both punish offenders and compensate victims, victims cannot initiate or settle the restitution process as they would if it were a civil proceeding. The text and structure of the Act demonstrate that Congress intended restitution under the Act to impose criminal punishment.”

From Page 5: “Amicus relies heavily on *Smith v. Doe*, 538 U. S. 84. There, this Court considered a law requiring a defendant convicted of certain crimes to register as a sex offender. The Court held that the registration mandate was civil. The legislature adopted “distinctly civil procedures” for the imposition of registration requirements. Id., at 96 (quotation marks omitted). By contrast, to reiterate what we said above, MVRA restitution is labeled as a penalty, is codified in the criminal code, is predicated on a criminal conviction, is imposed against a criminal defendant, is sometimes imposed in lieu of other penalties, is ordered at sentencing where the United States is the adverse party, and can result in resentencing when the defendant refuses to pay. So *Smith v. Doe* does not control. –SCOTUS
The emphasis should be on this phrase, “MVRA restitution is labeled as a penalty, is codified in the criminal code, is predicated on a criminal conviction, is imposed against a criminal defendant, is sometimes imposed in lieu of other penalties, is ordered at sentencing where the United States is the adverse party, and can result in resentencing when the defendant refuses to pay.” That made it clear restitution is punishment.

In *Smith v. Doe*, however, SCOTUS was sold on the claims that the act of registration is no more intrusive than signing up for a Costco membership. At that time, registration in Alaska only required registration via a postcard sent by US mail. Registration in all states, at least initially, is an in-person requirement, and only a few states even currently use mail-in verification of residence. (See next article for a discussion on mail-in registration.) RPs must turn over numerous pieces of information, including mugshot, fingerprints, and a DNA sample, and may have to re-register anytime they buy/sell a car, move, travel, create a new online account, or in some cases, even getting a haircut. Some states charge fees. You may be subjected to a random “compliance check” to verify your residence.

NEW POSTAL RULES CAN COMPLICATE MAIL-IN REGISTRATION CARDS

The tRump Administration’s newewst scheme to *steal* the election, changing the process for watermarking US Mail, may impact more than just election ballots. (Credit to @Nmichael4686 on Youtube for sharing this concern.) As noted in a USA Today Article (Sarah D. Wire & Maria Francis. “Postmark change could impact getting ballots, bills in on time.” USA Today. https://www.usatoday.com/story/news/nation/2025/12/30/us-postal-service-changes-postmark-rules-what-to-know/87960162007/):

The U.S. Postal Service is making new changes in 2026, including adjustments to the postmark process, which could result in late fees and penalties for anyone mailing time-sensitive documents such as tax returns or bill payments. For decades, the postmark – an official mark that shows where and when mail was accepted by the Postal Service – has been used in law as proof that an individual met a deadline, such as submitting a ballot by Election Day. A USPS postmark used to indicate the date when mail was dropped in a mailbox or submitted at the post office

counter. Now, USPS is clarifying in a new rule that the postmark will reflect the date an envelope is first processed by an automated USPS sorting machine, potentially days after it was dropped off – not the actual drop-off date... Time-sensitive mail should be mailed several days before the deadline. People can also go inside their local post office and ask for a hand-stamped 'manual postmark' on the date, or use certified mail." You should be able to see a potential issue here, especially if part of the process includes time-dated material.

There are eleven states I am aware of that currently use US Mail or "snail mail" as part of the registration process. These new rules could potentially cause problems if time-dated registration papers are not delivered or returned on time. For those who can travel to the local Post Office, you can still request a "manual postmark" from the postal worker, or pay a little extra for a Certified Letter. After all, your freedom may hang in the balance of a bureaucracy made worse by our current administration.

The 11 states known to use the US Mail as part of the registration process include:

Alaska: In-person notice required for new residents (those staying 30 days or more) by "next working day." Initial registration must be done in person; however, updates to registry info (and, at times, periodic re-registration) may be conducted by printing the online registration forms and sending it by mail by the day after any changes were madeHB 66 (2024) added reporting if staying in temporary lodging for 7+ days. Visitors for less than 30 days do not have to register, but must inform law enforcement of their presence by submitting a Temporary Presence Form. The completed form may be mailed, faxed, or emailed before arriving or within one day of arriving in Alaska. AS §12.63.010. There is no rule regarding the number of total visits per year.

Connecticut: Confirmation of address required quarterly by returning form mailed by registry office. CGS §54-257.

Hawaii: Updates required within 30 days of birthday. HRS §846E-2. All Tiers register in person annually, & mail-in forms are sent quarterly which must be returned within 10 days of receipt. The Tier system only seems to impact the length one must register before being eligible for removal from the registry. (So Hawaii requires in-person once a year & return forms by US mail every 3 months)

Illinois: Residence Verification is done by non-forwardable mail to current residence. See 730 ILCS §150/5-10 (of course, a registrant still has to register in person)

Kentucky: Address verification forms are mailed to Registrants by the KY State Police for completion & return by mail. RPs are required to report in person every two years to have new photographs taken.

Massachusetts: If you're an Unclassified or Level I, you must print out the form available at <https://www.mass.gov/how-to/register-as-a-sex-offender> then send it by mail to SORB, PO Box 392, North Billerica, MA 01862. If you are a Level II/III, you must register in-person at the local police department.

Montana: Updates based on Tier: Level I: annual by mail, can petition for relief after 10 years; Level II: every 180 days by mail, can petition for relief after 25 years; Level III: every 90 days by mail for life; Transients must appear in person every 30 days. MT Code §46-23-504, §56-23-506; Out of state offenses, any RP who is convicted in another state, territory or tribe of an offense "reasonably equivalent" to a Montana registrable offense & thus required to register. MT Code §46-23-502(9)(b). Level 0 is a special classification for RPs from outside MT with no easily comparable conviction; they report annually by mail.

Nevada: When to register—48 hours for initial registration & updates; updates may be done in person or by sending in form; annual form can be returned by mail along with fingerprints & photograph. NRS §179D.460, NRS §179D.470, §479D.480. (Of course, where you do you for fingerprints?)

Pennsylvania: Only those whose offense occurred before 12/20/2012 have the option to report non-scheduled changes of information by mail. (Note: They adopted the AWA in 2012 and removed the mail option for those convicted on/after 12/20/2012)

South Dakota: Annual verification form mailed to RPs that must be returned within ten days (doesn't state whether it can be mailed or not). SDCL §22-24B-5. Annual at home verification required by SDCL §22-24B-8.1.

Washington State: If a sheriff or police chief does not participate in a grant program as described in RCW §36.28A.230, mail verifications can be used. Mail verifications are sent out annually (every 90 days if SVP) & must be signed & returned within 5 days. RCW §9A.44.135 (I believe these can be returned by mail as at least some folks I've spoken to saiud that, you can ask the activist group there to confirm)

FLORIDUH CONGRESSMAN WANTS TO BAN RPs FROM RECEIVING MEDICAID & HEALTHCARE TAX CREDITS

Greg Steube, Republican & Floridiot, wants to ban ALL Registered Persons from obtaining Medicaid AND eliminate tax credits under the Affordable Care Act. This isn't the first time that Congress had targeted RPs from government assistance. In 2010, Congress passed a bill banning RPs from obtaining Small Business Loans from the Small Business Administration; they had also tried passing legislation in 2010 banning RPs from receiving Federal Housing Loans and Unemployment Compensation but both failed to fully advance in time. (Both passed the House but failed to advance in the Senate.) Under this current administration, this has a better chance of passing. Of course, Trump and his cronies will continue to gt the best healthcare money can buy, while RPs and their families will be forced to suffer without adequate healthcare.

Steuben has been a staunch opponent of the Affordable Care Act. During thre COVID-19 Pandemic, he was also among those conspiacy theorists claiming that the "deep state" at the FDA was preventing the use of hydroxychloroquine, an antimalarial drug, to treat COVID-19. Medical experts note that hydroxychloroquine neither treats nor prevents infection by COVID-19. He is also a defender of the J6 insurrection & promotes the conspiracy that the 2020 was "stolen." The only thing that helps us is that Steuben's bills rarely advance beyond the introduction stage, so I'm hoping this is the case for Steuben's bill.

U.S. Representative Greg Steube (R-Fla.) introduced yesterday the Criminals' Loss of Eligibility and Assistance Networks Act or CLEAN Act. This bill prohibits sex offenders from receiving federally funded Medicaid benefits as well as the refundable tax credit for health insurance under the Affordable Care Act.

"Sex offenders have no business tapping into programs intended for lower-income and disadvantaged Americans," said Rep. Steube. "Taxpayers have the right to know their hard-earned money is not being used to cover the medical expenses of serial abusers and criminals. Rapists and abusers have no business receiving federal benefits. My bill will protect Medicaid and ACA assistance for law-abiding Americans by barring sex offenders from accessing these programs."

Background: The CLEAN Act amends the Internal Revenue Code of 1986 to prohibit sex offenders from receiving the refundable tax credit for coverage with a qualified health plan under the Affordable Care Act. It also amends the Social Security Act to make sex offenders ineligible for federally funded benefits under Medicaid. (Source: Rep. Steube: No ACA or Medicaid for Sex Offenders." Rep. Greg Steube. 2/10/2026. https://steube.house.gov/press-releases/rep-steube-no-aca-or-medicaid-for-sex-offenders/) Note: This bill was assigned the number House Bill H.R.7453 — 119th Congress (2025-2026).

What does this mean for Registered Persons? It means that Registered Persons won't receive a tax credit for out-of-pocket healthcare; those folks will pay full price for their private healthare. (One way to counter this would be for married couples to file their taxes separately, as the bill impacts joint filings.) Registered Persons will also be stripped of eligibility for federally funded medical assistance and allow states to fully deny coverage.

As of 2/11/2026, HR 7453 has been "Referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned."