UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA – MIAMI DIVISION

JOHN DOES, ET. AL.
Plaintiffs,

v.

Case No. 18-cv-24145-KMW

RICHARD L. SWEARINGEN,
Defendant.
_____/

PLAINTIFFS' RESPONSE TO MOTION TO DISMISS FIRST AMENDED COMPLAINT

COME NOW THE PLAINTIFFS, by and through their undersigned counsel, and herein file their response in opposition to Defendant's Motion to Dismiss First Amended Complaint.

Aggressive Notification. Defendant argues Plaintiffs' allegations of aggressive notification are untrue[1], claiming notification is governed solely by § 943.043, which provides for notification through a toll-free phone number, a statute Plaintiffs have not challenged (DE:56 at 2-3). Indeed, he disclaims any connection between the challenged statute and public violence against registrants (DE:56 at 3-4).

First, a complaint's allegations are required to be taken as true and construed in the light most favorable to Plaintiffs for the purpose of a motion to dismiss.[2] Second, Plaintiffs' allegations of aggressive notification *are* true. *See* Exhibit 1 at pp. 3-4 (Hardee County Sheriff's manual relying on the challenged statute to authorize notification via filmed pre-feature movie theater

[1] "Although the phrase 'aggressive notification' appears 15 times throughout the Amended Complaint, there is no such thing" (DE:56 at 3-4); "this non-existent 'aggressive notification'" (DE:56 at 4-5); ". . .[N]on-existent forms of 'aggressive notification'" (DE:56 at 20).

[2] *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007); *Edwards v. Prime, Inc.*, 602 F.3d 1276, 1291 (11th Cir. 2010)**;** *Benson v. QBE Ins. Corp.*, 61 F.Supp.3d 1277, 1279 (S.D. Fla. 2014).

announcements, TV and cable station advertisements, flyering, and door-knocking).[3] Third, the challenged statute not only authorizes notification as furthering "the governmental interests of public safety," § 943.0435(12); it encourages aggressive notification by immunizing law enforcement officers from civil liability for damages and conferring a presumption of good faith. § 943.0435(10).

Unlike Defendant, the Florida legislature recognizes the relationship between notification and vigilantism. In 2007, when amending the statute to require disclosure of email addresses, the Florida Senate debated whether to include an admonition that the public should not use registrants' email addresses to convey threats of violence:

> "Because you know, Mr. Chairman, if this bill weren't to pass, I'm afraid that people like me, if I knew somebody who did something like this to a child, I may end up in jail.
>
> Chairman: Mm, don't put that on the record.
>
> Senator: Well, I'm serious. Now it's on the record.
>
> Chairman: The judges are in the room. [Laughter]
>
> Senator: I may hurt you. May want to hurt you."[4]

Nevertheless, the Legislature decided not to include the admonition.[5]

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[3] Plaintiffs submit Exhibit 1 solely to rebut Defendant's accusations that their allegations of aggressive notification are untrue, notwithstanding the rule requiring this Court to decide the motion to dismiss based solely on their allegations. *Benson v. QBE Ins. Corp.,* 61 F.Supp.3d at 1279.

[4] Fla. S., Comm. On Crim. And Civil Just. Approp., tape recording of proceedings (February 22, 2007; 10:28:03-10:28:20) (available at Florida State Archives Tallahassee, Fl.), (Sen. Argenziano, re Senate Bill 1004, "Relating to Cybercrimes Against Children Act of 2007."

[5] *See* Staff of Fla. S. Comm. On Crim. And Civil Just. Approp., SB 1004 (2007) Staff Analysis p. 7 (Feb. 23, 2007) (available at https://archive.flsenate.gov posted 2/26/07).

Similarly, courts recognize that widespread notification results in precisely the impacts claimed by Plaintiffs.[6]

Statute of Limitations. Defendant argues that because Plaintiffs did not challenge the requirement to register less than four years after the statute's original enactment, they are too late now. That is like saying a man originally required to carry a backpack containing a change of clothes cannot shed his burden if someone later fills the pack with bricks.

FSORNA 1997 was a light backpack, requiring *one in-person report* of limited personal information publicly available only by phone, with additional in-person reports only for home address changes. Defendant characterizes the 22 years of burdensome amendments—exponentially increasing the volume of information to be disclosed and the number of required in-person reports, restricting employment, education, and travel, expanding the breadth and scope of notification, removing the *mens rea* requirement and inserting a mandatory-minimum—as "[p]resent consequences resulting from a discrete past act": the 1997 requirement to register. (DE:56 at 6). Under his reasoning, a 2020 amendment requiring registrants to make two in-person reports a day while wearing a sex offender sandwich board would be immune from review because registrants were required to make a single in-person report in 1997.

Defendant overlooks the "critical distinction" between one-time acts with consequences that continue into the present, which does not extend the limitations period, and the continuation

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[6] *See Doe v. Department of Public Safety*, No. S-16748. 2019 WL 2480282 *9 (Alaska June 14, 2019) ("Sex offenders are among the most despised people in our society. Widespread publication of their convictions and personal details subjects them to community scorn and leaves them vulnerable to harassment and economic and physical reprisals."); *Millard v. Rankin*, 265 F.Supp.3d 1211, 1231 (D. Colo., August 31, 2017) (widespread notification "subjects registrants to effective banishment and shunning in the form of limitation of their ability to live and work without fear of arbitrary and capricious eviction, harassment, job relocation and or firing, significant restriction on familial association, and actual and potential physical and mental abuse by members of the public.")

of violations into the present, which does. Defendant claims that the Eleventh Circuit has rejected the doctrine of continuing violations (DE:56 at 7), a claim contradicted by *Lovett v. Ray*, 327 F.3d 1181, 1183 (11th Cir. 2003), which expressly recognized the doctrine but found it inapplicable to the one-time act of notifying plaintiff that his parole consideration would be postponed. Defendant cites only one-time act cases like *Lovett*;[7] but Plaintiffs are not challenging a one-time act—the requirement to register—but rather the continuing effects of FSORNA 2018's interlocking requirements, each successive amendment aggravating the impacts of the others.[8] The doctrine of continuing violations extends the statute of limitations in cases like this.[9]

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[7] *See Meggison v. Bailey*, 575 Fed.Appx. 865 (11th Cir. 2014) (claim that sex offender designation violated plea agreement accrued upon notice of designation).

[8] For example, Defendant points out that Plaintiffs have been aware of the requirement to make in-person reports about temporary addresses since 1997 (DE:56 at 5-6). But the definition of temporary residence has been redefined from 1997's 14 consecutive days, excluding business, vacation and emergency travel, to 2018's 3 days in the aggregate in a calendar year with no exemptions. The 2014 amendment increased the number of in-person reports for this purpose from one to possibly two, a 2004 amendment severely constricted the availability of the *mens rea* requirement, and a 2018 amendment imposed a minimum-mandatory penalty. *See* Appendix. Each amendment aggravates the impacts of the other provisions.

[9] *See Nat'l. Assoc. For Rational Sexual Offense Laws, et al. v. Stein, et al*., No. 1:17CV53, 2019 WL 3429120, at *9 (M.D. N.C. July 30, 2019) (ex post facto challenge to registration statute one of continuing violations); *John Doe 1 et al. v. Marshall*, No. 2:15-cv-606, 2019 WL 539055, at *45-48 (M.D. Ala., Feb. 11, 2019) (constitutional challenge to second-generation registration statute one of continuing violations): *Doe v. Haslam*, Nos. 3:16-cv-02862, 3:17-cv-002642017, WL 5187117 *11-14 (M.D. Tenn. Nov. 9, 2017) (constitutional challenges to second-generation registration statute raised continuing violations: "These claims are not premised on some procedural deprivation that occurred at the time that those requirements were imposed, but on the threat of significant consequences for future conduct."); *Doe v. Gwyn*, No. 3:17-cv-504, 2018 WL 1957788 *5-6 (E.D. Tenn. April 25, 2018) (constitutional challenges to second-generation registration act raised continuing violations); *Coates v. Snyder*, No. 1:17-cv-1064, 2018 WL 3244010 (W.D. Mich. June 12, 2018) (ex post facto challenge to registration statute raised continuing violation); *Wallace v. New York*, 40 F.Supp.3d 278 (E.D. N.Y. 2014) (same). *See also Doe et al. v. Miami-Dade County, Florida*, No. 1:14-cv-23933, slip op. at 24-27 (S.D. Fla. Dec. 18, 2018) (ex post fact challenge to county housing ban case of continuing violation).

CLAIM I: Ex Post Facto. Defendant relies almost entirely on *Smith v. Doe*, 538 U.S. 84 (2003), and *Doe v. Moore*, 410 F. 3d 1337 (11th Cir. 2005), decided in reliance on *Smith*. *Smith* reviewed the facial constitutionality of a "first-generation" registration statute requiring a single in-person report with limited notification and no record impact on housing, employment or registrant safety. 538 U.S. at 99-100. Critical to the *Smith* Court's resolution of this "close"[10] question were two empirical assumptions: (1) persons with qualifying convictions categorically represent a high risk of reoffense that persists for decades; and (2) a minimally-intrusive registry is reasonably related to reducing this risk. *Id*. at 104-05.

In the 16 years since *Smith*, multiple amendments to FSORNA 2018 have transformed it from the kind of minimally-intrusive measure upheld by *Smith* into a "second-generation" registration law: a labyrinth of interlocking requirements and restrictions that impact every aspect of a registrant's life, subjecting him for the rest of his life to felony prosecution and five years in prison for innocent harmless conduct (DE:50 at ¶¶ 21-56). In the meantime, a scientific consensus developed that persons with qualifying convictions represent a low risk of reoffense upon release, a risk that declines with each year in the community, without any impact from registration statutes (DE:50 at ¶¶ 57-61). Plaintiffs were convicted decades ago and pose virtually no risk of reoffense but remain saddled with ever-heavier registration burdens (DE:50 at ¶¶ 65-96). Their claims address the relationship between the empirically-demonstrable effects on them and the public of FSORNA 2018's trip-wired maze of restrictions.

Neither *Smith* nor *Moore* stands for the proposition that every registration statute is constitutional, regardless of its contents, the reliability of its premises, or the reasonableness of its

[10] Souter, J., concurring in judgment, 538 U.S. at 107.

application to anyone ever convicted of a qualifying offense. Constitutional law is anchored in empirical reality.[11] "The constitution does not require the federal courts to act like Galileo's Inquisition and enjoin consideration of new academic research . . . simply because such research provides a new understanding of how to give effect to our long-established government principles." *Common Cause v. Rucho*, 318 F.Supp.3d 777, 858 (M.D. N.C. 2018). *See Vega v. Lantz*, 596 F.3d 77, 85 (2d Cir. 2010) (courts are "under no constitutional obligation to blind themselves to reality."). When subsequent evidence establishes that a court relied on false premises, or failed to appreciate the impacts of legislative action, it must reevaluate its holding.[12]

Like Galileo's Inquisition, Defendant rejects decades of peer-reviewed studies disproving *Smith*'s empirical assumptions, and decades of amendments transforming FSORNA into a consuming regimen of oppressive restriction. He also ignores that Plaintiffs have challenged FSORNA both on its face and *as applied to them* (DE:50 at ¶¶ 112, 114, 118, 121, 124, 128, 130,

[11] *See Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954) (relying on empirical evidence that segregation caused psychological damage to black children); *Roe v. Wade*, 410 U.S. 113, 163 (1973) (relying on "now-established medical fact" that, during first trimester, "mortality in abortion may be less than mortality in normal childbirth"); *Craig v. Boren*, 429 U.S. 190, 214 (1976) (relying on empirical data to strike law prohibiting beer sales to males under 21 and females under 18); *Hodgson v. Minnesota*, 497 U.S. 417, 441 (1990) (relying on findings by 90% of judges adjudicating teen abortion petitions that dual parental notification yielded no positive effects); *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469, 476-77 (1989) (relying on statistical evidence to determine constitutionality of affirmative action); *Maryland v. Craig*, 497 U.S. 836, 855, 857 (1990) (relying on "growing body of academic literature documenting the psychological trauma suffered by child abuse victims" to hold that they could testify outside alleged abuser's presence); *Hall v. Florida*, 134 S.Ct. 1986, 1990, 1995 (2014) (relying on "professionals who design, administer, and interpret IQ tests [who] have agreed, for years now, that IQ test scores should be read not as a single fixed number [70] but as a range").

[12] *See e.g. Lawrence v. Texas*, 539 U.S. 558, 567, 572, 576-77 (2003) (overruling *Bowers v. Hardwick*, 478 U.S. 186 (1986), based on "academic writings" exposing error in *Bowers'* "historical premises," state courts' rejection of *Bowers* under state constitutions, and stigma attached to conviction as a result of recent registration statutes).

133, 135). While a facial challenge requires Plaintiffs to show that a law is invalid in all applications, *U.S. v. Salerno*, 481 U.S. 739, 746 (1987), an as-applied challenge "focuses only on the particular challenged application. . ." *Rubinstein v. Florida Bar*, 72 F.Supp.3d 1298, 1309 (S.D.Fla. 2014); *Reno v. Flores*, 507 U.S. 292, 300 (1993) (an as-applied challenge is limited to review of how a law has been "applied in a particular instance."). The Eleventh Circuit has thus far decided only facial challenges.[13]

An ex post facto challenge examines the weight of a law's punitive impacts in relation to its public purpose, using a multi-factor test: Do they resemble traditional punishment, impose an affirmative disability, promote traditional aims of punishment, have a rational connection to a non-penal purpose, or are excessive with respect to this purpose. *Smith*, 538 U.S. at 97.

To date the Eleventh Circuit has relied only on the conclusion in *Smith* and *Moore* without applying *Smith's* intent-effects test to subsequent amendments, and in a void of empirical evidence. *U.S. v. W.B.H.* 664 F.3d 848, 852-53 (11th Cir. 2011) ("Because [*Smith*] held that the regulatory scheme of the Alaska statute is not excessive in relation to its non-punitive purpose, it *necessarily follows* that SORNA's is not either.") (emphasis added); *Addleman v. Fla. Attorney Gen*., 749 Fed.Appx. 956, 958 (11th Cir. 2019) ("Alaska's [act], . . .like Florida's act,. . .does not violate the *Ex Post Facto* clause," citing *Smith*); *Anderson v. Secretary, Dept. of Corrections*, 2011 WL

[13] *See Doe v. Moore*, 410 F.3d 1337 (11th Cir. 2005); *Houston v. Williams*, 547 F.3d 1357 (11th Cir. 2008); *United States v. Ambert*, 561 F.3d 1202 (11th Cir. 2009); *United States v. Carver,* 422 Fed..Appx. 796, 801 (11th Cir. 2011) (noting defendant's failure to make as-applied challenge); *Delaney v. Florida*, No. 8:11-cv-57-T-33MAP, 2011 WL 1211468 (M.D. Fla. March 14, 2011); *United States v. W.B.H.*, 664 F.3d 848 (11th Cir. 2011); *Windwalker v. Governor of Alabama*, 579 Fed.Appx. 769 (11th Cir. 2014); *Waldman v. Conway*, 871 F.3d 1283 (11th Cir. 2017); *Addleman v. Fla. Attorney Gen*., 749 Fed.Appx. 956 (11th Cir. 2019). The sole outlier is *McKee v. Swearingen*, No. 1:18-cv-77-MW-GRJ, 2018 WL 3217644, at *1 (N.D. Fla. June 22, 2018), in which a pro se litigant released from civil commitment alleged solely that FSORNA "tortures him."

2517217, at *3-4 (M.D. Fla., June 23, 2011) (rejecting ex post facto habeas claim based on empirical assumptions in *Smith*).

The Eleventh Circuit has not yet weighed the real-world effects of second-generation FSORNA in the context of the empirical evidence, or as applied to low-risk registrants with remote convictions. This is that case. Federal and state courts considering similar cases easily distinguish them from *Smith*, particularly as applied to persons like Plaintiffs.[14]

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[14] *See Does #1-5 v. Snyder*, 834 F.3d 696, 704-05 (6th Cir. 2016) (finding multiple in-person reports, work restrictions, and housing ban neither "minor or indirect," like those in *Smith* in context of "significant doubt" about *Smith* Court's empirical assumptions); *Nat'l. Assoc. For Rational Sexual Offense Laws, et al. v. Stein, et al.*, No. 1:17CV53, 2019 WL 3429120, at *12-14 (M.D. N.C. July 30, 2019) (motion to dismiss ex post facto challenge to registration statute denied where plaintiffs alleged that burdens of second generation version, including requirements of multiple in-person reports for people at little risk of re-offense, punitive under *Smith's* intent-effects test); *Hope v. Comm. of Indiana Dep't. of Correction*, No: 1:16-cv-02865, slip op. at 25-35 (S.D. Ind. July 9, 2019) (striking statute as applied to Plaintiffs with remote convictions and severe individual impacts, including multiple in-person reports and inability to apply for federal housing benefits, in light of empirical evidence); *Doe v. Rausch*, 382 F.Supp.3d 783, 797-800 (E.D. Tenn 2019) (punitive as applied, in absence of individualized assessment or empirical evidence of efficacy); *Doe and Doe #2 v. Haslam*, Nos. 3:16-cv-02862, 3:17-cv-00264, 2017 WL 5187117, at *20 (M.D. Tenn. Nov. 9, 2017) ("The Court. . .cannot merely assume that assembling a factual record is unnecessary because prior challenges. . .have been unsuccessful. . .[T]he available evidence regarding for example, the efficacy and necessity of registration and monitoring regimes has not been frozen in amber since the regimes were adopted. . .[T]hese fact-dependent issues are relevant to the determination of whether a state's scheme should be considered civil or punitive. . ."); *Millard, et al. v. Rankin*, 265 F.Supp.3d 1211, 1120, 1126-29 (D. Colo. 2017) (noting *Smith* Court's inability to "foresee the development of private commercial websites exploiting the information made available to them" which, in combination with indiscreet verification, was punitive as applied to low-risk plaintiffs who established housing and employment impacts, vandalism and threats of violence); *United States v. Wass*, No. 7:18-CR-45-BO, 2018 WL 3341180, at *4-5 (E.D. N.C. July 6, 2018) (noting greater restrictiveness than Alaska's 1994 statute, through multiple in-person reporting requirement, and severe impacts of aggressive notification); *State v. Letalien*, 985 A.2d 4, 23-24 (Me. 2009) (striking statute after having twice previously upheld it, based on heavier burdens and absence of empirical evidence of efficacy); *Doe v. State*, 167 N.H. 382, 111 S.E.3d 1077, 1084, 1091-92, 1101-02 (N.H. 2015) (striking statute after having previously upheld it, noting "significant[ ] differen[ce] from the act we considered twenty years ago," including multiple in-person reports, severe impacts of widespread notification and absence of legislative findings to support changes); *Comm. v. Muniz*, 164 A.3d 1189, 1216 (Pa. 2017) (*Smith* Court unable to foresee "world-wide dissemination of" registrant's information, or "[o]nline shaming" leading to ostracism); *Starkey v. Oklahoma Dept. of Corrections*, 305 P.3d

CLAIM II: Cruel and Unusual Punishment. Defendant does not deny that if FSORNA 2018 is determined to be punitive, it would violate the Eighth Amendment. It merely repeats that the Eleventh Circuit has thus far found FSORNA to be civil (DE:56 at 8-9), and cites *Chrenko v. Riley,* 560 F. App'x 832 (11th Cir. 2014), *id.*, which held that notification alone does not violate the Eighth Amendment. But Plaintiffs' claims are based on *the aggregate impacts of all of the statute's interlocking requirements*, not just the notification provisions. Defendant does not address the requirement of multiple in-person reports on pain of felony prosecution. *See Piasecki*, 971 F.3d at 170 n.13, finding this requirement to constitute custody. Nor does he address whether the aggregate impacts are cruel and unusual as applied to Plaintiffs, who completed their sentences decades ago, have not since reoffended, and represent no risk of doing so. Finally, "*stare decisis* does not compel adherence to an Eighth Amendment decision whose 'underpinnings' have been eroded by subsequent development. . ." *Hurst v. Florida*, 136 S.Ct. 616, 624 (2016) (overruling prior cases where "[t]ime and case law have washed away [their] logic.").[15]

Empirical evidence of inefficacy and low recidivism among registrants has "washed away the logic" of inflicting painful registration impacts without regard to risk. As a result, some courts deem these impacts to be punitive as applied under both the ex post facto clause and the Eighth Amendment.[16]

1004, 1030-31 (Ok. 2013) (noting statute at issue far more burdensome than that in *Smith*).[14] *See also Piasecki v. Court of Common Pleas, Bucks Cty., Pa.*, 917 F.3d 161, 170 (3rd Cir. 2019) (requirement of multiple in-person reports for "banal tasks" like moving a vehicle or taking a short trip, coupled with potential felony prosecution and substantial prison term, constituted custody for habeas purposes).

[15] *See also Atkins v. Virginia*, 536 U.S. 304 (2002) (overruling *Penry v. Lynaugh*, 492 U.S. 302 (1989), based on subsequent deliberations by "the American public, legislators, scholars, and judges").

[16] *See Millard v. Rankin*, 265 F.Supp.3d at 120-21 (aggressive notification "is telling the public – DANGER – STAY AWAY. How is the public to react to this warning?. . .The fear that pervades

CLAIM III(A): Strict Liability Upon Second Arrest. Defendant states that "[a] statute is not unconstitutional merely because it lacks a *mens rea* requirement" (DE:56 at 10). Nor is that Plaintiffs' allegation. They allege that the due process clause forbids felony prosecution and significant prison time for innocent failure to meet an affirmative obligation (DE:50 at ¶¶ 115-18), under *Lambert v. California*, 355 U.S. 225, 229-30, 240 (1957), which held that due process requires a *mens rea* element in a statute criminalizing passive failure to comply with an affirmative obligation as a felony subject to significant prison time, and *State v. Giorgetti*, 868 So.2d 512, 519-20 (Fla. 2004), relying on *Lambert* for its holding that due process requires an inference of *mens rea* in the registration statute, which was silent at the time about this element.

§ 943.0435(9)(d) was the Legislature's response to *Giorgetti*, expressly eliminating lack of notice as a defense for people like Does 2 and 6, who have previously been arrested or cited under the statute. Defendant takes the mystifying position that *Giorgetti* is fully applicable notwithstanding the 2004 amendment, reciting Florida cases that subsequently relied on *Giorgetti* to require a *mens rea* element (DE:56 at 10-11). But none of those cases involve registrants with **a prior arrest**, like Does 2 and 6. If those Plaintiffs unknowingly fail to comply with some upcoming legislative refinement, *e.g.*, an amendment redefining temporary residence from 3 days to 2, they will be defenseless.[17]

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the public reaction to sex offenders. . .generates reactions that are cruel and in disregard of any objective assessment of the individual's actual proclivity to commit new sex offenses"); *State v. Letalien*, 985 A.2d at 23-24 ("For the public, the substantiality of the risk every registrant poses is suggested by the government's initiative in establishing the registration, verification, and community notification requirements in the first place."); *Doe v. State*, 111 S.E.3d at 1096 ("broad dissemination stigmatizes registrants and can lead to. . .vigilante justice"); *Comm. v. Muniz*, 164 A.3d 1189, 1213, 1216 (unlike "primitive technology" at time of *Smith*, "[n]ow there is world-wide dissemination of the information," leading to ostracism).

[17] Defendant treats the 2016 vacatur of Doe 6's failure-to-register conviction—which followed a prior arrest for failure to register—as proof that *mens rea* still matters (DE:56 at 12). But Doe 6's relief was based on his *incompetence* to enter a plea, not lack of *mens rea* (D E:50 at¶ 93). If

The due process clause does not contain a 'second-strike' exemption where a past arrest for an unknowing violation suffices as notice of different restrictions passed at a later date. For the reasons set forth in *Lambert* and *Giorgetti*, FSORNA's express elimination of a *scienter* requirement for a subsequent unknowing failure to meet affirmative obligations on pain of felony prosecution and significant prison time violates Plaintiffs' rights to procedural due process, facially and as applied to Does 2 and 6.

CLAIM III(B): Vagueness of Travel-Related Terms. Procedural due process requires notice sufficient to inform the ordinary person of the conduct prohibited, and to prevent police and prosecutors from discriminatory or arbitrary enforcement. *Kolender v. Lawson*, 461 U.S. 352, 357-58 (1983); *Bankshot Billiards, Inc. v. City of Ocala*, 634 F.3d 1340, 1349 (11th Cir. 2011). The statute's terms restricting travel are vague, in violation of this principle. The 2004 amendment imposing strict liability for a second offense aggravates the vagueness problems. *See Colautti v. Franklin*, 439 U.S. 379, 395 (1979) ("This Court has long recognized that the constitutionality of a vague statutory standard is closely related to whether the standard incorporates a requirement of *mens rea*."); *High Ol' Times, Inc. v. Busbee*, 673 F.2d 1225, 1229 (11th Cir. 1982)(same). Although Defendant has made a stab at interpreting some of the terms at issue, he cannot save a vague statute through his own narrowing interpretations. *Stenberg v. Carhart*, 530 U.S. 914, 940-44 (2000).

Day. Defendant states that whatever day means, a 3-day stay, for the purpose of temporary residence, does not begin until day 2 of the trip, citing *McMillen v. Hamilton*, 48 So. 2d 162, 163 (Fla. 1950), a 69-year-old case stating that *the four-year statute of limitations for torts* excludes

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arrested again for failing to comply with an obligation he knew nothing about, what's his defense? His severe cognitive deficits could explain a lack of notice, but he is not allowed to raise this defense. Doe 2, struggling with cognitive and physical impairments due to recent strokes, may likewise unknowingly fail to meet some new affirmative obligation. What is his defense?

the day of the tort. *But see B.T.G. Furniture Corp. v. Coates*, 93 So. 3d 1151, 1155 (Fla. 4th DCA 2012) (first day included and last day excluded for purpose of serving offer of judgment); *and Pulido v. State*, 181 So.3d 1191, 1192 (Fla. 3d DCA 2015) (date of offense is first day for purpose of statute of limitations on criminal prosecution). Sheriffs unversed in tort law may compute 3 days differently, leading to arbitrary enforcement.

Defendant further maintains that the word "day" is not vague, because its meanings "can be ascertained" through dictionaries, case law and common law, citing two 1983 decisions from out-of-state appeals courts, defining day as midnight to midnight (DE:56 at 12-13). But Black's Law Dictionary defines "day" as any period that includes a solar day and night, listing Defendant's definition second. https://thelawdictionary.org. Merriam Webster defines "day" to mean "the time of light between one day and the next" https://www.merriam-webster.com., as does https://www.dictionary.org.[18] A registrant who relies on the dictionary may be arrested by officers who rely on the two 1983 out-of-state cases.

'**Secure' or 'update' license with DHSMV**. Defendant has answered Plaintiffs' question: a registrant who has vacated his temporary residence must nevertheless get a new driver's license reflecting the just-vacated address (DE:56 at 15). This is an unambiguous but woefully unreasonable restriction on the fundamental right to travel, *see infra*.

Within 48 hours. Plaintiffs raised the question whether "within 48 hours" for the purpose of in-person reporting before leaving and after arriving from a temporary residence means "at most" or "at least" 48 hours. Defendant has previously provided various definitions for the term: (1) "within 48 hours" does not mean "at least 48 hours" (DE:30 at 14); (2) there is "little discernible

[18] *See also* https://en.wikipedia.org/wiki/day ("period of time during which the Earth completes one rotation with respect to the sun"); https://www.collinsdictionary.com/dictionary/english/day_1 ("a day is one of the seven twenty-four hour periods of time in a week").

difference" between the two terms (DE:30 at10); and (3) "within 48 hours" means "*not less than 48 hours"* before leaving, (emphasis supplied), but expressly relying on *Barco v. Sch. Bd. Of Pinellas Cty*., 975 So. 2d 1116, 1124 (Fla. 2008), which defines "within 30 days" to mean "*no later than 30 days*." (emphasis supplied). Now Defendant provides two different meanings of the phrase "within 48 hours": as used in § 943.0435(7), the registrant "cannot report *less than* 48 hours before departure"; as used in § 943.0435(4)(a), the registrant cannot report *more than* 48 hours after returning (DE:56 at 15). It has thus taken Defendant four different pleadings in two different cases to arrive at two opposing definitions of "within 48 hours," depending on the provision in which it appears.

This ambiguity is exacerbated by Defendant's definition of "day." For interstate travel, the registrant must report "within 48 hours before the date" he intends to leave. § 943.0435(7). Does "date" mean "day"? If so, according to Defendant, it means midnight to midnight. Must the registrant report "no less than" 48 hours before 12:01 a.m. of the day he plans to leave or 48 hours before the hour he intends to leave? Must the registrant report "no more than" 48 hours after 12:01 of the day he returns or 48 hours after the hour of his return?

Ambiguities like these may be constitutionally tolerable in administrative laws regulating corporate behavior with minor fines. But they violate procedural due process in the context of a virtually strict-liability felony statute which chills the exercise of a fundamental right, *Colautti v. Franklin*, 439 U.S. at 391, 395, 401, such as the right to travel or freedom of movement.

CLAIM IV(A): Right to Travel. Defendant submits that *Doe v. Moore*, which held that FSORNA 2003 did not violate the fundamental right to travel, precludes Plaintiffs' challenge to

the 2018 version.[19] Travel restrictions result from a combination of the statute's definition of "temporary residence" and the requirement of in-person reporting within 48 hours before and/or after returning, in conjunction with strict felony liability and a minimum-mandatory sentence. The 2003 version required a single in-person report after return from a temporary residence, then defined as 14 days in the aggregate per year or 4 days in the aggregate per month, with a *mens rea* element and no mandatory punishment.

Defendant ignores the amendments enacted since *Moore* which imposed additional restrictions on travel, as reflected in the attached Appendix. Plaintiffs cannot now go anywhere for 3 days in the aggregate per year without having to report multiple times: 2 or 4 times at re-registration if the travel plan is then known; 1 or 2 times on return, both within 48 hours (first to DHSMV; then, if "unable" to "secure or update" driver's license reflecting the address they just vacated, to the sheriff with proof of DHSMV effort); and 1 time, within 48 hours, before out-of-state travel. If they unknowingly fail to timely make one of these multiple in-person reports after a first arrest, they will be strictly liable, and subject to third-degree felony prosecution for the rest of their lives.

Defendant also ignores the implications of Plaintiffs' empirical evidence for the government's heavy burden to justify infringement of this fundamental right. Restrictions the *Moore* Court characterized as "burdensome" but "reasonable" are now both crushing and illogical, particularly as applied to Plaintiffs, whose qualifying offenses were committed decades ago, who

[19] Defendant also cites *Addleman*, 794 F.Appx. 956, 957 (11th Cir. 2019), dismissing a pro se litigant's claim that FSORNA "curtails his 'civil right of travel'" as "foreclosed by" *Moore,* without record or analysis of the effects of increasing the number of in-person reports required for a temporary residence and redefining temporary residence from 14 to 3 days.

have never since reoffended nor pose a risk of doing so, and who need to travel for business and to maintain family ties (DE:50 at ¶¶ 67, 70, 72, 75, 82, 89-90).

Furthermore, the impacts of the travel restrictions must be understood in the context of the facts on the ground:[20] there is only one sheriff's office per county; those who live or work far from that office spend hours traveling to make the report; and the offices have limited dates and hour for making these reports. Defendant breezily asserts that Plaintiffs have always had to make an in-person report of travel, that there has never been more than one sheriff's office per county, and that Defendant is not to blame for the Sheriffs' limited hours for making in-person reports (DE: 56 at 4, 6). But the challenged statute exponentially increased the number of in-person reports required for travel, by redefining temporary residence over time from 14 consecutive days with exemptions for business and family travel to 3 days in the aggregate per year without exemption. At the time of *Moore*, a reasonably active registrant might make no more than one or two travel-related reports per year. Plaintiffs make as many as twenty. While having to make one or two in-person reports does not significantly burden travel, having to make ten or twenty does.[21]

This fundamental right is further eroded by the requirement to report within 48 hours before leaving and after returning. Under Defendant's current definitions of "within 48 hours," *see* above, a registrant who learns late Friday that his loved one has been hospitalized out-of-state cannot leave less than 48 hours after whatever time the following week the sheriff opens for in-person reports. And he must report again no less than 48 hours after return. If the Sheriff's office is closed

[20] *See e.g. Lorillard v. Tobacco Co. v. Reilly*, 533 U.S. 525, 562 (2001) (Court considered pre-existing limitations imposed by local zoning restrictions in determining that Attorney General's proposed advertising restriction violated First Amendment).

[21] *See Coppolino v. Noonan*, 102 A.3d 1254, 1278 (Pa. Commw. Ct. 2014) (requirement of in-person reports 72 hours before leaving for temporary residence, defined as 7 or more days, violated right to travel).

during this interval, he has committed a third-degree felony.[22] These requirements significantly burden Plaintiffs' fundamental right to travel, which cannot be infringed "unless necessary to promote a compelling government interest." *Shapiro v. Thompson*, 394 U.S. 618, 629, 634 (1969) ("[T]he nature of our Federal Union and our constitutional concepts of personal liberty unite to require that all citizens be free to travel throughout the length and breadth of the land uninhibited by statutes, rules, or regulations" unless "necessary to promote a compelling government interest."); cf. *Korematsu v. United States*, 328 U.S. 214, 218 (1945) (only "the gravest imminent danger to the public safety" allows government to restrict citizens' freedom of movement).

Plaintiffs agree that the government has a compelling interest in protecting the public against crimes of a sexual nature. But it has never presented any justification, let alone a compelling one, for the amendments redefining temporary residence. Even assuming compelling justification, the State "had less drastic means" for serving it, *Aptheker v. Secretary of State*, 378 U.S. 500, 510 (1964), for example, by online rather than in-person report, as is the case for changes to email addresses and Internet identifiers. § 943.0435(4)(e).

CLAIM IV(B): Stigma Plus. The term "sex offender" as used in FSORNA is someone who meets the following relevant criteria: conviction of an enumerated offense and expiration of sentence after October 1, 1997. FSORNA defines people meeting these criteria, particularly those

[22] Defendant urges this Court to rely on *Barnes v. State*, 108 So. 3d 700 (Fla. 1st DCA 2013), and *Griffin v. State*, 969 So. 2d 1161 (Fla. 1st DCA 2007), which found impossibility – for example, where an office is closed during a hurricane – to be a defense (DE:56 at 10-11). But a sheriff's office typically keeps regular, if limited, hours for in-person reporting. A registrant's failure to make timely required in-person reports is not due to impossibility; it is due to his decision to depart and return during intervals he should know the office would be closed. It is the requirement that he make these in-person reports within strictly circumscribed intervals that chills his right to travel. Even if he ultimately prevailed at trial or on appeal, the registrant would be arrested, jailed, and undergo the financial expense and anxiety of a trial, given the Legislature's decision to remove exemptions from the restriction.

whose victims were minors, as "often pos[ing] a high risk of engaging in a sexual offense even after release from incarceration or civil commitment. . ." § 943.0435(12). The statute's stated intent is to reduce this risk through public identification of those presumed to pose it. *Id.* It is precisely that erroneous presumption that makes the label "sex offender" stigmatizing.

Defendant's position that Plaintiffs cannot prevail because they meet the statutory criteria (DE:56 at 18), is reductive and contradicts the case law. First, a stigma-plus claim does *not* require an allegation of falsehood.[23] Nor can Defendant shrink the scope of this constitutionally-protected liberty interest by super-imposing pleading requirements for a defamation case under Florida tort law (DE:56 at 18). Second, even assuming Plaintiffs must satisfy the elements of a state tort case, they have done so, alleging that the presumption of reoffense is false, categorically and as applied to them. Furthermore, given the broad scientific consensus that registrant recidivism is low, publication of the falsehood is negligent at best. Third, the Supreme Court has already determined that "sex offender" is a stigmatizing label, even to someone meeting the statutory criteria. *See Lawrence v. Texas*, 539 U.S. at 576 (stigmatizing impact of registration among reasons for decriminalizing sodomy); *see also Kirby v. Siegelman*, 195 F.3d 1285, 1291 (11th Cir. 1999) (characterizing label as stigmatizing).

Plaintiffs have satisfied the "stigma" aspect of the claim. Defendant does not challenge the sufficiency of Plaintiffs' "plus" allegations, nor could he. *See* DE:50 at ¶¶ 65-96.

CLAIM IV(C): Rational Relationship Review. Assuming no constitutionally protected interest is infringed by the statute, it must nevertheless be rationally related to a legitimate

[23] *See, e.g., Paul v. Davis*, 424 U.S. 693, 696 (1976) (plaintiff's claim of constitutionally-prohibited stigma based on flyer identifying him as "active shoplifter[ ]" did not rest on claim of falsehood where flyer distributed after shoplifting arrest and before dismissal; claim failed in absence of "plus" evidence); *Vitek v. Jones*, 445 U.S. 480, 488, 490-92 (1980) (stigma-plus claim established based on involuntary transfer to mental hospital, without disputing mental illness).

government interest. "The process of making the determination of rationality is, by its nature, highly empirical. . ." *United States v. Gainey*, 380 U.S. 63, 67 (1965). A Plaintiff may challenge professed rationality with "countervailing evidence," *Armour v. City of Indianapolis,* 132 S.Ct. 2073, 2082 (2012), and courts must consider the "countervailing costs" of the law. *Plyler v. Doe*, 447 U.S. 202, 223-24 (1982). Although rational relationship review is highly deferential, a state may not "rely on a classification whose relationship to an asserted goal is so attenuated as to render the distinction arbitrary or irrational." *City of Cleburne, Tex. v. Cleburne Living Ctr*., 473 U.S. 432, 446 (1985).

Where plaintiffs present both "countervailing evidence" and evidence of "countervailing costs," courts have been striking registration statutes as lacking a rational relationship to the expressed purpose under ex post facto analysis, particularly as applied.[24]

CLAIM IV(D): Irrebuttable Presumption. Defendant relies solely on *Doe v. Conn. Dept. of Public Safety*, 538 U.S. 1 (2003) (hereinafter "CDPS") to argue for dismissal of this claim. Yet *CDPS* was decided on *procedural* due process grounds, expressly leaving open the question

[24] *See Does v. Snyder,* 834 F.3d at 704-05 (no rational relationship to public safety, given empirical evidence of low recidivism rate, statute's inefficacy in meeting its goals, and its subversion of those goals through destabilizing impacts); *Doe v. Rausch*, 382 F.Supp.3d 783, 798 (E.D. Tenn. 2019) (no rational relationship as applied to Plaintiff where legislature relied on "popular stereotypes" rather than actual efficacy or individualized assessment); *Hope v. Commiss. of Indiana Dep't. of Correction, supra*, slip op. at 32-33 (no rational relationship between SORA, which increases registrant crime through technical violations, and child safety, given registrants' "very low" sexual reoffense rate); *State v. Letalien*, 985 A.2d 4 (Me. 2009) (no empirical evidence presented to establish that "substantial majority of the registered offenders will pose a substantial risk of re-offending long after they have completed their sentences"). *See also In re Taylor*, 60 Cal. 4th 1019, 1042, 343 P.3d 867, 882 (Cal. 2015) (striking registrant housing ban under substantive due process clause as applied to parolees because ban rendered them homeless, which interfered with monitoring and supervision, subverting stated goal of ban); and *Packingham v. North Carolina*, 137 S.Ct. 1730, 1737 (2017), striking registrant Internet ban under intermediate scrutiny, noting unreasonableness as applied to those who had completed their sentences and were trying to reintegrate into a society in which Internet access was essential.

whether the irrebuttable presumption at issue violated substantive due process, facially or as-applied (DE:50 at ¶¶ 130-133). *See* 538 U.S. at 8. Furthermore, *CDPS* was decided the same day as *Smith v. Doe* and was animated by the same erroneous empirical assumptions. Yet empirical reality is important to resolving this claim. *Mobile, J. & K. C. R. Co. v. Turnipseed*, 219 U.S. 35, 43 (1910). If cases not fitting the generalization are few, they may not "justify the time and expense necessary to identify them." *Continental T.V., Inc. v. GTE Sylvania Inc.,* 433 U.S. 36, 50 n.16 (1977).[25] But if the generalization does not apply in the majority of cases, it is empirically unreasonable and should be stricken. *See Taylor v. Pennsylvania State Police of Com*., 132 A.3d 590, 605-06 (Pa. 2016) (striking irrebuttable presumption of intractable risk as applied to juveniles in light of new empirical studies).

The dispositive factor in determining the constitutionality of an irrebuttable presumption is whether it infringes on a fundamental right. *Weinberger v. Salfi*, 422 U.S. 749, 768, 777 (1975). If so, the question is the "adequacy of the 'fit' between the classification and the policy that the classification serves." *Michael H. v. Gerald D.*, 491 U.S. 110, 124 (1989).

CDPS is thoroughly distinguishable. There, the plaintiffs did not allege that the presumption infringed on a fundamental liberty interest, or that it was empirically unreasonable, just that they should have an opportunity to rebut it. Here, Plaintiffs allege that the presumption greatly impairs their fundamental right to travel and results in stigma-plus. They have proffered empirical evidence that the presumption is inaccurate as applied to the large majority of registrants, including them, and that it is easily rebutted. Deployment of an unrebuttable presumption that is inaccurate as applied to most of its targets and is easy to disprove violates substantive due process

[25] *See also Coleman v. Thompson*, 501 U.S. 722 (1991) ("the justification for a conclusive presumption disappears when the application of the presumption will not reach the correct result most of the time."); *Johnson v. Williams*, 568 U.S. 289, 301 (2013) (same).

facially and as-applied where, as here, it infringes on a fundamental right without adequately fitting the state's goal.

CLAIM V: Florida Right to Privacy. In *Doe v. Department of Public Safety*, No. S-16748, 2019 WL 2480282 **7-17 (Alaska, June 14, 2019), the Alaska Supreme Court held that Internet publication of registrant information violates the state constitution's enumerated privacy right under its substantive due process provision, which requires strict scrutiny of government actions infringing on enumerated rights. The Court noted that Internet publication, by widely distributing aggregated details of registrants' past crime and personal information, "subjects them to community scorn and leaves them vulnerable to harassment and economic and physical reprisals," "rais[ing] legitimate privacy concerns." *Id*. at 10-11. Although the government has a compelling interest in protecting the public from sexual crimes, it failed to narrowly tailor publication to avoid inflicting "grievous harms" on registrants unlikely to commit new offenses. *Id.* at 12, 14. The Court declared Internet publication of the past crime and personal information a violation of the State's privacy and substantive due process provisions as applied to registrants who could prove they no longer pose a risk of reoffense. *Id*. at 12, 14-16.

Florida's Constitution likewise has an enumerated privacy provision, Art. I, § 23, which is more protective than its penumbral federal counterpart. *D.M.T. v. T.M.H.*, 129 So.3d 320, 335 (Fla. 2013); and a substantive due process provision, Art. I, § 9, that is more protective than its federal counterpart. *J.B. v. Florida Dept. of Children and Family Services*, 768 So. 3d 1060 (Fla. 2000). Plaintiffs challenge aggressive notification of the aggregated details of their past crime and personal information under these provisions as applied to them, in the absence of opportunity to establish their low risk.

WHEREFORE, based on the foregoing, Plaintiffs submit that Defendant's Motion to Dismiss Amended Complaint should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I electronically filed today, August 5, 2019, the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all persons registered to receive electronic notification for this case, including all opposing counsel.

By: *Todd G. Scher*
TODD G. SCHER

EXHIBIT 1

HARDEE COUNTY SHERIFF'S OFFICE

PROCEDURAL GENERAL ORDER	EFFECTIVE DATE 10-15-99	RESCINDS/AMENDS NEW	NUMBER 410.04

REFERENCE: REGISTRATION OF SEXUAL PREDATORS/OFFENDERS

INDEX AS: REGISTRATION OF SEXUAL PREDATORS/OFFENDERS
SEXUAL PREDATORS
SEXUAL OFFENDERS

DISTRIBUTION: ALL PERSONNEL

POLICY: It shall be the policy of the Hardee County Sheriff's Office to aggressively track and maintain close contact with Sexual Predators / Offenders that have been convicted of a sex offense who is being released from the Florida State Prison system to the Hardee County area.

PURPOSE: The purpose of this directive is to establish procedures for the tracking of Sexual Predators / Offenders within Hardee County.

The Florida Sexual Predators Act (FSS 775.21) requires the Florida Department of Law Enforcement (F.D.L.E.) to register and maintain a computer database of all persons who commit certain sex offense violations after October 1, 1996, who fit the statutory definition of a sexual predator.

In addition, the Hardee County Sheriff's Office desires to further protect the citizens of Hardee County by tracking those individuals who have committed certain sex offenses but do not meet the requirements for registration under the Florida Sexual Predators Act.

DEFINITIONS:

A. Florida Statute defines a sexual predator as any person who is convicted of or is found to have committed any capital, life, or first degree felony violation of FSS 794.011 (2,3,4,5 or 8), 794.023, 800.04, 827.071, 847.0133 or 847.0145 or one who has a prior conviction of certain sexual offenses and commits a second degree or greater felony violation of the above listed statutes. The current offense must occur on or after October 1, 1993. This includes persons convicted of similar type offenses in another jurisdiction.

PROCEDURE:

I. SEXUAL PREDATOR DESIGNATION

A. Designation of an offender as a Sexual Predator requires a written finding of the court.

B. A Hardee County Sheriff's Office member believing an offender should be so designated shall bring the matter to Criminal Investigations who can direct the matter to the SAO and FDLE.

C. Upon designation the court shall cause the Clerk of the Court to send a complete package to FDLE to commence registration and notification.

II. REGISTRATION AND NOTIFICATION

A sexual predator must register in one of four ways:

A. By the Florida Department of Corrections when released from Florida State Prison.

B. With the local Parole and Probation Office if the Courts have placed the offender on probation.

C. With the local Florida Department of Law Enforcement office within 48 hours after entering the county of permanent or temporary residence from another jurisdiction.

1. F.D.L.E. is then required to notify the Sheriff of the county within 48 hours after registration of the sexual predator.

2. The Sheriff must notify the police chief of the city where the sexual predator is residing within 48 hours after F.D.L.E. notifies the Sheriff of the registration.

3. The sexual predator must notify F.D.L.E. of any change in permanent or temporary residence within 48 hours after arrival at the new residence.

D. Reporting to the Hardee County Sheriff's Office

1. The Predator/Offender will be directed to Booking.

2. Booking will commence a search of records through all available means, including the Internet, NCIC/FCIC, and any other available means. The search will include the person's terms of release.

3. Booking will then complete a packet including results of any NCIC/FCIC and Internet searches, Sexual Predator/Offender forms, a photograph of the individual and any other pertinent information.

4. Booking will then forward the Sexual Predator/Offender packet to the records division for dissemination.

5. Records will advise the Criminal Investigations Unit of the Predator/Offenders presence so investigators may make full advantage of the opportunity of a face-to-face "friendly" interview.

III. THE SHERIFF'S OFFICE WILL BE NOTIFIED

A. FDLE shall notify the Sheriff's Office of any registration of, or change of address within or into, any Sexual Predator/Offender residing in Hardee County. Notification will be by:

1. Teletype;

2. Fax;

3. Post the information on the Internet

B. The Department of Corrections shall, six (6) months prior to release of a sexual offender, provide FDLE, the Sheriff of the county where the offender was sentenced, the Sheriff where the offender plans to reside, and any other person who requests the information, a full information package.

IV. CRIMINAL INVESTIGATION UNIT

A. The Criminal Investigation Unit shall maintain a database of offenders that have registered with the F.D.L.E. and other sex offenders released from the Florida State Prison system. The Unit shall disseminate the names of those offenders residing within Hardee County to the following:

1. Each Division Commander

2. The Police Department of each jurisdiction where the offender will reside.

Any other Departmental unit or law enforcement agency for which it is determined that the information would be useful.

B. Notification of the public is an act of public safety. Information provided by the Sheriff's Office is a vital tool for the public to protect itself from serious hazards known to exist in the community.

1. The Sheriff is **mandated** by law to notify the community of sexual predators in the community.
2. The Sheriff is authorized by the Public Information Safety Act to notify the community of sexual offenders in the community.
3. The Sheriff may, by law, utilize any "manner deemed appropriate" by him to effect notification.
4. The Sheriff may, by law, define the affected community and the scope of notification over and above the minimum notification mandated by statute.

C. The Criminal Investigation Unit shall disseminate this information by using a "Confidential Bulletin." The bulletin will include, but shall not be limited to:

1. All available information on the offender.
2. Physical description of the offender.
3. The offender's registered address.

D. The Criminal Investigation Unit shall notify the Communications Section who will flag the offender and his registered address in the computer.

E. The Criminal Investigation Unit will distribute to each a monthly list of current, known sexual offenders residing within Hardee County that are on early or conditional release from jail/prison or are on a work release program. The monthly list will include any additional criminal offenses with which they have been charged.

V. PROCEDURES FOR COMMUNITY NOTIFICATION

A. All available records/information on each predator/offender will be evaluated prior to community notification by the Criminal Investigation Unit. The evaluation will conclude with a notification plan.

B. It shall be the policy of the Office to utilize every method available to ensure the broadest, most complete, dissemination of notification deemed appropriate after the evaluation.

C. Statutory minimum notification of predators:

Within 48 hours after receiving notification of the presence of a sexual predator and verification of address, the Sheriff of the county or Chief of the police municipality where the predator temporarily or permanently resides shall notify each licensed day care center, elementary school, middle school, and high school within one (1) mile radius of the temporary or permanent residence of the sexual predator of the presence of the sexual predator.

VI. INFORMATION TO BE DISSEMINATED

A. By statute, publicly disseminated information must include:

1. Name;
2. Description, including photograph;

3. Current address, including county or municipality;
4. Circumstances of offense (Disclosure of circumstances shall not include reference to incest or custodial abuse, to avoid identifying victim); and
5. Whether the victim(s) was/were adult or minor

B. Evaluation may reveal further information the agency may deem necessary to release in the furtherance of public safety. Examples of which may include, but not be limited to:

1. The offender commutes past or works near certain schools, bus stops, etc.
2. The offender's criminal history reveals certain preferences or M.O.'s.

C. Any notification by the Office shall include educational/informational materials, and sources for additional resources and reference. This is to avoid citizenry panic, which can accompany feelings of powerlessness caused when information of a danger is not accompanied with a means to affect protection. Such information may include, but not limited to:

1. Protection tips and guides
2. WEB addresses and phone numbers of FDLE, the Sheriff's Office, and organizations both public and private which specialize in the protection from and education of such hazards.
3. Cautions against harassment/vigilantism.
4. Information laws.

VII. MEANS OF DISSEMINATION/NOTIFICATION

A. Press releases/conferences
B. Advertisements
C. Agency web site with links to FDLE web site
D. Public services spots/access channels - cable vision systems, broadcast radio and T.V.
E. Movie theater pre-feature audio-visual presentations
F. Neighborhood/business/civic/school group meetings
G. Door to door notification
H. Posting of flyers
I. School systems, public and private (mandatory with one (1) mile)
J. Advocacy/support organizations
K. Youth organizations, including athletic
L. Churches
M. Child care nurseries (mandatory with one (1) mile)
N. Mall and other security offices
O. Parks and recreation agencies
P. Children and Family Services (aka HRS)

VIII. ENFORCEMENT SHALL BE PROACTIVE

A. It is recognized that sexual predators/offenders pose a high risk of engaging in sexual offenses even after being released from incarceration. For that reason this Office will provide for the public safety by pursuing re-incarceration through proactive law enforcement.

B. Statutes require law enforcement to notify the probation or parole officer when investigating or arresting a person for a sex offense who is under corrections supervision. Deputies shall contact the local Probation & Probation officer to ascertain status of the individual.

1. Learn conditions/stipulations of release/probation/parole, violations of which are a third degree felony.

2. Probation and Parole officers have wide statutory search rights over these offenders.

C. Investigators and effected zone Deputies shall maintain knowledge of current residences, workplaces circumstances, criminal histories and M.O.'s of sexual predators/offenders by periodic;

1. Filed contacts

2. Surveillance, and

3. Verifications of residence and workplace of predators.

C. It is the policy of this Office that any contact with a sexual predator/offender will result in the filing of a report.

E. Any Deputy who comes in contact with a predator/offender from Florida, or another state, who might meet the requirements of a sexual predator in Florida, should contact the Investigations Unit with the information on the offender/predator. The Criminal Investigations Unit shall compile the information and forward it to the SAO and FDLE. The SAO should forward the verification to the court to obtain Sexual Predator Status in writing.

F. Any Deputy who comes in contact with a Sexual Predator/Offender whom the Deputy knows has moved shall:

1. Contact communications or records to Teletype a message to DHSMV/FDLE to verify if the predator registered the new address.

2. If the predator/offender did not advise DHSMV of the new address, notify the Criminal Investigation Unit immediately.

3. An investigator will complete an arrest warrant for "Failure of Sexual Predator to Notify of Change of Residence Within 48 Hours" (third degree felony as provided in FSS 775.082, 775.083, or 775.084) as a violation of FSS 775.21.

G. If a sexual predator/offender is found to be working or volunteering in a position around children, notify criminal investigation who will obtain a warrant for "Working/Volunteering Around Children" (third degree felony as provided in FSS 775.21 (9) (b): (3).

IX. PATROL DIVISION RESPONSIBILITIES

A. Patrol shall utilize the list supplied by Criminal Investigations to coordinate monthly contact with each person on the list.

B. When making contact, if applicable, the Deputy or Investigator shall update pertinent information to submit to FDLE such as:

1. Home address and employment locations.

2. Vehicles driven or to which offender has access.

C. If the offender to be contacted is on probation or parole, the deputy or investigator may coordinate joint contact with that person's Parole/Probation Officer.

D. When making contact with the offender, the deputy or investigator shall firmly convey, at a minimum, the following information:

1. The offender will be closely monitored.

2. Changes in permanent or temporary residence must be reported within 48 hours of arrival at the new address.

3. The individual's registration as a sexual predator and his address is public record and will be released to any citizen or neighbor requesting the information.

X. PUBLIC RECORDS REQUESTS

A. Information on registered sexual offenders is public record. Should a concerned citizen desire, he/she may contact the Records Section and inquire about a suspicious person by name. The Records Section personnel handling the request shall then advise the citizen whether or not that person is a registered sexual offender.

B. Although Deputies addressing Crime Watch and other community groups will not publicize the name of a specific offender, they are at liberty to divulge the fact that a registered sexual offender is residing in the area.

XI. IMMUNITY FROM DAMAGES FOR RELEASING INFORMATION

FSS 775.21 (8) provides immunity to any elected or appointed official, public employee or agency from civil liability for damages resulting from the information as authorized by FSS 775.21 when a written finding exists. Furthermore, without a written finding, the Sheriff may unilaterally notify unless, the information is confidential or exempted under Chapter 119.

_____
Arnold Lanier, Sheriff

I attest that I have read and understand this General Order set forth by the Hardee County Sheriff's Office.

_____
Signature of Employee (Date)

Sheriff's Office -

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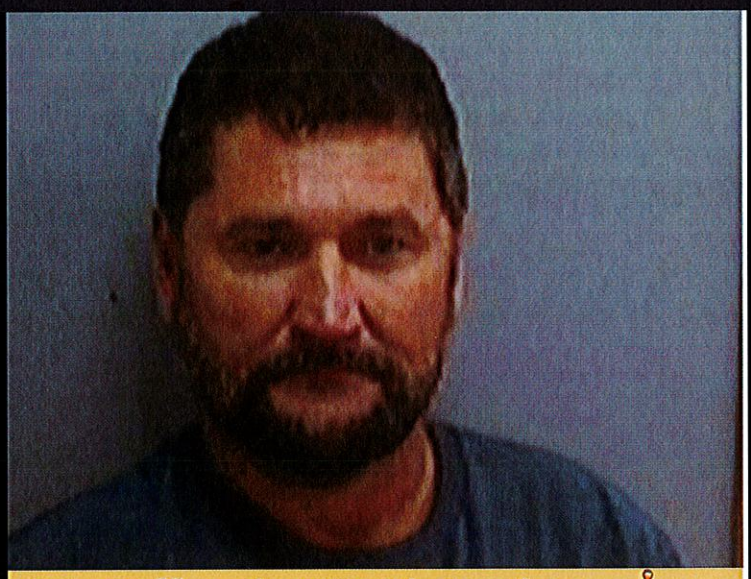

Sex Offender Registration

Johnny Lee Evans

Hardee County Sheriff's Office
Published by mchancey@hardeeso.com [?]
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New Sexual Offender Registration

Johnny Lee Evans, 55, registered address is 2195 Lawrence Roberts Lane in Wauchula, Fl. 33873. Convicted of lewd or lascivious offenses of a person less than 16 years of age.

We are committed to staying current and monitoring the sexual offenders and predators living in our community.

Download the FREE Hardee County Sheriff's Office mobile app from the Apple App Store or Google Play to see sexual offenders or predators living near you.

If you know of any information regarding an offender in violation of his/her conditions, call the Hardee County Sheriff's Office at (863) 773-0304 or submit a tip through the HCSO app. Search offenders by visiting the Florida Department of Law Enforcement Sexual Offenders and Predators search page, https://offender.fdle.state.fl.us/offender/sops/home.jsf, or sign up to receive offender alerts from the Florida Offender Alert System, https://www.floridaoffenderalert.com/.

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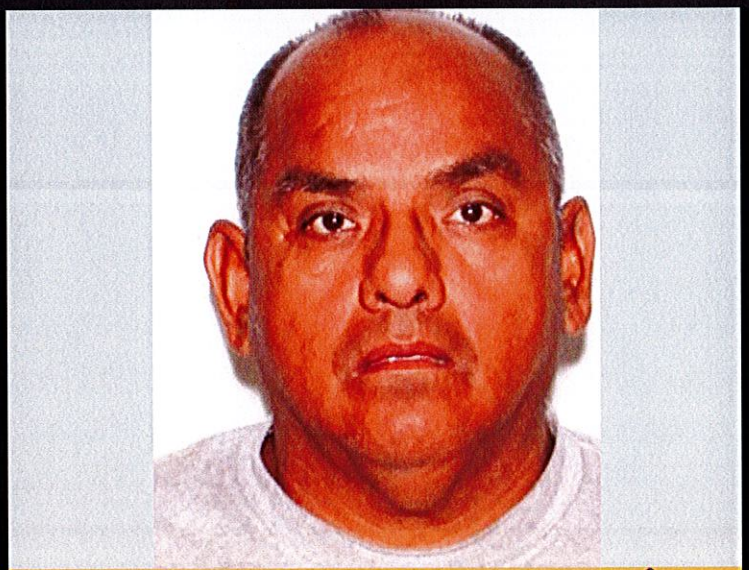

Sex Offender Registration

Alberto Garcia

Hardee County Sheriff's Office
Published by mchancey@hardeeso.com [?]
Like This Page · May 7 · Edited

New Sexual Offender Registration

Alberto Garcia, 53, registered address is 2621 Garza Road in Zolfo Springs, Fl. 33890. Convicted of lewd or lascivious molestation of a victim 12-15 years of age.

We are committed to staying current and monitoring the sexual offenders and predators living in our community.

Download the FREE Hardee County Sheriff's Office mobile app from the Apple App Store or Google Play to see sexual offenders or predators living near you.

If you know of any information regarding an offender in violation of his/her conditions, call the Hardee County Sheriff's Office at (863) 773-0304 or submit a tip through the HCSO app. Search offenders by visiting the Florida Department of Law Enforcement Sexual Offenders and Predators search page, https://offender.fdle.state.fl.us/offender/sops/home.jsf, or sign up to receive offender alerts from the Florida Offender Alert System, https://www.floridaoffenderalert.com/.

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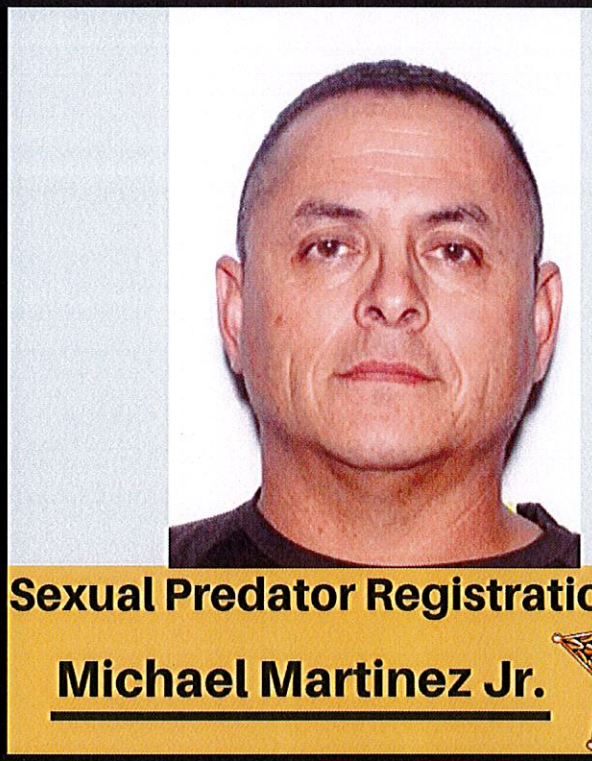

Hardee County Sheriff's Office
Published by mchancey@hardeeso.com [?]
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New Sexual Predator Registration

Michael Martinez Jr., 48, registered address is 4104 Chester Ave. in Bowling Green, Fl. 33834. Convicted of sexual battery of a victim less than 12 years of age, lewd or lascivious molestation of a victim 12-15 years old, offender 18 or older, committing lewd or lascivious offenses upon or in the presence of persons less than 16 years of age, and failure to register as a sexual predator.

We are committed to staying current and monitoring the sexual offenders and predators living in our community.

Download the FREE Hardee County Sheriff's Office mobile app from the Apple App Store or Google Play to see sexual offenders or predators living near you.

If you know of any information regarding an offender in violation of his/her conditions, call the Hardee County Sheriff's Office at (863) 773-0304 or submit a tip through the HCSO app. Search offenders by visiting the Florida Department of Law Enforcement

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New Sexual Offender Registration

Ernest Jacob Miller, 60, registered address is 194 Soggy Bottom Ln. in Wauchula, Fl. 33873. Convicted of lewd assault/sexual battery of a victim under 16 years of age and failure to comply with sex offender registration.

We are committed to staying current and monitoring the sexual offenders and predators living in our community.

Download the FREE Hardee County Sheriff's Office mobile app from the Apple App Store or Google Play to see sexual offenders or predators living near you.

If you know of any information regarding an offender in violation of his/her conditions, call the Hardee County Sheriff's Office at (863) 773-0304 or submit a tip through the HCSO app. Search offenders by visiting the Florida Department of Law Enforcement Sexual Offenders and Predators search page, https://offender.fdle.state.fl.us/offender/sops/home.jsf, or sign up to receive

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Sex Offender Registration

Ramon Carrion Jr.

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New Sexual Offender Registration

Ramon Carrion Jr., 65, registered address is 721 Chamberlain Blvd. in Wauchula, Fl. 33873. Convicted of committing a sex offense in another state involving indecency and sexual contact with a child.

We are committed to staying current and monitoring the sexual offenders and predators living in our community.

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Sex Offender Registration

Fidel Lopez Jr.

Hardee County Sheriff's Office
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New Sexual Offender Registration

Fidel Lopez Jr., 45, registered address is 604 E Bay St. Apt. B in Wauchula, Fl. 33873. Convicted of a sex offense in another state involving aggravated sexual assault of a child.

We are committed to staying current and monitoring the sexual offenders and predators living in our community.

Download the FREE Hardee County Sheriff's Office mobile app from the Apple App Store or Google Play to see sexual offenders or predators living near you.

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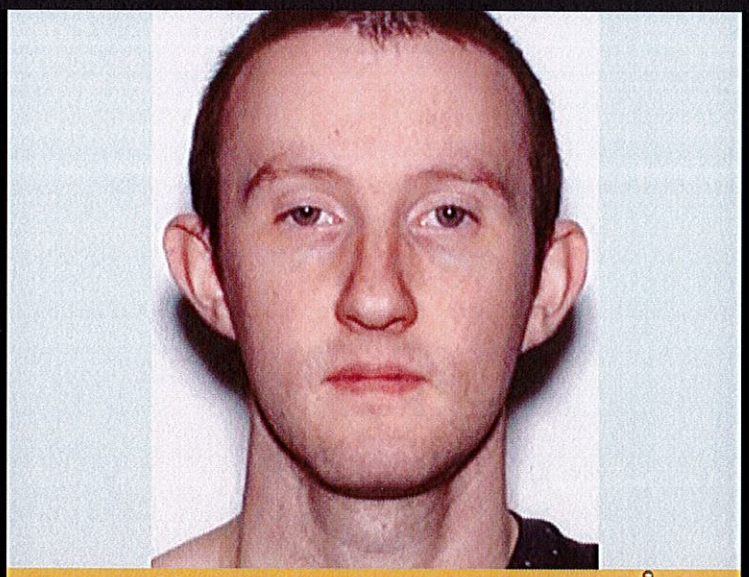

Sex Offender Registration

Aaron Joseph Moseley

Hardee County Sheriff's Office
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New Sexual Offender Registration

Aaron Joseph Moseley, 28, registered address is 405 Finch Dr. Unit 68 in Zolfo Springs, Fl. 33890. Convicted of false imprisonment.

We are committed to staying current and monitoring the sexual offenders and predators living in our community.

Download the FREE Hardee County Sheriff's Office mobile app from the Apple App Store or Google Play to see sexual offenders or predators living near you.

If you know of any information regarding an offender in violation of his/her conditions, call the Hardee County Sheriff's Office at (863) 773-0304 or submit a tip through the HCSO app. Search offenders by visiting the Florida Department of Law Enforcement Sexual Offenders and Predators search page, https://offender.fdle.state.fl.us/offender/sops/home.jsf, or sign up to receive offender alerts from the Florida Offender Alert System, https://www.floridaoffenderalert.com/.

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Sex Offender Registration

Alejandro Alvarado

Hardee County Sheriff's Office
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New Sexual Offender Registration

Alejandro Alvarado, 48, registered address is 2512 Heard Bridge Rd. in Wauchula, Fl. 33873. Convicted of sexual battery on a victim under 12 years of age and failed to comply with sex offender registrtation.

We are committed to staying current and monitoring the sexual offenders and predators living in our community.

Download the FREE Hardee County Sheriff's Office mobile app from the Apple App Store or Google Play to see sexual offenders or predators living near you.

If you know of any information regarding an offender in violation of his/her conditions, call the Hardee County Sheriff's Office at (863) 773-0304 or submit a tip through the HCSO app. Search offenders by visiting the Florida Department of Law Enforcement Sexual Offenders and Predators search page, https://offender.fdle.state.fl.us/offender/sops/home.jsf, or sign up to receive offender alerts from the Florida Offender Alert

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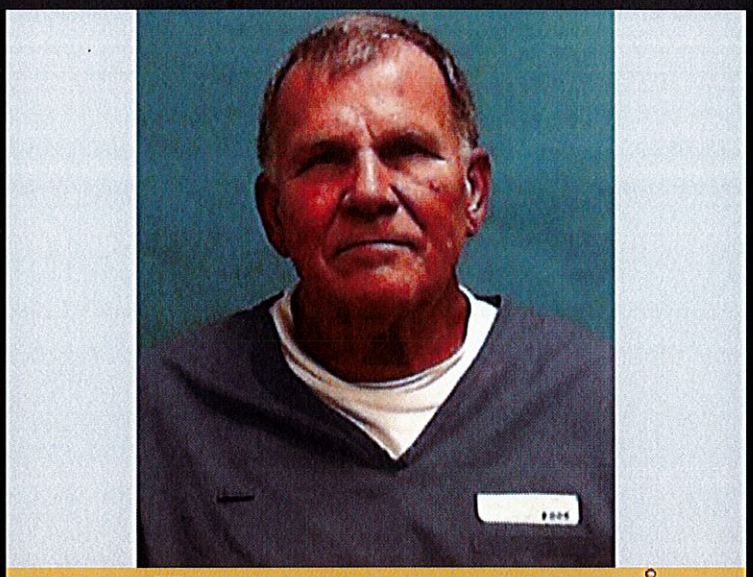

Sex Offender Registration

Franklin Bedford Davis

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New Sexual Offender Registration

Franklin Bedford Davis, 69, registered address is 1014 Sparrow Rd. in Wauchula, Fl. 33873. Convicted of producing, directing or promoting sexual perfomance by a child and lewd or lascivious battery of a victim 12-15 years old.

We are committed to staying current and monitoring the sexual offenders and predators living in our community.

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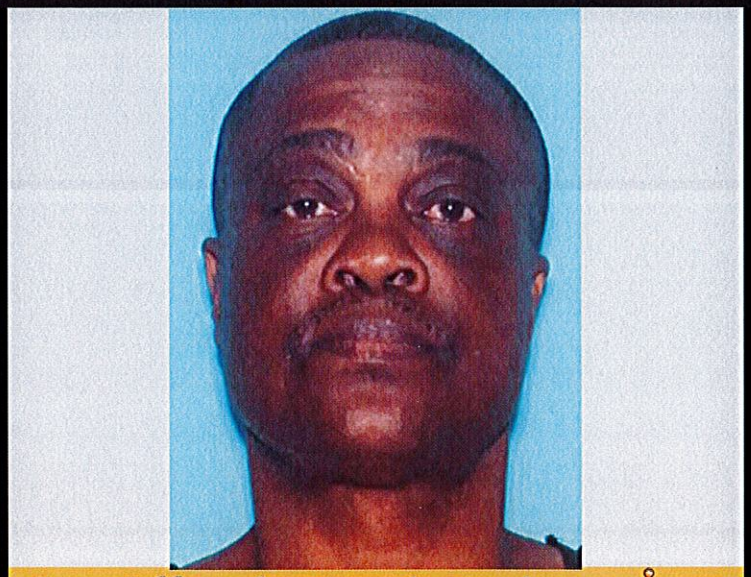

Sex Offender Registration

Anthony Jerome Redfin

Hardee County Sheriff's Office
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New Sexual Offender Registration

Anthony Jerome Redfin, 52, registered address is 4625 Chester Ave. Apt D. in Bowling Green, Fl. 33834. Convicted of committing lewd or lascivious offenses upon or in the presence of persons less than 16 years of age.

We are committed to staying current and monitoring the sexual offenders and predators living in our community.

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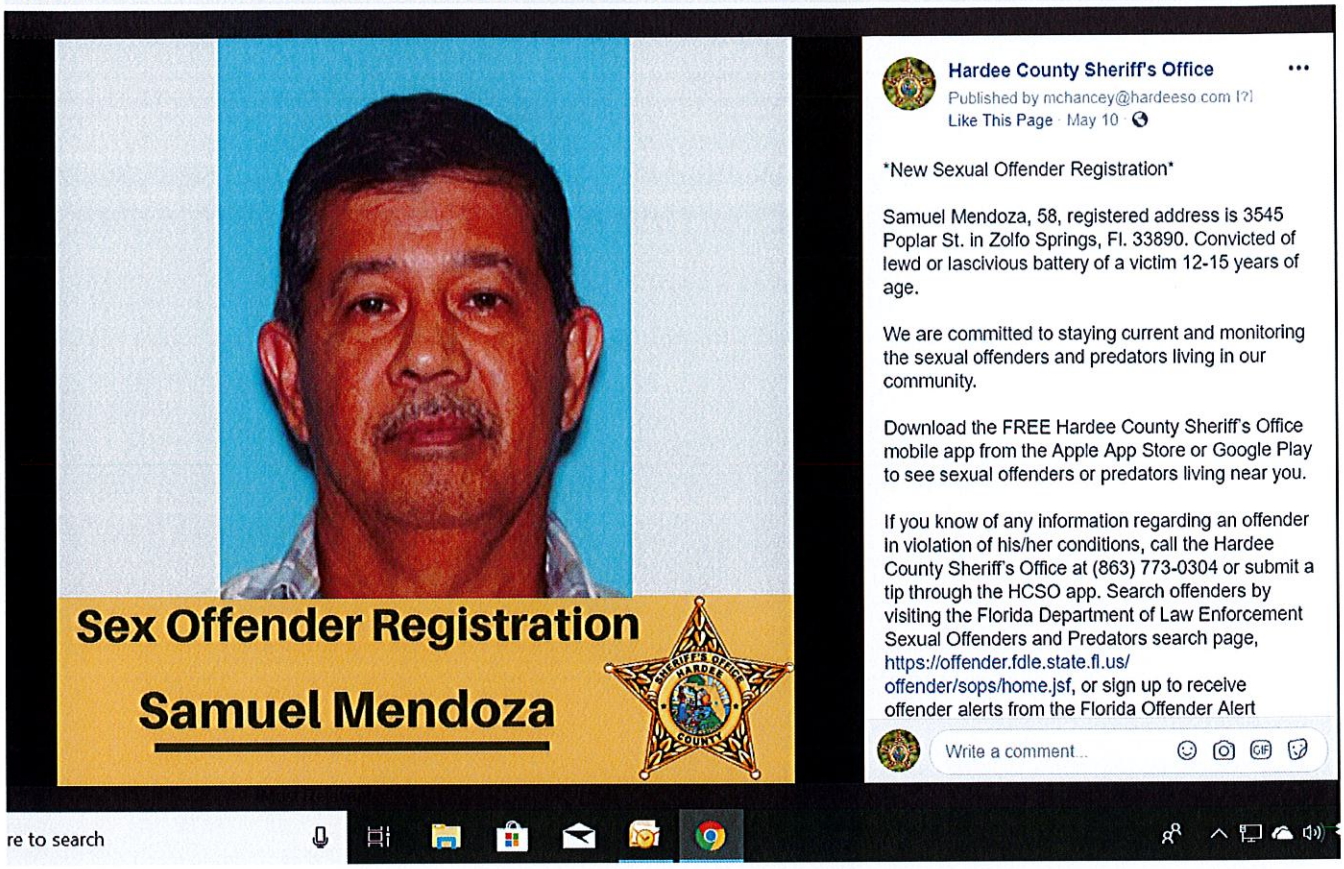

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New Sexual Offender Registration

Samuel Mendoza, 58, registered address is 3545 Poplar St. in Zolfo Springs, Fl. 33890. Convicted of lewd or lascivious battery of a victim 12-15 years of age.

We are committed to staying current and monitoring the sexual offenders and predators living in our community.

Download the FREE Hardee County Sheriff's Office mobile app from the Apple App Store or Google Play to see sexual offenders or predators living near you.

If you know of any information regarding an offender in violation of his/her conditions, call the Hardee County Sheriff's Office at (863) 773-0304 or submit a tip through the HCSO app. Search offenders by visiting the Florida Department of Law Enforcement Sexual Offenders and Predators search page, https://offender.fdle.state.fl.us/offender/sops/home.jsf, or sign up to receive offender alerts from the Florida Offender Alert

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NOTICE OF SEXUAL PREDATOR AND SEXUAL OFFENDER OBLIGATIONS

As a sexual predator (F.S. 775.21) or sexual offender (F.S. 943.0435; 944.607; or 985.4815) I understand that I am required by law to abide by the following:

"Internet Identifier" means any designation, moniker, screen name, username, or other name used for self-identification to send or receive social Internet communication (see s. 775.21(2)(m), F.S. for definition of "social Internet communication"). Internet identifier does not include a date of birth, social security number, personal identification number (PIN), or password. A sexual offender's or sexual predator's use of an Internet identifier that discloses his or her date of birth, social security number, personal identification number (PIN), password, or other information that would reveal the identity of the sexual offender or sexual predator waives the disclosure exemption in this paragraph for such personal information.

"Permanent residence" means a place where I abide, lodge, or reside for 3 or more consecutive days.

"Professional License" means the document of authorization or certification issued to me by an agency of this state for a regulatory purpose, or by any similar agency in another jurisdiction for a regulatory purpose, for me to engage in an occupation or carry out a trade or business.

"Temporary residence" means a place where I abide, lodge, or reside, including, but not limited to, vacation, business, or personal travel destinations in or out of this state, for a period of 3 or more days in the aggregate during any calendar year and which is not my permanent address or, if my permanent residence is not in this state, a place where I am employed, practice a vocation, or am enrolled as a student for any period of time in this state.

"Transient residence" means a county where I live, remain, or am located for a period of 3 or more days in the aggregate during a calendar year and which is not my permanent or temporary address. The term includes, but is not limited to, a place where I sleep or seek shelter and a location that has no specific street address.

"Vehicles owned" means any motor vehicle as defined in s. 320.01, which is registered, co-registered, leased, titled, or rented by me; a rented vehicle that I am authorized to drive; or a vehicle for which I am insured as a driver. The term also includes any motor vehicle as defined in s. 320.01, which is registered, co-registered, leased, titled, or rented by a person or persons residing at my permanent residence for 5 or more consecutive days.

1. Within 48 hours of establishing or maintaining a residence in this state, or release from custody and/or supervision of the Department of Corrections (DOC), the Department of Children and Family Services (DCFS), or the Department of Juvenile Justice (DJJ), I MUST report **in person** to the local sheriff's office to register my temporary, transient, or permanent address and other information specified in statute. If I am convicted of an offense that requires registration and am not under custody and/or supervision of DOC I must report **in person** to the sheriff's office in the county of conviction within 48 hours of the conviction.{F.S. 943.0435(2)(a); 775.21(6)(e)}.

   FAILURE TO REPORT AS REQUIRED IS A THIRD DEGREE FELONY.

2. At registration, I MUST provide the following information to the department: name; date of birth; social security number; race; sex; height; weight; tattoos or other identifying marks; hair and eye color; photograph; all home telephone numbers and cellular telephone numbers; all electronic mail addresses, Internet identifiers, and each Internet identifier's corresponding website homepage or application software name; address of all permanent and legal residences; address of any current temporary residence; any transient residence within the state; address, location, description and dates of any current or known future temporary residence within the state or out of state; occupation and place of employment; make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; date and place of each conviction; fingerprints; palm prints; and a brief description of the crime or crimes committed. I must also produce my passport (if I have one). If I am an alien, I must produce or provide information about documents establishing my immigration status. I must also provide information about all professional licenses I have. {F.S. 943.0435(2)(b); 775.21(6)(a)1.}.

   FAILURE TO REPORT AS REQUIRED IS A THIRD DEGREE FELONY.

3. Within 48 hours after the initial registration of information as required in #2 above, I MUST report **in person** to the driver license office of the Department of Highway Safety and Motor Vehicles (DHSMV) and provide proof of initial registration as a sexual offender or predator to secure or renew a valid Florida driver license or identification card displaying one of the following designations: **"SEXUAL PREDATOR"** or **"943.0435, F.S."** unless a driver license or identification card with such designation was previously secured or updated. I must submit to the taking of a photograph for use by the department in maintaining current records of sexual offenders/predators. {F.S. 943.0435(3); 775.21(6)(f)}.
   FAILURE TO MAINTAIN, ACQUIRE, OR RENEW A DRIVER LICENSE OR ID CARD AS REQUIRED IS A THIRD DEGREE FELONY.

4. **Within 48 hours after using any electronic mail address or Internet identifier, I MUST report** it using the online system maintained by the Florida Department of Law Enforcement or in person at the sheriff's office. OR, if I am on supervision with the Florida DOC or DJJ, this information MUST be reported to my probation officer before using such electronic mail addresses or Internet identifiers. {F.S. 943.0435(4)(e)1.; 775.21(6)(g)5.a.}.

   FAILURE TO REPORT AS REQUIRED IS A THIRD DEGREE FELONY.

5. Each time my driver license or identification card is subject to renewal, or within 48 hours after any change in my permanent, temporary, or transient residence or change in name made by marriage or other legal process, I MUST report **in person** to a driver license office to update my driver license or identification card and ensure that the driver license or identification card displays the designations as identified in #3 above. If I am unable to secure or update a driver license or identification card with DHSMV, I must also report any change of my residence or name within 48 hours after the change to the sheriff's office in the county where I reside or am located and provide confirmation that I reported the information to DHSMV. These reporting requirements do NOT negate the requirement for me to obtain a Florida driver license or identification card as required by this section.{F.S. 943.0435(4)(a); 775.21(6)(g)1.}.
   FAILURE TO MAINTAIN, ACQUIRE, OR RENEW A DRIVER LICENSE OR ID CARD AS REQUIRED IS A THIRD DEGREE FELONY.
6. If I am enrolled or employed, whether for compensation or as a volunteer at an institution of higher education in Florida, I MUST provide the name, address and county of each institution including each campus attended, and my enrollment, volunteer, or employment status. Each change in enrollment, volunteer, or employment status, i.e. commencement or termination, MUST be reported using the online system maintained by the Florida Department of Law Enforcement or in person at the sheriff's office within 48 hours after any change in status. OR, if I am on supervision with the Florida DOC or DJJ, this information MUST be reported to my probation officer within 48 hours after any change in status. {F.S. 943.0435(2)(b)2.; 943.0435(14)(c)2.; 775.21(6)(a)1.b.; 775.21(8)(a)2.}.

   FAILURE TO REPORT THIS INFORMATION WITHIN 48 HOURS IS A THIRD DEGREE FELONY.

7. **I MUST report all changes to home telephone numbers and cellular telephone numbers, including added and deleted numbers within 48 hours of any change in the information** using the online system maintained by the Florida Department of Law Enforcement or in person at the sheriff's office. OR, if I am on supervision with the Florida DOC or DJJ, this information MUST be reported to my probation officer within 48 hours of any change. {F.S. 943.0435(4)(e)2.; 775.21(6)(g)5.b.}

   FAILURE TO REPORT THIS INFORMATION WITHIN 48 HOURS IS A THIRD DEGREE FELONY.

8. **I MUST report all changes to employment information within 48 hours of any change in the information** using the online system maintained by the Florida Department of Law Enforcement or in person at the sheriff's office. OR, if I am on supervision with the Florida DOC or DJJ, this information MUST be reported to my probation officer within 48 hours of any change. {F.S. 943.0435(4)(e)2.; 775.21(6) (g)5.b.}.

   FAILURE TO REPORT THIS INFORMATION WITHIN 48 HOURS IS A THIRD DEGREE FELONY.

9. MUST report any changes in vehicles owned within 48 hours **in person** at the sheriff's office. {F.S. 943.0435(2)(b)3.; 775.21(6)(a)1.d.}.

   FAILURE TO REPORT THIS INFORMATION WITHIN 48 HOURS IS A THIRD DEGREE FELONY

10. If I vacate a permanent, temporary, or transient residence, and do not have another permanent, temporary, or transient residence, I MUST report **in person** to the sheriff's office in the county where I am located within 48 hours. {F.S. 943.0435(4)(b)1.; 775.21(6)(g)2.a.}.

    FAILURE TO REPORT THIS INFORMATION WITHIN 48 HOURS IS A THIRD DEGREE FELONY.

11. If I report that I have vacated a permanent, temporary, or transient residence and then remain at that residence, I MUST report in person to the Sheriff's Office where I reported vacating my residence. Failure to report this information is a felony of the second degree. {F.S. 943.0435(4)(c); 775.21(6)(g)3.}.

    FAILURE TO REPORT THIS INFORMATION IS A SECOND DEGREE FELONY.

12. I understand that my address may be verified by county, state, or local law enforcement agencies. {F.S. 943.0435(6); 775.21(8)}.

    FAILURE TO REPORT AS REQUIRED IS A THIRD DEGREE FELONY.

13. If I intend on establishing a permanent, temporary, or transient residence in another state, jurisdiction, or country other than the State of Florida, I MUST report **in person** to the sheriff's office in the county of my current residence within 48 hours before the date that I intend to leave this state to establish residence in another state, or jurisdiction, or at least 21 days before my planned departure date if the intended residence of 5 days or more is outside of the United States. I MUST provide the address, municipality, county, state, and country of intended residence. For international travel I MUST also provide my travel information, including, but not limited to, expected departure and return dates, flight number, airport of departure, cruise port of departure, or any other means of intended travel. If I do not know of my travel outside of the United States 21 days before my departure date, then I MUST report **in person** to the sheriff's office in the county of my current residence as soon as possible before my departure.{F.S. 943.0435(7); 775.21(6)(i)}.

FAILURE TO REPORT THIS INFORMATION IS A THIRD DEGREE FELONY.

14. If I intend to establish a permanent, temporary, or transient residence in another state or jurisdiction other than the State of Florida, or another country, and later decide to remain in this state, I MUST report **in person** to the sheriff's office to which I reported my intention of leaving the state within 48 hours after the intended departure date. {F.S. 943.0435(8); 775.21(6)(j)}.

FAILURE TO REPORT AS REQUIRED IS A THIRD DEGREE FELONY.

15. I MUST report **in person** either **two times per year** (during the month of my birth and during the 6th month following my birth month) or four times per year (once during the month of my birth and every 3rd month thereafter), **depending upon my offense/designation**, to the sheriff's office in the county in which I reside or am otherwise located to reregister, unless otherwise notified by FDLE.{F.S. 943.0435(14)(a)-(b); 775.21(8)(a)}.

FAILURE TO REPORT AS REQUIRED IS A THIRD DEGREE FELONY.

All sexual predators, sexual offenders convicted for offenses specified in F.S. 943.0435(14)(b), and juvenile sexual offenders required to register per F.S. 943.0435(1)(a)1.d are required to reregister four times per year. All other sexual offenders are required to reregister two times per year.

[X] **I AM REQUIRED TO REREGISTER TWO TIMES PER YEAR;I MUST REREGISTER AS NOTED BELOW.**

{Pursuant to Sections 943.0435(14)(a),944.607(13)(a), Florida Statutes}

Month of Birth	I must reregister in:	Month of Birth	I must reregister in:
Jan	Jan & July	July	Jan & July
Feb	Feb & Aug	Aug	Feb & Aug
Mar	Mar & Sept	Sept	Mar & Sept
Apr	Apr & Oct	Oct	Apr & Oct
May	May & Nov	Nov	May & Nov
June	June & Dec	Dec	June & Dec

[ ] **I AM REQUIRED TO REREGISTER FOUR TIMES PER YEAR; I MUST REREGISTER AS NOTED BELOW.**

{Pursuant to Sections 775.21(8)(a), 943.0435(14)(b),944.607(13)(b), 985.4815(13)(a), Florida Statutes}

Month of Birth	I must reregister in:	Month of Birth	I must reregister in:
Jan	Jan, April, July & Oct	July	Jan, April, July & Oct
Feb	Feb, May, Aug, & Nov	Aug	Feb, May, Aug, & Nov
Mar	Mar, June, Sept & Dec	Sept	Mar, June, Sept & Dec
Apr	April, July, Oct & Jan	Oct	April, July, Oct & Jan
May	May, Aug, Nov & Feb	Nov	May, Aug, Nov & Feb
June	June, Sept, Dec & Mar	Dec	June, Sept, Dec & Mar

16. In addition to the registration months listed above, I MUST report **in person** to the sheriff's office in the county in which I am located within 48 hours of establishing a transient residence and thereafter must report **in person** every 30 days to the sheriff's office in the county in which I am located while I maintain a transient residence. I MUST provide the addresses and locations where I maintain a transient residence. {F.S. 943.0435(4)(b)2; 775.21(6)(g)2.b}.

FAILURE TO REPORT AS REQUIRED IS A THIRD DEGREE FELONY.

17. If I live in another state, but work or attend school in Florida, I MUST register my work or school address as a temporary address within 48 hours by reporting **in person** to the local sheriff's office. {F.S. 943.0435(2)(a); 943.0435(2)(b)2.; 943.0435(14)(c)2.; 775.21(6)(a)1.c.; 775.21(6)(e)1.; 775.21(8)(a)2.}.

FAILURE TO REPORT THIS INFORMATION IS A THIRD DEGREE FELONY.

18. I MUST respond to any address verification correspondence from FDLE within three weeks of the date of the correspondence. {F.S. 943.0435(14)(c)4.; 775.21(10)(a)}.

FAILURE TO RESPOND AS REQUIRED IS A THIRD DEGREE FELONY

19. If I am employed in, carry on a vocation in, am a student in, or become a resident of another state or jurisdiction, I am on notice that I may have a requirement to register under the laws of that state.

    FAILURE TO REPORT AS REQUIRED IS A THIRD DEGREE FELONY.

20. If I fail to register after crossing state lines I may be in violation of federal law as well as state statutes.

    FAILURE TO REPORT AS REQUIRED IS A THIRD DEGREE FELONY.

21. I MUST maintain registration for the duration of my life. {F.S. 943.0435(11); 775.21(6)(l)}.

    FAILURE TO REPORT AS REQUIRED IS A THIRD DEGREE FELONY.

22. **KNOWINGLY PROVIDING FALSE REGISTRATION INFORMATION BY ACT OR OMISSION IS A THIRD DEGREE FELONY.** {F.S. 943.0435(14)(c)4; 775.21(10)(a)}.

    FAILURE TO REPORT AS REQUIRED IS A THIRD DEGREE FELONY.

REGISTRATION INFORMATION IS PUBLISHED ON THE FDLE PUBLIC SEXUAL PREDATOR AND OFFENDER WEBSITE.

PLEASE READ CAREFULLY BEFORE SIGNING

As a sexual predator (Florida Statute 775.21) or sexual offender (Florida Statute 943.0435, 944.607, or 985.4815), I am required by law to abide by the requirements listed on this form. BY SIGNING BELOW, I ACKNOWLEDGE THAT I HAVE READ OR HAVE BEEN READ THE REQUIREMENTS ON THIS FORM, AND THAT I UNDERSTAND THESE REQUIREMENTS. Under penalty of perjury I declare the above is true and correct.

YOU ARE REQUIRED TO REREGISTER EACH YEAR AT THE SHERIFF'S OFFICE IN THE MONTHS OF January AND July.

Fingerprint

Registrant: _____ **Witnessed by Reporting Officer:** _____
Signature Required Signature Required

Printed Name: _____ **Date:** _____ **Printed Name:** _____ **Date:** _____

* OFFICIAL DOCUMENT **DO NOT DESTROY***

***** NOTE: Your next ReRegistration month is July of 2019. *******

***N/A - Device Not Working Or Unable To Initial** ***RTI - Refused To Initials**

APPENDIX

APPENDIX

A complete history of the salient statutory provisions best illustrates how each new amendment aggravated the impacts of all the others:

1997. Travel restricted by requiring report to DHSMV within 48 hours after any change in "temporary residence," a place plaintiff resided for 2 consecutive weeks, excluding vacation, emergency or other special circumstances. s. 943.0435(2), (3) (1997).

1998. "Temporary residence" redefined as 14 days in aggregate per year, or 4 days in aggregate per month, with silence about exclusions. s. 943.0435(1)(c); 775.21(2)(g) (1998). Duration made lifetime. s. 943.0435(11) (1998).

2004. *Mens rea* excluded for all but first violation. s. 943.0435(9)(c) (2004).

2005. All required to re-register in person 2 times a year. s. 943.0435(14)(a) (2005).

2006. "Temporary residence" redefined from 14 days in aggregate per year, or 4 days in aggregate per month, to 5 days in aggregate per year. s. 943.0435(1)(c); 775.21(2)(g) (2006).

2007. Some required to re-register in person 4 times a year. s. 943.0435(14)(a), (b) (2007).

2010. "Temporary residence" redefined to expressly include travel for vacation, business, or personal reasons in 5-day aggregate calculation. s. 943.0435(1)(c); 775.21(2)(l) (2010). Required to report dates of known future temporary residence within & out of state. s. 943.0435(14)(c)1. (2010). Those with out-of-state temporary residences required to report 48 hours **before** leaving as well as on return. s. 943.0435(7) (2010).

2014. All required to report on return from temporary residence first to DHSMV, then, if "unable to secure or update" driver's license, to sheriff, with proof of DHSMV attempt, both within 48 hours of return. s. 943.0435(4)(a) (2014).

2018. "Temporary residence" redefined from 5 days to 3 days in the aggregate per year. s. 943.0435(1)(f); 775.21(2)(n). (2018). Minimum mandatory sentences for any violation. s. 943.0435(9)(b)1., 2., 3. (2018).