

# 2016 NATIONAL SYMPOSIUM

ON SEX OFFENDER MANAGEMENT AND ACCOUNTABILITY

JULY 26-27 | KANSAS CITY MARRIOTT DOWNTOWN, KANSAS CITY, MO

ADAM WALSH ACT

10<sup>th</sup>

ANNIVERSARY

***Making the Case:***

***Successfully Investigating and Prosecuting  
Failure to Register Cases***



**SMART**

**2016 NATIONAL SYMPOSIUM**

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# Sex Offender Tracking Team

*Analytical resources for law enforcement from the  
National Center for Missing & Exploited Children*

# NCMEC System Searches

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- Assist LE in their efforts to identify links between a convicted sex offender and a missing or exploited child case
- Provide historical information about attempted child abductions, child abductions, possible child pornography or child sex trafficking allegations, associates, Internet profiles, addresses, telephones
- Search NCMEC's systems using multiple types of criteria:
  - Name/alias/DOB/age range/SSN
  - Screen name, email address
  - Location where the offender has lived
  - Scars/marks/tattoos

# Public Records Resources

- LexisNexis® Accurint®
- Accurint® Government Plus
- CLEAR® by Thomson Reuters
- Neustar® iTACT
- JusticeXchange™ by Appriss®
- TLOxp®
- LEARN by Vigilant Solutions
- Carfax®



# NCIC/Nlets Searches

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- Check hot files in NCIC to confirm whether there is a warrant
- Search via Nlets for vehicle registration and driver's license information
- Send administrative messages through Nlets to offer NCMEC assistance or confirmation of credentials
- Conduct III Criminal History checks on a limited basis for internal use (non-disseminating NGO)



# NCIC Offline Searches

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SOTT analysts may run two basic offline searches:

- Transactional logs: Logs show every instance in a given time frame when LE has run a query in NCIC for the individual in question
- Purge checks on missing/wanted files: Provides a record of any active files or files that have been pulled for wanted/missing persons or property

Requests are submitted to the FBI through LEO. Unless urgent, results can take one to three days to be returned to NCMEC.



# Social Networking Sites

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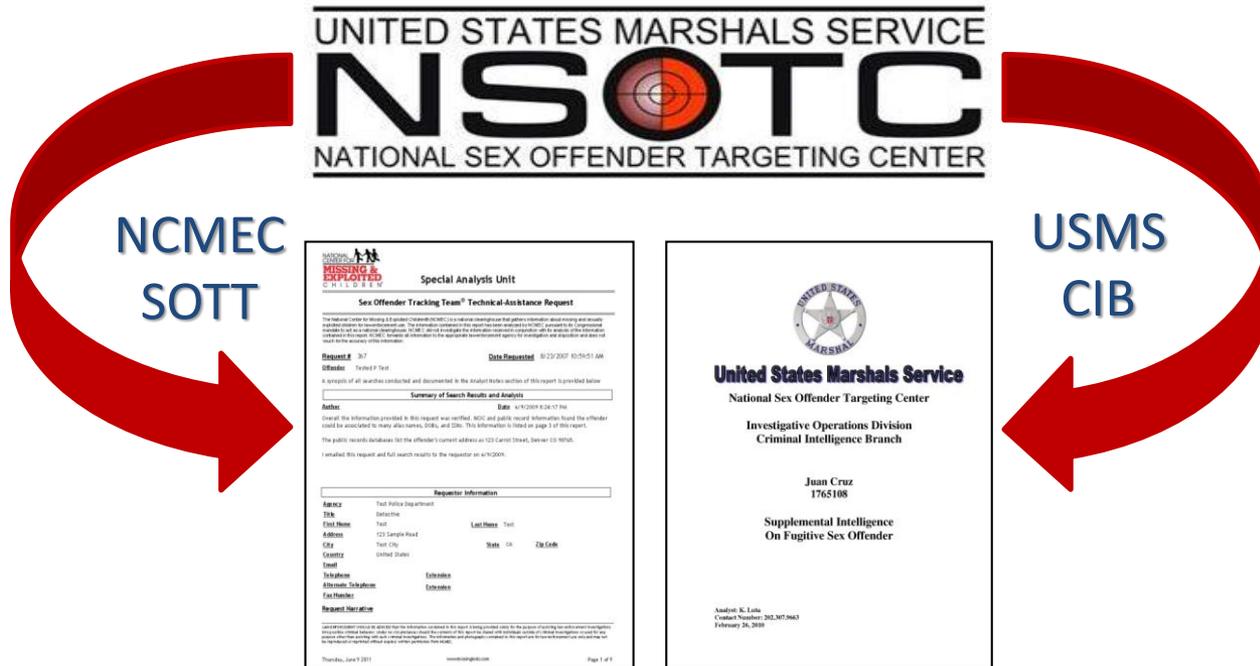


# Types of SOTT Requests

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- **Single Comprehensive Report - Submit via Request Form**
  - Receive comprehensive report including results from several public records databases; NCIC/Nlets; NCIC Offline; open source Internet sites; NCMEC link analysis; and law enforcement sensitive intelligence from United States Marshals Service personnel at the NSOTC
- **Bulk - Submit via Excel spreadsheet**
  - Multiple offenders, receive comprehensive report on each
- **Quick Hit Batch - Submit via Excel spreadsheet**
  - Receive Excel spreadsheet: Deceased and incarcerated data; best name, DOB, SSN, address, phone and email
- **Customized Hybrid Reports**
  - Any combination of Quick Hit Batch & Comprehensive Reports

# National Sex Offender Targeting Center



# An Anonymous Tip

- NYPD requested assistance in locating information on a registered sex offender
- Convictions:
  - Sexual Abuse 1<sup>st</sup> Degree: Contact by Forcible Compulsion (1994)
  - Sexual Abuse 1<sup>st</sup> Degree (2003)
  - Attempted Sexual Abuse 1<sup>st</sup>: Sexual Contact with Individual less than 11 Years Old (2005)
- 3 male victims aged 9, 12 and 15
- NYPD received anonymous tip offering a new possible address and stating offender was victimizing more children and possibly taking them by bus from Brooklyn, NY to PA and NC



# A Tale of Two Years

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NCIC, NCIC Offline, public records and LEARN searches for the previous 2 years offered the following:

- Traffic citation, Lancaster Co, PA (2013)
- NCIC Offline hits on Vehicle associated to offender in Raleigh, NC (2014) and Philadelphia, PA (2013)
- Vehicle associated to offender consistently photographed in Brooklyn, NY
- Offender possibly employed by a male youth serving organization



# BUSted!!

- Public records indicate:
  - Offender owned bus company originally based in Brooklyn, NY
  - Ownership of company transferred to Tobyhanna, PA
- Through a public online resource, the Safety and Fitness Electronic Records System of Federal Motor Carrier Safety Administration, found offender owned a second bus and developed an address in Raleigh, NC



# Go Directly to Jail

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- SOTT returned information to NYPD within 2 days of request
- Within 2 weeks, the NYPD arrested the offender
- Offender charged with Sodomy 2<sup>nd</sup> Degree, Felony
- Held in NYC DOC on \$250,000.00 bond or bail



CITY OF NEW YORK  
DEPARTMENT OF CORRECTION



# Let's Recap

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- SOTT is available to provide assistance to any law enforcement agency in its investigation or operation involving a sex offender
- SOTT is more than willing to customize current processes to assist law enforcement in its investigation or operation involving a sex offender
- Remember SOTT can also tailor the feedback process to make it easier on you
- Contact SOTT at [NSOTC@ncmec.org](mailto:NSOTC@ncmec.org) with questions or concerns

# Thank You!!!

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## Missouri's Approach

Statutory and Case Law Requirements  
and  
Tips for Prosecutors & Investigators

Steven M. Kretzer

Missouri Prosecution Services Resource Prosecutor



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# Missouri's Registration Violations Provisions

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- **Fail to Register**
- **Residency**
- **Loitering**
- **Coaching Restrictions**
- **Halloween**

# Criminal Code Rewrite Impacts

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- **First complete revision since '70s**
- **Fail to Register Penalties in MO**
  - **First Offense**
    - A, B, D, or E Felony
  - **Second Offense**
    - Not much change
  - **Third or Subsequent Offense**
    - 10 to 30, No SIS nor fine, No Parole or Conditional Release for at least 2 yrs, Mandatory Electronic Monitoring

# Residency Violations

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- **1,000 Feet is the Magic Number**
- **Residency Defined: “sleeps in a residence, which may include more than one location and may be mobile or transitory”**
- **First Offense**
  - **E Felony**
- **Second or Subsequent Offense**
  - **B Felony**

# Shift in Direction to LEOs Recently

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- ***RL v. Department of Corrections*, 245 S.W.3d 236 (Mo. 2008)**
- ***State v. Wade*, 421 S.W.3d (Mo. 2013)**
- **Corrective Actions Employed**

# Evidence Collection and Trial Presentation Considerations

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- **Evidence Collection**
  - **Documentation**
  - **Photos**
  - **Maps**
  - **Statements**
  - **Social Media**
  - **Community Policing**
  - **ADMISSIONS**

# Evidence Collection and Trial Presentation Considerations

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- **Trial Presentation**

- **Visuals**

- Adult learning
    - Maps, Diagrams

- **Witnesses**

- Law witnesses
    - Law enforcement

# Thank You

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## Sex Offender Registration and Notification Act

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USMS Western District of Missouri - Kansas City

Sex Offender Investigations Coordinator

Assistant United States Attorney Teresa Moore

United States Attorney's Office

Western District of Missouri - Kansas City



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# Step 1: Required to Register

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- **Sex offender**
  - Indecent Exposure
  - Juvenile Adjudication
- **Tier Category**
  - Tier I: 15 year registration requirement
  - Tier II: 25 year registration requirement
  - Tier III: Lifetime



## Step 2: Federal Jurisdiction

- **Federal conviction:**
  - Prosecuted by any USAO,
  - Military conviction,
  - Tribal conviction

- OR -

- **State/local conviction**
  - *and* travel



## Step 3: Travel

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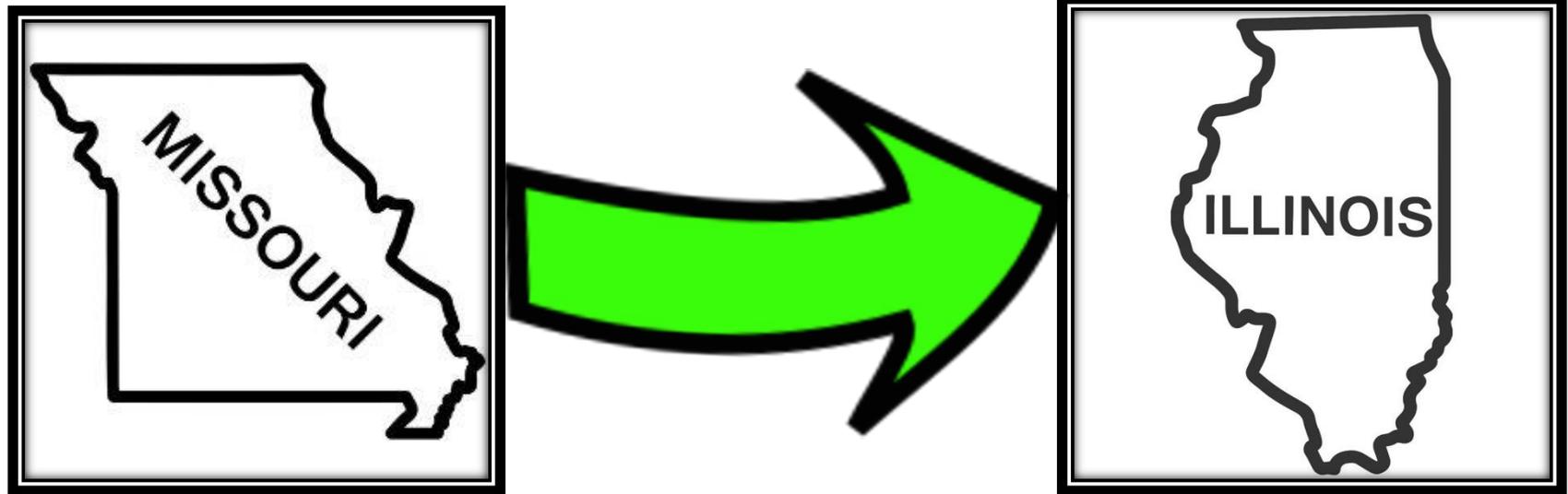
- **Change residence**
  - **Must register within 3 days**
  - **Must report in person to change address**
  - **Travel must be after 08/01/2008**
  - **Travel must cross state lines**
    - **Foreign travel**
    - **Itinerant individuals**

## Step 4: Venue

### 18 U.S.C. § 3237(a)

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- In any district where the offense began, continued or was completed.



## Step 5: Which Jurisdiction

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- Sex offender who fails to report a change of residence has committed a **continuing offense**
- Prosecuted in departure district or destination district
- Preference for destination district
  - No venue related arguments
  - Public concern
  - Access to witnesses/evidence

## Step 6: Criminal Intent

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- **Knowingly**
  - **must be able to prove knowledge of registration requirements**
  - **notice of duty to register under state law provides notice of duty to register under SORNA**

*U.S. v. Baccam*, 562 F.3d 1197 (8<sup>th</sup> Cir. 2009)

*U.S. v. Vasquez*, 611 F.3d 325 (7<sup>th</sup> Cir. 2010)

*U.S. v. Fuller*, 627 F.3d 499 (2<sup>nd</sup> Cir. 2010)

## Document Evidence

- **Certified copies of prior sex conviction(s)**
  - Divisible statutes
  - Trial Evidence
- **Predicate sex offense**
  - investigative reports
- **Notification of duty to register**
  - Registration forms (all jurisdictions), conviction documents, annual notification, etc.

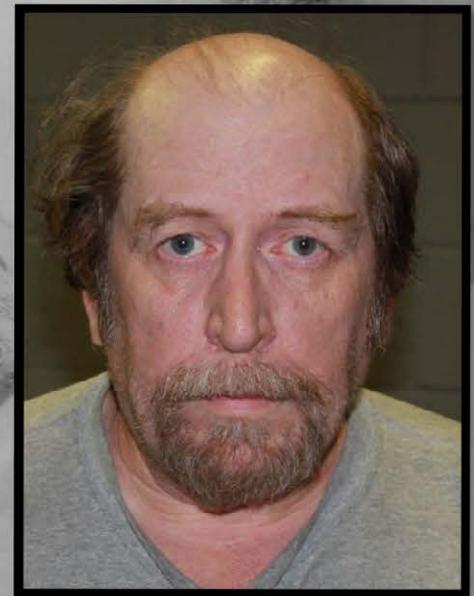


# Evidence

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- **Evidence of travel/residence**
  - **Surveillance, photographs, video**
  - **U.S. Postal Service**
  - **Hotel/Motel/Apartment management**
  - **Utilities**
  - **Employment verification**
  - **Public benefits**
  - **Driver's License, traffic tickets, etc.**
  - **Social media posts – search warrant?**
  - **Store cards, Hy-Vee, Walmart , etc.**

Larry Friend



# Larry Friend cont. ...

- **May 20, 2002, Friend was convicted of Using the Mail or a Means of Interstate Commerce to Attempt to Induce a Minor to Engage in Unlawful Sexual Activity. He was sentenced to 27 months in the Bureau of Prisons.**
- **Friend initially registered as a sex offender in Tulsa, OK on April 26, 2004.**
- **On July 30, 2007, Friend completed an Oklahoma registration form, but refused to sign the United States District Court sex offender form. He then began to register sporadically.**
- **On July 20, 2011, Friend was contacted by the USMS regarding his registration delinquencies. He was again instructed on his duty to register, as well as the penalties should he fail to comply with SORNA.**
- **Friend registered the next day on July 21, 2011. However, this was the last time he registered in any state.**

## Larry Friend cont. ....

- On August 28, 2013, the Western District of Missouri USMS opened an investigation on Friend.
- Initial investigation revealed that Friend had obtained a MO Driver License on December 4, 2012. The United States Postal Inspection Service also showed a Missouri address for Friend. However, Friend had moved to an unknown location prior to the start of this investigation.
- Utilizing alternative thinking, the USMS discovered that Friend had applied for a Hy-Vee Fuel Saver card on August 16, 2013. Friend provided Hy-Vee with a home address in Raytown, MO.

## Larry Friend cont. ....

- **With the assistance of the fuel saver card information, the USMS was able to determine that Friend had made daily purchases at the Raytown, MO Hy-Vee between August 16 through August 22, 2013 at different hours of the day and night.**
- **At the request of the USMS, Hy-Vee provided video and still images of Friend from their surveillance system. These videos also documented that Friend was driving a vehicle previously unknown to law enforcement.**

# Larry Friend cont. ....



## Larry Friend cont. ....

- **On September 26, 2013, Friend was indicted by a federal grand jury.**
- **On November 13, 2013, Friend pled guilty to Failure to Register as a Sex Offender.**
- **Friend was sentenced to 12 months incarceration in the Bureau of Prisons followed by 5 years of Supervised Release. He has since violated his supervised release and is serving a new term of imprisonment.**

# Evidence

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- **Statements of witnesses**
  - **Neighbors, employers, roommates, family members, apartment managers**
  - **Aiding Sex Offender Form**
    - **RSMo. 575.159 Person commits the crime of aiding a sexual offender ... withholds information, harbors, conceals, provides false information**

# Evidence

- Form is presented at initial witness contact
- Signed Statement
- Direct evidence or impeachment evidence for use at trial or sentencing

Deputy taking statement: \_\_\_\_\_

## Aiding a sexual offender

575.159.1. A person commits the crime of aiding a sexual offender if such person knows that another person is a convicted sexual offender who is required to register as a sexual offender and has reason to believe that such sexual offender is not complying, or has not complied with the requirements of sections 589.400 to 589.425, RSMo, and who, with the intent to assist the sexual offender in eluding a law enforcement agency that is seeking to find the sexual offender to question the offender about, or to arrest the offender for, his or her noncompliance with the requirements of sections 589.400 to 589.425, RSMo:

(1) Withholds information from or does not notify the law enforcement agency about the sexual offender's noncompliance with requirements of sections 589.400 to 589.425, RSMo, and if known the whereabouts of the sexual offender;

(2) Harbors or attempts to harbor or assists another person in harboring or attempting to harbor the sexual offender

(3) Conceals or attempts to conceal or assists another person in concealing or attempting to conceal the sexual offender; or

(4) Provides information to the law enforcement agency regarding the sexual offender which the person knows to be false information.

2. Aiding a sexual offender is a class D felony.

3. The provisions of this section do not apply if the sexual offender is incarcerated in or is in the custody of a state correctional facility, a private correctional facility, a local jail, or a federal correctional facility.

I, \_\_\_\_\_, knowing that false statements are punishable by law, state that the facts contained herein are true.

My address is: \_\_\_\_\_

\_\_\_\_\_ does / does not live here  
(Offender's name) (Circle one)

\_\_\_\_\_ has / has not lived here since \_\_\_\_\_  
(Offender's name) (Circle one)

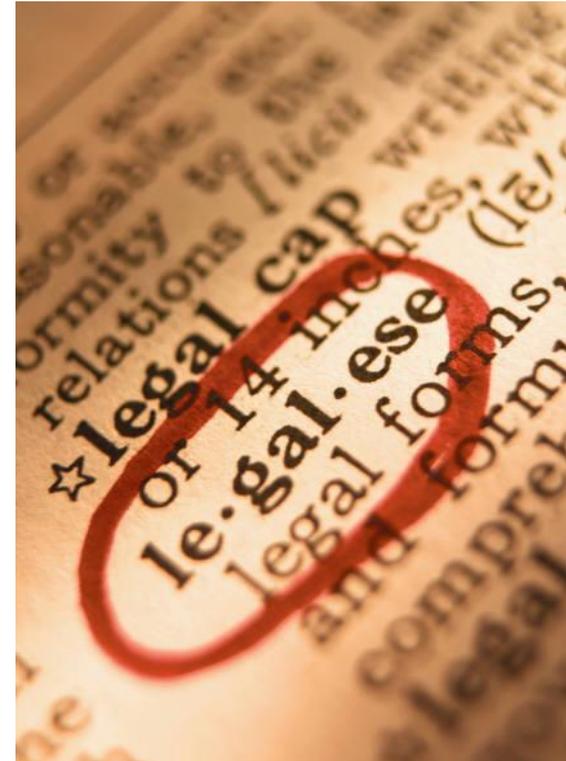
I swear and affirm that the above statements are true and correct. Date: \_\_\_\_\_

Print Name: \_\_\_\_\_ Signature: \_\_\_\_\_

# Compliance Sweeps

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- **Regular reporting**
  - 90 day/180 day/yearly
- **Sweeps**
  - Residence
  - Vehicles
  - Employment
  - Firearms
  - Online Identifiers
  - Child Pornography



# Robert Lunsford



## Robert Lunsford cont. ...

- On February 26, 1990, Lunsford was convicted of Sexual Abuse 1<sup>st</sup> Degree in Missouri. He was sentenced to 1 year department of corrections.
- On July 29, 1993, Lunsford was convicted of Sexual Abuse 1<sup>st</sup> Degree in Missouri. He was sentenced to 5 years department of corrections.
- Lunsford registered as a sex offender in Clay County through February 28, 2011.
- Was contacted during a Compliance Sweep.

## Robert Lunsford cont. ...

- **On April 22, 2011, arrested for non-compliance with his sex offender requirements.**
- **On April 29, 2011, booked a ticket to the Philippines for travel May 3, 2011 through May 24, 2011. However, fails to return to the United States on May 24, 2011.**
- **On June 27, 2011, Missouri issues a warrant for Lunsford's arrest, and on June 29, 2011, USMS assistance is requested.**

## Robert Lunsford cont. ..

- On July 20, 2011, arrested in the Philippines by the State Department and deported back to the United States.
- On August 2, 2011, Lunsford indicted by a federal grand jury.
- On October 18, 2011, after accepting a plea agreement with a sentencing range of 18-21 months BOP, Lunsford is sentenced to an upward departure of **72 months BOP**, followed by 10 years supervised release.

## **Robert Lunsford cont. ...**

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- **On November 1, 2012 Lunsford appeals his conviction alleging no requirement to update Missouri registration and no requirement to register in Philippines.**
- **On April 10, 2013 Case argued before the 8<sup>th</sup> Circuit.**
- **On August 5, 2013 opinion issued case REVERSED.**

## Robert Lunsford cont. ...

- On **February 8, 2016** President signed into law “International Megan’s Law to Prevent Child Exploitation and Other Sexual Crimes Through Advanced Notification of Traveling Sex Offenders.”
- 42 U.S.C. 16914 sex offender required to provide intended travel information.
- 18 U.S.C. 2250(b) criminal violation for failing to provide intended travel information.

# Potential Legal Considerations

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- **SORNA is a fluid statute that is subject to change.**
- **Plea Agreements – notification of required registration or potential for registration.**
- **Required condition of probation/supervised release.**
  - **18 U.S.C. 3583(d)**

# Practical Considerations

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- **State vs. Federal prosecution**
  - **Sentencing considerations**
  - **Goals of prosecution**
  - **Was interstate travel voluntary**
- **Regular communication with federal or state counterpart**



# Questions?

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