



Registry Matters Podcast

Episode 139

Recorded 8-8-20

Andy 00:00

We'd like to thank our patrons for supporting this episode of Registry Matters. Recording live from fyp Studios, east and west, transmitting across the internet. This is Episode 139 of Registry Matters, Larry, I feel like we've kind of already been doing something for a little while.

Larry 00:15

I think we have.

Andy 00:18

Okay, so coming up in a future section of the podcast that we're recording live now. But we're going to roll back in time, there is an interview with a with an individual about federal supremacy, is that right?

Larry 00:32

That is what we were discussing the federal supremacy in terms of the sex offender registration regimes.

Andy 00:40

Okay. And I yeah, so I'll let that that's about a 20-ish, 15-minute interview coming up later in the show. We have a usual cadre of a handful of articles and then we have a couple like we have a decision, I think and then another question coming out of Wyoming. All kinds of stuff going on tonight. New patrons. It's an exciting, an exciting time to be in the podcasting business for PFRs.

Larry 01:02

And then we've got a dozen people in chat

Andy 01:06

we do it's also it's a good night of people in the discords. How can people join the discord Larry?

Larry 01:14

you can become a patron for as little as \$100 per month.

Andy 01:21

\$100 dollars? Wow, transcription person, can you replace that with \$1? It is only \$1 Larry it's not \$100.

Larry 01:29

Okay, well, it doesn't hurt, doesn't hurt to be optimistic.

Andy 01:34

That is definitely a true statement.

Larry 01:37

And I truly can't imagine anybody would be kind enough to give us \$100 a month but we have some very generous patrons. But \$100 would be quite quite generous.

Andy 01:48

You say that we have some people that are just shy of it Larry.

Larry 01:52

well and then of course I'm asking for the for the second stimulus checks, but you have to create a 1200 dollar... You're gonna need to create a 1200 dollar, then you're gonna need to create the maximum of whatever a family can get, because whatever turns out to be the family maximum, you can create that.

Andy 02:08

Oh, so you could have 45 kids and you've capped out somewhere prior to that.

Larry 02:13

Yes, there's a there's gonna be a family max. So we can, we can put 1200 dollar and then we could put the family max.

Andy 02:20

Listen, I like I can't even really, like comprehend and handle one child. How do people have two and three and six like, those numbers don't make sense to me. I'm just not like wired for to be around kids. They hurt me.

Larry 02:34

I don't understand it. I couldn't do it. But I'm glad they do it because we need all we can to, I keep saying that they need to pay into these systems that us older folks have our paws out to get money from. We don't realize someone has to contribute so we can receive.

Andy 02:51

You know, let me let's let's go back to the stimulus check. Didn't you say it was gonna happen?

Larry 02:56

Well, I think I did. But a lot of folks have said it's going to happen. Yes.

Andy 03:01

And does that like lead us down to announcing a Patreon extra this week?

Larry 03:07

Oh, yes, we are going to have a Patreon we're going to talk about the political lineup of what's going on between the President and the and the Senate and the House. And what what's likely to ensue going forward. And I think it's it's just for political junkies like me, I love it.

Andy 03:27

All right. And so we were going to record that after we record this tonight and get that that'll come out like I don't know, Wednesday or Thursday. And again, if you want to listen to the Patreon extra, become a patron for as little as \$1 a month and you'll get seriously Larry, like I it's gonna sound like I'm blowing smoke but you really are an expert analyst at like figuring this out. You may not like this political candidate, you may, they may be your favorite and you will pretty much treat them even like if you hate the person but they do something smart, you will give them credit for being smart. And if Somebody that you think is awesome, and they do

something dumb, you'll tell them that they've done something dumb. I don't know where else you can get this kind of detailed political analysis. So I think you're great.

Larry 04:09

Thank you, Andy. And we're going to talk about tonight, some brilliance on behalf of the President. So that that should inspire people to become a patron to hear me talking about the brilliance of the President.

Andy 04:21

Okay, sounds like a plan. Um, alright, let's let's kick things off. I have no idea where I picked this up from I don't know if... it had to have come in from an email, but you know, and I kind of neutered it to it to make sure that it's a little bit vague on who it is. But so here's one says, just discovered y'all. Great job. Pretty much had this exact question about SORNA. And I think you answered it about my registration requirements expiring under SORNA after my 10 years, even my tier one offense since 15. I read and I'm in Texas an attorneys page that said I would have to petition the court to undergo an evaluation, excuse me undergo an evaluation that would determine if I could get off after 10 years and I am wondering if that was a scam, as you said, or where I could find that information that says I will be off after the 10 years if I don't get into any more trouble. Also, there's a list of states that say if I would or would not be required to register after that 10 years, I'm waiting to maybe move to some better weather. Thank you for all that you do.

Larry 05:20

Well, I really liked the question because it sounds like that part of what we've talked about may have been misconstrued. And what we talked about under the federal guidelines, a person as a tier one can be released if the state chooses to adopt that particular aspect of the registration scheme. They can allow tier ones to simply vanish if they've completed their, those 10 years without any felony level conviction. And they've completed probation successfully and gone through a treatment. I think those are the three main components. But that doesn't mean that the state is required to adopt that. And if the state doesn't adopt it, the federal law is meaningless because that was a recommendation to the to the to the States. And that was something that states are allowed to do but not required to do. So there is no mechanism that would automatically time you out, because federal law says a tier one offense is is actually 15 years and there's a five year reduction permitted. Permitted. But that doesn't mean it's in the statute of that state. And in terms of whether it's a scam in Texas. I can't say it's a scam, but I can say this. Texas has a very, very difficult process to be removed. All offenders, all offenses are not eligible. And you have to go through some evaluation process that C-COTS or something I forget what it is, we should have Mary Sue from Texas Come on, but there was an evaluation process you have to go through and that entity has to give you the clearance, and then the court may grant it. And so you need to figure out if your offense disqualifies you from the get go. You need to find figure out if you think you can pass that evaluation process. And since I'm not intelligent enough to tell you about it, I don't have never conversed with a person who's gone through it. You will need to find out what that process is like. They you would need to find out if the place where you're going to file the petition is disposed to let people be released from the obligation, assuming

you're eligible and assuming you get that good evaluation. There's a lot of unknowns. So, I would tell you before handing a bunch of money to an attorney, you need to talk to somebody in Texas and Texas Voices, although there's only one person there who is trying to talk to everyone this Mary Sue Molnar. Mary Sue does return phone calls, she does return emails, and she's a very nice lady, and she would probably be able to tell you based on the geography of Texas, what part of Texas you're in and she can say, well, they never let anybody off there. And if you don't qualify from the get-go, why would you want to waste your money? So you need to figure out if if you're even eligible if you're offense... (Andy: Can you double back... you're finishing something?) I say if your offense disqualifies you, there's no point to go forward.

Andy 08:19

Yeah, sure. Oh, but there was some feather ruffling. Let's call it have somebody in Texas sending out letters like, can we circle back to that real quick? Is that ethical of sending out letters like, hey, like, maybe you're on the registry, I can help you get off or something like is that ethical to do?

Larry 08:35

Well, again, I'm assuming it is. I know it is. In my State, it is. Lawyer advertising was frowned upon in decades past, but as as lawyer has become a business and trying to keep a business afloat requires customers, lawyers have been allowed to advertise. And there's absolutely In my opinion, nothing wrong with reaching out to people and letting them know that you exist and offered to provide your service that in and of itself, I don't believe will be unethical in Texas. Where the or the ethics become compromised is when the person requires money and a large sum to tell you that you're not eligible. Or if they don't bother to tell you are not eligible, and they take your money knowing that you're not eligible. If you can look at this writer's offense and see that he's not eligible statutorily. You do not need to take any of his money that can be eliminated in the initial screening. And, and if that's not he wants what he wants to hear, he will call another lawyer and another and another till he hears what he wants to hear and someone will eventually gladly take his money. But, but that's what happens when you tell people what they don't want to hear. Oftentimes, they keep calling and calling and calling. But there's nothing inherently wrong with sending the lawyer advertisement, but it has to be disclosed as a lawyer advertisement and then again, the lawyer needs to be ethical and tell you that, that you do or do not qualify. And they may need to do a consultation at a modest cost to tell you do or you do not qualify, that you're not eligible. I mean, for them to dig deep enough into your facts, they may need to sit down with you and have some document review and do some analysis. And that is time and time is all the lawyer has to sell.

Andy 10:23

That would be true. I mean, they don't let's see, do they make tables and chairs? No, they don't make automobiles Yeah. So that all they have is like their intellectual property and their time. Got it.

Larry 10:31

That is correct. And when you get into a professional such as lawyering, there's a finite amount of time. And there's a lot of people competing for it. And there's a lot of overhead that goes

with being a lawyer and so they have to figure out some way to make a lot of their time produce income.

Andy 10:49

We have spoken you know an attorney. I mean, probably even a cheap attorneys like \$150 an hour, something like that. Maybe is that fair?

Larry 10:59

That's That's really cheap these days.

Andy 11:01

Sure. And but you know, so it doesn't take that many hours to burn up a \$5,000 bill when an attorney is going to have to put in 20 hours of work or something like it just doesn't take that long to, to consume it a pretty substantial amount of money at those kind of rates. But yeah, they did spend 100 hundred- 50 grand on college.

Larry 11:21

That is correct. So just like a round fee of 250 an hour. And, and you're and you do a \$5,000 fee. I mean, you got 20 hours well, and in that 20 hours, let's say if we were going to do a registration petition in a state such as Georgia. To do it correctly, and the people have heard this podcast before, there's a lot of work goes into it. Now it is cookie cutter, you do have a template for the petition of things you're going to plug into it. But to plug the stuff in, you've got to you've got to meet with your client to figure out what to plug in. And to do it right you really need to make that journey to the prosecutor's office. At a very minimum by phone if anybody takes phone calls anymore, but but you need to have a deep conversation with the prosecution to figure out what their stance is going to be. And you need to prepare your witness to testify. The judge is going to want to hear from the person who's asking to be removed from the registry. That requires time. When you when you figure preparing the petition, investigating it before you prepare the petition, meeting with the prosecution talking with him preparing your client for the hearing, conducting the hearing and travel time, it doesn't take a lot to see how you can burn up 20 hours. So but I tell people when I say you're looking at a \$5,000 fee, they roll their eyes and I'm saying well, you know, if we had a petition process here, I can assure you that I would not quote anything less than that at this office, because to quote anything less than that we couldn't do the work that would be required to do a thorough job and then you're looking at a psychosexual evaluation on top of that. It would be strongly encouraged that you have a current eval.

Andy 12:57

Very good. Let's bounce over to a handful of news items because these are just kind of funny for the most part funny haha and funny like Wow, that's really sad funny, but the first one comes from the ABQ journal like, that's not how the alphabet goes ABC no, anyway. So this from Albuquerque fugitive finally nabbed after 50 years on the lam, ah, Larry, tell me about this because this is in your neck of the woods.

Larry 13:23

Well, I just saw that on the front page of the Albuquerque journal today. And I took a glance at it. It looks like one of his relatives turned him in he he'd been on the run for a long time.

Andy 13:33

Pretty sure I know your philosophy about the guy being on the run for so long. Like go ahead and go through it.

Larry 13:38

Well, I don't see that he made any mistakes. You don't get to choose your relatives. So he didn't make a mistake there. But he was you have to hand it to the guy. He escaped twice. He escaped twice. Yes. So he got he got out the first time then he escaped second time. Second time he did it right stayed on the run for nearly 50 years. And he's 77 years old now. So I have to give the guy kudos.

Andy 14:05

They frequently say, so he spent so many years out, like not in prison and didn't reoffend obviously, then they would have captured and put it back in. So to say that he like, rehabilitate, maybe that's not the right word, but he sure as shit didn't reoffend.

Larry 14:18

I would, I mean, if I were in a position to consider a clemency request from this person, I don't know how that would what the process is. It's a Colorado conviction, right? I don't know what the process is. But he, he he certainly has lived an exemplary life, by all accounts, and he's not a threat at age 77. And he didn't serve all his time, but there's no need to put him in jail. But that's exactly what they'll do. They'll put him in jail and they'll try to teach him a lesson about he should not have escaped and he shouldn't have but the fact is, yeah, he's he's not gonna he's not been a nuisance to society there's no point but they will, so.

Andy 15:02

Yeah 77. they've had they've made some movies with some old geezers people your age running around like committing crimes, robbing usually it's like robbing something kind of white collar-ish. You know? Not not really you know that no high-speed car chase, everything is in their little scooters going two or three miles an hour.

Larry 15:18

So well, we'll have to follow this and see what they do with him, but I'm betting that they'll still want him to serve out the remainder of his time.

Andy 15:29

Let's uh, let's head over to the Washington Post real quick where you sent this to me a few days ago. It says Colorado police apologize over viral video of officers, handcuffing Black Girls, in a mistaken stop. Do you know what I just noticed Larry? And I heard a podcast talking about this. Do you notice in the article that black is capitalized?

Larry 15:48

I didn't pay that any attention.

Andy 15:50

I didn't at the time either. I've just heard that there's a there's a movement to take things such as, as black, referring to race and making it something of a proper case so that you can see it as

being you know important in that regard I'd never I would never even noticed it had I not heard this podcast in the last week or so and I didn't notice it when I first looked at it but anyhow, so this is something of a traffic stop and the car was stolen but no longer stolen. Anyway, they have these four these four people like cuffed on the ground face down. This is this is terrible.

Larry 16:29

It was it was children also that that was the sad thing about it for me, it's children and the police force doesn't look particularly diverse. Did you? Did you notice that?

Andy 16:41

Yeah, I did. I did. I did. I watched the video and they look there's there's a pretty hefty cop there and he did something and they were not treating them poorly other than them being face down on the ground. And cops, cops, (Larry: with guns drawn on them.) This is true and they are cuffed, but he does have some interaction in the video and he's not like snatching their shoulders out of socket. I mean, just given the circumstance like, I mean, he could have been a complete prick

Larry 17:09

What are you estimating the age of the kid?

Andy 17:13

There's the one on the right of 10, something like that?

Larry 17:17

Yeah. And that's what's sad to me about it. There's, so these, this family...

Andy 17:23

6 to 17 Larry, so that kid is six. And there's another one there we can't see.

Larry 17:29

So well. This is this is very traumatic for a child and the vehicle that they were driving, as best I can understand it had been stolen, but it was not stolen at that time. And then the cops are saying but the same number, the license plate was stolen, but it was in another state, you know, the same sequence but from a different state. But they have these protocols where they treat everybody in a stolen car as the a dangerous felon and, and I resent that because children a six year old is not going to pull something out of the rectum and fire it at the cop. So so so if a cop would use a little bit of kindness when they're dealing with children and there's a couple ways I can think of they could have handled it, they could had the children exit first and put the children in a safe care like with social services till they sorted out if the parents are criminals or not. But the children would be given teddy bears and comfort. Particularly the small one. And, and and then and then the this this lack of diversity. This is why people in the minority communities feel the way they do about cops because they don't understand why this happened to them. For the for the cop to run the plate, there was probably some profiling that went on for the plate to be run for it to show up in NCIC as stolen, which it shouldn't have been in the stolen. So either the cops dropped the ball when that car was originally reported stolen, didn't remove it from the NCIC. But this was a bunch of mistakes. And the police chief to her credit, apologized, and she said that she wanted to give the cops

discretion to not require this type of interaction on a stolen car. Chief, I would say go one step further. Don't just give them discretion, because they'll continue to do this require that they not do this. And you tell them the circumstances, like children are not treated this way. You tell them what you don't want them to do. Because otherwise they're gonna say for officer safety, I still felt I had to do this. So discretion is not enough. You're gonna have to spell it out for them what they're not allowed to do.

Andy 19:50

And to not sit there for terribly long. We're going to go over to an article from 538, which is one of my favorite publications, Larry. And it says many Americans are Convinced crime is rising in the US. They're wrong. And I still think back to I think it was the first NARSOL conference in Atlanta and you did your little speech and you threw an FBI chart up there. And it was almost like, I think when Obama was doing a State of the Union speech, someone stood up and said, You lie. And you said something about crime is the lowest it's ever been in something and someone stood up and was basically ready to throw tomatoes at you while you were doing your presentation.

Larry 20:27

Well, and that is, that is why I throw this kind of stuff in there because you hear about these protests in Portland, Seattle, and you hear about these disturbances witch they're, they're bad. If you live, if you live in the area where they're having disturbance, disturbance can get out of hand and you can have property damage and human loss of human life and injuries. But they act as of this is the first time in the nation's history that we've ever had any disturbances in civil unrest, and I said, Well, do you know the history of this country? Let's see, we had In a civil war, and then we had the civil rights, in the 1960s there were major, major disturbances. In 1968 when, when the assassination of Martin Luther King, and then you had the riots in Chicago, you had the '65 Watts riots in LA, you had. I mean, we have had this type of stuff before. And we've had a far higher crime rate in this country than we have at the present time. But for some reason, people don't realize that. They think that crime is just off the charts. And it is not, this is the safest time. Let me say this one more time. This is the safest time to be alive in most of our lifetimes, the time we're in right now, and unless you're in a city that has a serious problem, which we have some cities are having serious crime issues. Chicago, St. Louis. There are some places where you wouldn't want to be but is the best time to be alive for most of our lives.

Andy 22:06

Why do you think it is that crime has plummeted over the last roughly 40 or 50 years?

Larry 22:15

Well, I don't I don't know. And I think there may not be a reason there may be a combination of reasons. It's the the, the demographic change, would be a part of it the crime wave that was committed by people in my generation from the baby boomers, they've aged out of crime. And technology's had a lot to do with it. In terms of the evolving technology, there's just a whole lot ... the solvability of criminal behavior is so much greater now than it used to be. So forensics and video surveillance and all the things that make crimes more solvable. It's hard to get away with crime these days. Think about stealing a car. Can you remember, I

don't know if you're old enough. Can you remember how easy it used to be to hotwire a car?

Andy 22:59

Yeah, you would just cross some wires, you're not it, you can still do it. But it requires a lot of technology.

Larry 23:04

Yeah, to try to hotwire a car today. Tell me how that works out for you.

Andy 23:10

You could go, you could go to your local Ace Hardware, whatever, and you could get a key cut and the key will go in there and it will probably start the car, but that's going to be the end of that story, that you're not gonna be able to get into gear or anything like that.

Larry 23:21

So so so technology has changed. Some will argue that our harshness on crime has put people away that were career criminals. They will they will say, see, our our toughness worked. And so I don't know the answer to it, but I know that that crime is down, has trended down since the late 80s and 90s. And my city unfortunately, we've had an uptick in crime we're not at we're not at historic levels, but we have had a crime has gone up particular property crimes, burglaries of residences, and businesses and stuff, that we're having a real high rate of economic crime in this in this town. I think that might be a given due to poverty, that could be a contributing factor where we're 49th in per capita income.

Andy 24:09

Wow. Alright. And then I don't even know what study this is just go get the show notes. But it's papers.ssrn.com with a bunch of stuff after it. I just really wanted to, there's nothing here that I really want to go into. But it's a it's a research paper that says MeToo, and the myth of the juvenile sex offender, this came across one of the feeds that advocates are into, and I think I think the gist of it, I think I can just read the I conclude with a counter intuitive suggesting that decriminalization and decarceration efforts should not only include conduct labeled as sex offenders, but likely should begin with them. Transforming our approach to sexual harm is one key piece of an abolitionist vision that seeks to move beyond carceral approaches to achieving racial and gender justice. It's a it's a paper that described that we should probably do the sex offender thing less harsh than what we do.

Larry 25:04

So that's...

Andy 25:05

I just wanted to bring it to our people's attention

Larry 25:07

That's what I took from it

Andy 25:10

and from there so we already did we spoke to Ethan that was about Illinois so then we can move over to Indiana correct?

Larry 25:22

why don't we do why don't we do Wyoming? Wyoming is way more fun than Indiana.

Andy 25:28

Very good than Wyoming it is. Um, I'm I pretty much trim the whole email message. We've received an email message from a soon-to-be patron that'll answer, not soon-to-be, but a soon-to-be that I will announce it later, he became a patron. And but from the email message it says I can work from anywhere in the world. I would really like to stay in the United States. There are parts of the government that I do not agree with, but I fought for my country and I am very patriotic. What state can I go to where I can get off of the registry in the least amount of time? I have done my own research but I feel like you need a law degree to interpret all the statutes from the different states. I could move to any of the 50 states or territories. I do prefer to stay in the continental US. Any help you could give me would be greatly appreciated. I do want to point out that even getting these kinds of emails, this is like someone asking for almost like personal help. And we are not in that business. But you wanted to bring this in Because it's an interesting question that may help other people as well.

Larry 26:29

It is because without giving him personal advice, I can tell him what he needs to do to figure out the answer to his own question. And so what we're going to start with is that I did a little cram prep in Wyoming. I haven't read the Wyoming statutory scheme in a number of years. And just for those who are not familiar with Wyoming, it actually is a state that has a population of somewhere around 600,000 and geographically it's quite large. So, there's there's no real urban centers in Wyoming. I think Cheyenne probably the largest urban center and it has 100,000 people in it or something. And, and they, at one time had a decent registration scheme. There was risk based and most people weren't publicly accessible. And they changed that in '07. And so what we're going to do and he's still here, right, we can we can bring him if we need to? (Andy: Yes.) Okay. So what we're going to do is talk about how you would go about answering that question. And the answer of the question depends on you. I will remember, it's not been that long ago that early in the pandemic, Governor Cuomo of New York said, what happens to you will largely depend on what you do, and how, how you, what you do here, in terms of your unique circumstances is what's important to determine the outcome for you. And the State of Wyoming, the research reveals that they have a 15, 25, and lifetime registration and they are substantially compliant with the federal Adam Walsh Act. And this individual would have a 25-year obligation in the State of Wyoming. And so what what a person would want to do in a case like this would be to figure out if they would have a shorter obligation in another state for that offense. So that that requires a little bit of legal training to figure out what that how that offense would align in another state. So you would do the analysis to figure out how that would translate to another state, how they treat non convictions from other jurisdictions, including federal convictions. So you would you would see how that aligns with that state scheme. Then once you figure out where you think you fall, you may fall in a state where they don't care. It's just a flat-out fixed amount of time. It's 10 years. For example, Vermont is 10 years unless you're a repeat offender. And I think there's another category that can

get you longer, but the bulk of people in Vermont are 10 years. So that doesn't require a whole lot of legal study in Vermont to figure it out, but you would figure out. And then the next thing you'd want to know, is if you would automatically time off or if you have to petition. The petition's the last thing you want to do, because most of the states they don't, they don't automatically grant the petition. It's a "may" relieve you, not "shall". So so therefore, you end up in a conundrum where you have to file a petition. So if I had my rathers I would go to a state where automatically timed out. And, and and if there was a such a state that my offense would be 10 years. I would even hope that they gave credit for the offense for the time I was registered in another state. They may or may not. I think Maine for example does give credit. There's some states that that don't give credit; mine doesn't. So you'd start all over. Hypothetically, if you had a 10-year registration obligation here, you'd start from scratch. Now that particular offense would be a lifetime for my state. So there would be no incentive whatsoever to consider coming to New Mexico because all you would do is go from a state that has a potential to petition for removal to a state that doesn't and you'd be a lifetime here. So you would go from bad to worse. So we can rule out New Mexico from the get go in that particular situation, but let's take a look at the removal process, which is in Dropbox for Wyoming. And you can get it's called petition for removal Wyoming. And I've done some highlights in there. And, and so for for a 15-year registrant in the first section, upon showing that the offender has maintained clean records provided in subsection D of this section for 10 years, the district may order the offender be relieved of duty to continue registration. So therefore, those lucky ones that are in the 15-year category, they can get off after 10. And then those which fall into the category that he's in, upon showing the offender has maintained a clean record as provided in subsection D of this section for 25 years, the district court may order the offender. Now this is what I pontificate about. The Adam Walsh Act does not require this. There's no petition required. When you reach the 25-year point or the 15-year point, you just simply time out. There was no reason for the state to put this in their law. It wasn't required, they would have gotten their precious compliance without having this in here. So all they did was made it so that people would who would have the opportunity just to sunset and disappear like a you know what in the wind. They have to spend a whole bunch of money. And they might be able to disappear into the wind, so that I don't like it. And then if you scroll down to the bottom, here's here's an offender seeking reduction because in Wyoming they've changed the law so everyone's a lifetime. And then you can get off if you fall into one of the two categories where they can petition. Here's what you have, having no conviction of an offense for in prison for more than a year. That's in AWA. Having no sex offense conviction. That's in the AWA. And successfully completing any period of supervisors and probation parole and successfully completing Sex Offender treatment. All of this is in the AWA for a tier one to get that five year reduction, because it's a 15 year period with a five year reduction. If you've done these things, even a tier one in the AWA, would theoretically sunset after 15 years if they didn't do any of these things, except for a conviction which would which would roll you up if they got another sex offense conviction, they would roll it up to a tier two because that's the definition of a tier two on their AWA standards. If you were previously at tier one, you pick up another offense, then you'd be a two, tier two, under the criteria. But all this wasn't necessary. So, so again, this is just as bad as California, where I

said that very few people, if any, will get off. This, in Wyoming, the only thing that looks good to me Wyoming is it looks like you can form shop because it doesn't say you will file where you were convicted. It says you file where you live. So theoretically, if there was such a place in Wyoming that was letting more people off, you could theoretically file if I read it correctly, you could theoretically file there but you'd need to talk to a Wyoming practitioner and to make sure that I haven't missed something here because this is not legal advice. This is simply me telling you what I see in black letter, but But uh, so so I would, if I were this individual, I would do some analyzing of what my offense would align in another state that I'm interested going. And I would see what their processes are if they just automatically timeout or if they have to file a petition. And that's what I would do to figure it out. And I'm happy. That's one of the services that I happen to provide for attorneys I help them figure this out, I help them figure out how their person might get off the registry, and if they're eligible.

Andy 34:18

So what you describe, though, you make like a matrix, and, like, right off the bat, like you said, for New Mexico, we could also immediately mark off Florida because as soon as you show up there, you're gonna have to register for life. And you could at least, I don't know, maybe 10 states would be like, immediately crossed out, almost. And then you start moving down and trying to figure out which one would be the least worstest.

Larry 34:41

Wouldn't it be better to start in the states that you'd like to be in and then and then and then analyze those?

Andy 34:46

maybe this person, he doesn't care which of the 57 states that we do have, he just wants to be in one of them that is better than where he is?

Larry 34:57

Well, why don't we Why don't we open this mic and ask him if this was helpful. And if he has any questions, because we got a little bit of time here.

Andy 35:04

I will do it. So Paul, you are now unmuted, so stop cussing and all that. So welcome, Paul, how are you?

Paul 35:11

I'm doing pretty good. Thanks for, Thanks for having me.

Andy 35:14

You're welcome. you're welcome. Do you have any additional questions or feedback to sharpen this whole thing?

Larry 35:18

Well, first of all, you sound you sound fantastic. I don't know what kind of mic, but but but that sounds the best I've heard.

Paul 35:26

Well, I, I make video games. And one of the things for my video games I also do voiceovers and things like that. So I got a pretty good setup

Larry 35:35

You sound wonderful.

Andy 35:36

So you're saying that the microphone matters?

Paul 35:38

Yes, absolutely.

Andy 35:40

interesting. Who would have thought?

Paul 35:43

However, my mics only like 30 bucks. So it's not like I spent a lot of money on a mic.

Andy 35:48

I understand that too. I've been there.

Larry 35:52

He's poking fun at me because I wanted to. We were on the road a few weeks ago and I said, I'll do the podcast by phone and he said no way, so I wouldn't have that kind of crap out there.

Paul 36:03

Okay, so there's a funny story for that. And this is kind of off topic, but on Wednesday, I was part of a call with the White House about COVID. Um, I can't really talk about what was talked in that because it's, it's not for the press, it was off record. Um, but there was a rear admiral that spoke and he had to do with logistics, like getting things from point A to point B, um, for the PPE and whatever else people need. And it sounded like he was in like a Humvee or something. And he was talking on a cell phone, and then for a little while, he went completely silent. like it the whole podcast, it wasn't a podcast, it was like a group call or something. The whole call was dead for about five minutes while he was trying to figure out how to fix his mic. Um, so I just, everyone else was was perfect. I mean, we had all these big names in Washington that were part of this call. And, you know, he was just completely. It sounded very unprofessional on his side, which I found very interesting.

Larry 37:06

So well, Andy's a big one on sound and he's really worked to make sure that we sound good in terms of the equipment and the hookup.

Paul 37:15

Yeah, even though me and Andy disagree with politics, I'm really impressed with it. He's he does a lot. And he's, he's just amazing from what I can see so far. (Andy: Thank you.) But anyways, it helped a lot. If I had my choice, I would live in Florida, if there was no registry, and the reason is my parents live there. They're elderly. My mom's very ill. And I would love to...

Andy 37:40

Well where in Florida because you could just be in Georgia. I wouldn't say Alabama, but you could be in the southern part of Georgia and travel.

Larry 37:48

Oh, that's too far. That's the coast like Tampa. Yes. South of Tampa. Yeah. He would have to drive a long way to get to...

Paul 37:57

I drive in on occasion. And I'm permanently on the internet for being registered in Florida now. It was only a month.

Andy 40:01

Oh, so you're already registered there then?

Larry 38:08

What did you do spend some time in Florida and register already?

Paul 38:14

Yeah, I did that back in 2016. Me and my kids went down there for the summer. Well, for a month.

Larry 38:24

Well, you should have registered in that amount of time because they, they, they would have they would frown on it. But But

Paul 38:31

I do that everywhere I go, as a matter of fact, I tried to go to the Christian Game Developers Conference. It was in Oregon, in Portland, Oregon. And I called I can't remember who the authority was. I think it was the local police department for that particular Sex Offender Registry authority. And they said there is no restriction on where you can live or be within the state. Um, and you don't have to register because you're not going to be here that long. I said, All right cool. So I went ahead and called the university that the this was gonna be at. And they said, We have no restrictions but it's really up to the organizers. So I called the organizers and the organizer said, yeah, we don't really want you here. This is a Christian Game Developers Conference.

Andy 39:17

Don't get us started on that one. It's the forgiving people and they're not very forgiving very often.

Paul 39:23

I just thought that was entertaining. I looked at Oregon, because from what I understand in Oregon, I would be like a tier one. And it would be for law enforcement only. It wouldn't even be published. But, um, I don't know if that's accurate, because I'm not sure since I'm coming from another state, if they would take... on a side note, um, Oregon's really really liberal and it's also very, very expensive. Um, so I'm, I'm, I don't know if I actually want to live in Oregon. Vermont on the other hand.

Andy 39:54

God it would be pretty though. It would be beautiful living there though.

Paul 39:57

Oh, yeah. Oregon's amazing it looks very beautiful. Vermont on the other hand is one of the ones I looked at um, I just wasn't sure that was actually number one on my list was Vermont I'm glad you mentioned that earlier Larry because that's probably it sounds like a good spot. It also sounds expensive.

Larry 40:16

it's really not that it's really not that bad unless you unless you land in the realm what is it, Burlington where the university is it's kind of expensive there but Vermont's largely rural there's there's some relatively modest places to live as long as you don't try to get into the college town.

Paul 40:37

Do they have like restrictions on how far I can live and all that?

Larry 40:42

I'd have to do some research last time I looked at it the laws did not in Vermont, and of course with a podcast and I was talking about it they're gonna they're gonna their legislature is gonna say, well, we're, we're we're inviting people to come here. But they their laws have been relatively tame in Vermont for a long time. They didn't used to put your street address even if you were required to be on the Internet, and they didn't put everyone on the internet, they've expanded the the universe of people that are actually getting listed, but it has your town it'll say, John Smith, Burlington, Vermont, it won't say John Smith and the street address in Burlington, Vermont. And then you just mail in you mail in a form every year. And unless unless that's changed. That's, that's pretty, pretty modest in terms of requirements. And there were no restrictions on where you could live if you're not under supervision. But I would have to update my research.

Paul 41:27

And speaking of requirements, I don't mind if the requirements are a little bit more strict. As long as I can get off it early. Can I still get off of it at 10 years?

Larry 41:38

That's the way it was last time I looked. But I would have to see if there's anything changed because legislature is convened either every year or every other year in some instances, but this is a topic that gets changed regularly is registration. If you look at the annotations on statutory schemes, you'll see in some states it's like every year or two, they make changes. And so I need to do current research, but but I can tell you, that Vermont's not gonna be anything like the southern states like you compare Vermont to Florida, Alabama you know those those states, Mississippi, they're they're really harsh and and they're a little a little more lenient and Vermont in terms of and little more rehabilitation driven and believing that you actually can rehabilitate yourself

Paul 42:17

That's actually...

Andy 42:18

Can I throw something in here I saw this on Reddit someone just I don't know if the person is on the registry but someone through a question out that says what is so bad about the registry and I want to visit that again, what is, if there are restrictions with it, but just going to visit the police every now and then, to me, does it, like given the grand scheme of things of thousand foot 2500 foot living restrictions, keeping vehicle logs all of that other garbage? Like what is the bad part about the quote unquote, the registry?

Paul 42:47

Because we're not in communist North Korea? We, we, you know, we served our time we're done. Um

Andy 42:54

Agreed. Agreed. But as far as like the restrictions imposed Larry always use the term disabilities and restraints I'm not trying to say, Oh, we should all just accept that the registry is there, and we're going to live with it. I'm not trying to suggest that but like the actual, like the imposition of it, because you have to go re register your car, you have to do all of those things that are very similar other than the booking process. But I just like it doesn't seem like it's that big of a deal.

Paul 43:17

Well, here's it's kind of like the booking process because you once a year, you have to get your picture taken and they take you into booking. They did the same thing to me in Florida, but I wanted to say, nevermind, I'll collect my thoughts.

Larry 43:32

if, if, if it were if it were simply a matter of putting your name on a list, and you never had to be involved with with cops again, I do not believe a civil regulatory scheme should involve law enforcement. If you listen to civil regulatory scheme, and then you see guns and badges, those two just do not go together. So so you're, you're out, from the very beginning, it's wrong because law enforcement shouldn't be involved in civil regulations, they should only be involved if a person doesn't comply like a restaurant. A restaurant has to have an inspection, they have to have a person come out with their little thermometer, they put it in food, and they go around and do all this stuff. And that's the civil regulatory scheme. If you do not let them into your restaurant, as required by law, they will come with the police. And they will shut you down.

Andy 44:24

That's a good example, Larry. I like that one.

Larry 44:26

But but it's but it remains civil until you don't comply. Well, if that was all the registry was if you were merely putting your name on a list, and you're required to mail in a form to update that or go online, which people are quite capable of doing these days. I would say that the registry would certainly be constitutional. And it wouldn't be that bad. But the person who posed that question needs to be told all the things that a person is not allowed to do and that they're required to do, and that's what makes the registry so bad. But the mere act of a registry, they've created a registry for the Children of Flint who have been exposed to the bad water that they, that the city manager that the big crate business mine was going to save money by using Flint River water rather than buying water I think from the city of Detroit because they were they were in financial straits and they were going to save a bunch of money. And they saved a bunch of money. All right, but but they say there's a registry for those children. There's nothing punitive about that. They only want to know how the kids are progressing. And if they can keep them connected to services, and to to provide amelioration for any side effects they've had from the from the lead exposure. That's that's not a punitive registry. But what the sex offenders, the PFRs are forced to deal with that is a very debilitating and punitive registry in most cases.

Andy 45:49

I have successfully poked the bear.

Paul 45:54

I have a question about Michigan.

Larry 45:56

What's your question?

Paul 45:59

Have you talked about this in previous podcast by the way?

Larry 46:00

We've talked about Michigan periodically. What is your question about Michigan? Would you like to go there?

Paul 46:05

No. Um, but it depends on what the laws are like, again, it, you know, Southern Michigan isn't It's probably kind of similar to the weather we're having here in Wyoming. But, um, as long as I'm not next to a lake, um, my question is that whole thing where they declared their SORNA as unconstitutional, and then the federal judge basically slapped him and said, Look, either fix this or the registrations going away for people that had crimes before, was it 2012? Um, and I fall into that category. My question is, if I seriously doubt, they're not going to do anything, they're probably gonna go ahead and fix that and they're probably gonna get extensions and all this other stuff to try to figure it out. But um, will that affect out of state people? Like if I move there just so I can get off the registry, obviously, they're probably gonna have issues with it.

Larry 47:02

it's too early to know how all that's gonna play out. But at first blush, I would say that that strong argument can be made that a person moving to Michigan would be protected by the equal protection clause, would provide you the same protection as the person who was born and raised there. But Michigan is not likely to just allow those people to vanish. They're going to try to come up with a registry that's constitutional, and we're gonna be having the discussion we had out of Pennsylvania. What was that Andy two episodes back where we got criticism for it sounded like we like we were in favor of the registry?

Andy 47:37

Correct. Yes, yes.

Larry 47:38

They're going to come up a... The court didn't say you can never register people. The court said in Michigan, the 2006 and 2011 enhancements have escalated what was previously interpreted by courts to be a regulatory scheme has escalated to there's too many disabilities and restraints that it's now punishment and you can't do that, but they didn't say you can't do this. They said merely said, you can't do that. And if if the Michigan legislature does what I expect they're going to do, they're eventually going to come up with a new that, that they're going to pass and they're gonna say to address the courts concerns, this is our new modified registration scheme. And they're going to peel back the onion like they did in Pennsylvania. For example, the proximity restrictions

will be lifted for the people who have older convictions, and the frequency of reporting will be reduced like they did in Pennsylvania that would likely be a fix that they would try.

Paul 48:35

And that's what I kind of figured they would do and it's still going to be probably overly restrictive more so than other states.

Larry 48:44

They're likely to do no more than they have to probably less than what they feel like they should do, because since it's presumed constitutional, you can pass another version. And then as happened in Pennsylvania, that version would have to be challenged because it's presumed constitutional. We presumed the courts presumed I'm not a court, but we presume that deliberative discussions take place and that they would not enact something that's not unconstitutional, particularly when the law enforcement apparatus and the AG are telling them Oh, no, this is fine. No, there's nothing unconstitutional about this. So you end up having to start all over again, because it's presumed constitutional once it goes, goes on the books.

Paul 49:28

There's the stuff that's been bugging me for years. I'm really glad I'm able to be here. Um, thanks for having me. (Andy: Well you're very welcome, thank you for coming.) One of the things, is that is, So the Supreme Court has declared that the sex offender registry is constitutional, if I remember correctly, um, is that actually the case? Or are they, is that a political maneuver?

Larry 49:51

Well, the Supreme Court didn't say exactly the way you describe it. What the Supreme Court said was the scheme that Alaska was operating in 2003 at the time, they reviewed their registry, they said this form of registration is constitutional because what we see here doesn't impose any disabilities or restraints. That was the big thing that allowed that scheme to be interpreted as constitutional. They did not say you can pile on pile on and add on and pile on and pile on different restrictions. They say looking at this, this is not much different than renewing a license. And therefore, we find this is constitutional but they they fired that warning shot saying because it doesn't impose any disabilities or restraints, but people like Regina Chacon in New Mexico and all over the country Reginas like, they continuously with with the support of victims' advocates say add this add that add this add that I think we've got a Maryland Listener that will tell you that someone came in and said that they that they own some property, and they had a sex offender I should say owned a property and that they were visiting it too frequently and they didn't have to register. So they passed it if they were there like five days before for four-five hours in a 30-day period, let her describe it, but they that person has to register that property. So it means if you own a property and you ever decide to use it for anything other than just a flat out rental then you have to put that property on the registry which would be fantastic. But that's how these things continually evolve and evolve, because because no one's there pushing back when they're debating this. The registry community doesn't have a strong advocate's voice and they're not there when the Wyoming legislature passed their first stab at AWA compliance, I believe it was '07 or '08, it was it was before 2010. There was absolutely no one in the assembly. And I know that because I was

communicating with a lawmaker by email from out of state trying to affect the discussion going on in Wyoming because they had that better system. It was risk based. And they told me the lawmaker said no one is here. Yeah, we haven't heard any of these issues you're raising.

Paul 51:55

And things have changed since that time too. Um, one thing I noticed about the Wyoming, and well I mean legislature and also the statutes for a lot of the different statutes we have and litigation is that it's cookie cutter. They copy and paste it seems and then they change a few things to make it more unique to Wyoming. And I don't know if other states do that or not. (Larry: Yep, they do.) It just amazes me once I started seeing stuff like that.

Larry 52:23

well, that's exactly what they do. There's these models. People think that that that that part time legislators that have no staff and have a regular day job, and they sit around at a candle at night, and they're just crafting out this, cranking out this language. They're not. This is language that has been vetted around the country by the National Council, state legislature by the Association of Attorney General, Attorneys general, Chiefs of Police Association. This is all stuff that the Federal SMART Office has put out, the sex offender management, apprehension, registration tracking, for those that don't know what SMART means out of DC. These are all things that have been handed to them and the law enforcement apparatus says, in order for us to keep getting our BURN grants, we have to pass this. And they go to lawmakers say, will you sponsor this for me? And the lawmaker says, Oh, well, you need this for community safety? Yes. And they agree to sponsor it. And then when they have committee hearings, not a soul shows up in opposition, and they they rubber stamp this stuff, because there's no one there.

Paul 53:23

On another note, Wyoming is the least populated state. I think we're number 50. Um, and there is as a ratio, I think we really don't have that many sex offenders within the state. But that's just because of our population, not the ratio, but that's just because our population is so small, so it's hard to get a group together to actually fight.

Larry 53:48

that would be true and then you got to get out, where's the capital? (Paul: It's Cheyenne.) Oh, it is in Cheyenne? I was thinking that Oh, there was a there were some people that live on the western part. They wanted to move it but it's in Cheyenne, okay.

Andy 54:01

But then Wouldn't it also be easier? I mean, it seems like you know, if you brought one person to the legislature in California, that's gotta be like just a drop in the bucket. But it seems like if you brought one person to Wyoming, like, I mean, you have half the population of Wyoming, if you brought one person to the legislature.

Larry 54:19

it would be very persuasive in a small state like that. People don't realize that. When I went to Nebraska A few years ago, back about

10 years ago, now, they're place is wide open just like ours, no security, you just walk into the building, as if you own it, and you walk around to the legislators, offices, and if they're if they're not in session on the floor, if they're not in committee, they're they're ready to talk to you. I had I had sitters in Nebraska, oh, you're here from New Mexico. What do you want to talk to us about, you know, it's like they were ready And, and so in Cheyenne, Wyoming with a population of less than 600,000. I would dare say that there's not large crowds, and you'd probably have relatively easy access, if you could make the journey to the Capitol and they're only in session like 15 days in one year, and like 30 days there have very short sessions. So they're not they're not they're very long so they have to move very quickly.

Andy 55:05

Paul I just... sorry go ahead.

Paul 55:07

Well, sorry. Um, I say um a lot, it's a bad habit of mine. So anyways, um, we I think we do have pretty easy access to our, our elected officials within the state. Um, I can I am enrolled at the local college and that is on the registry, which means basically, I'm allowed to go there, um, because of the way the statutes read and all this but so, um, he has an office my local basically my local senator has an office at the college which is like 10 minutes away, and I've done it before where I just walked into his office and talked to him. Um, so we I mean, there is easy access to the politicians basically. Whether they would take it or not, I seriously doubt they would because to me anytime you want to lessen a, I look at it from a political point of view, if you want to lesson something within as for instance, like the registry, you want to lessen it, um, people are gonna use that to try to vote you out of office.

Larry 56:15

That is correct. Very astute observation.

Paul 56:19

So that's why I think it's so slow to change to make it better for or less worse for us better for us, um, is because it's a political it's a political nightmare.

Andy 56:32

Minefield, it's suicide, it's a suicide run.

Paul 56:35

It's easy to increase the regulations, it's easier to increase the regulations than it is to take them away.

Larry 56:43

Correct.

Paul 56:45

Also, this is something else I wanted to discuss. So that decision they made with the with Alaska, the Supreme Court, um, it seems like they use that decision to decide on other matters like that decision set precedence for basically people saying that the constant the sex offender registry is constitutional. Is that just me seeing something that's not there? Is that what people are doing?

Larry 57:13

That is absolutely, it is precedent. It's binding precedent, so but again it didn't say that any form of registration you want to impose is constitutional. It said, as we look at the Alaska scheme, the scheme that we're examining this scheme is constitutional, then it's up to the attorneys who are challenging registration around the country to distinguish when you're when you're when you are arguing case and precedent, is what's guiding you. If you're, if you're if you want to win, and precedents on your favor, you have to distinguish what you're arguing and why it's different. And so many of our challenges go wrong, because they're brought in the case in in a criminal case, which doesn't allow the evidentiary record to be fully developed in terms of expert testimony in terms of things that you need to do. Someone has no money, and they go to the public defender for their conviction. And then they go back and say, Well, this registry is really awful. And the public defender, oh, well, I'll file a motion say it's unconstitutional. And we end up we end up with all these bad decisions because they weren't properly brought. The correct way to bring a challenge to the registry is to file a petition for declaratory judgment and have gobs of money to put the case together and distinguish for the record before it goes up on appellate view, because the trial judge is going to find the registry constitutional because the trial judge has to go by the precedent. So all the precedents in the states practically there's been previous state Supreme Court decisions that have said, our registry is civil regulatory. And then there may have been dozens of amendments that have happened since that like in our case, last time our appellate court in New Mexico looked at registration in a global fashion was in 2003 in the case of *State v. Druck Teenis*. Well, much has changed since 2003, we had a major overhaul in 2005 which imposed a lot longer period of registration, more intense reporting requirements. And it changed a lot. But since then there hasn't been any presidential decision. So improperly developed cases, there was one case that I helped as an expert witness where a person filed it within the criminal case. So so the precedent is binding unless you do a good job, distinguishing why this is different than Alaska. You don't just say, Well, I feel it's unconstitutional, you prove that it's unconstitutional. And here's why. And you expect to go up on appeal you expect to be like in Michigan, this took effect in 2012. And I believe it was until late 2017 before the case was finally decided in *Does v. Snyder*, so it was a five-year journey.

Paul 59:46

And they still didn't do anything. He had to come back and say look, you didn't do anything, do something.

Larry 59:51

And they're gonna still gonna, they're gonna keep delaying and delaying and then they're gonna eventually do the minimum necessary to preserve the registry. And then I'll have people writing the emails to me saying why am I that way? Because that's just the reality of the situation. I don't make the rules. I'm just telling you what politicians are likely to do because that's what the public demands.

Paul 1:00:09

A politician's agenda is to get reelected.

Larry 1:00:13

That's correct.

Paul 1:00:14

Kind of. I mean, I see why they're doing it, I just disagree with it. Um, but again, that's just the way it is. Um, I want to thank you for your time and Thanks for answering my questions. It looks like I'm gonna be moving to Vermont, I'm gonna look closer into that. And do some more research and make some phone calls.

Larry 1:00:34

As people, don't make phone calls. The last thing, the way you really hurt a state is you, they have a they keep a tally list of how many people inquire about wanting to relocate there. And all you do is cause the tally to grow larger and larger and larger of people who are inquiring about our lax laws and saying they're going to move here. You act as if when you move to another state that you've got brought there by circumstances totally beyond your control and you have no idea of what the registry is like, but it really hurts the cause when you go and say oh, can you tell me about your registry? Oh, would you like to have some out of stater come here. I mean it's kind of bad around here. Your laws don't look so bad. That really is detrimental to the cause.

Paul 1:01:15

Um, question about the out of state thing. I'm sorry to keep going with this. Um, my original conviction was in Montana. When I got out of prison, I went to a halfway house in Wyoming because it was the closest one that would accept sex offenders. They didn't have any at that time that would accept sex offenders in the state of Montana. So I transferred or I didn't transfer. I did my halfway house time here in Wyoming and I didn't have any familial...Sorry, I didn't have any family here. I didn't have any connections. I didn't have any support. Um, I built that while I was in the halfway house. I built a good support system. And I was able to get my my location change from Montana to Wyoming through the probation office.

Larry 1:01:59

Well, you have a federal conviction, which changes all the dynamics.

Paul 1:02:05

Yes, So does it matter where my original conviction was? (Larry: In terms of what?) In terms of changing states to like Vermont, for instance?

Larry 1:02:14

Well, it would depend on again how Vermont, how they treat out of state offenders. they, they non-Vermont convictions. Each state has some provision in their state statutory scheme, how they deal with out of state offenders. Sometimes they apply equivalency test, sometimes they say that you have to register for the duration of the state of the conviction, you don't have the state of conviction, you have a federal conviction. So so we would have to look at the Vermont law and find out what how how it would apply to you. And but but calling the registration office is really a bad thing. And I want to emphasize that people are tempted to do that all the time. First of all, they don't know and second of all, they do not want you to come there. Think about it. If you're if you're in state, in a state, would you want to invite as many people as you possibly could that have sex offense convictions, knowing that there's gonna be some level of recidivism, whether

it's 3% 2% 4% or 8%? It doesn't matter. If you invite 100 people, you're gonna have some level of sex offenses that occur there. Nobody in their right mind is gonna say, Oh, well, you have it kind of bad in Louisiana. Of course, we'd like to have you here. They're not going to do that.

Andy 1:03:27

And Paul thank you so much and appreciate you coming on kind of impromptu after we had the like the baseline discussion.

Paul 1:03:33

I really appreciate I just sent that email and y'all responded really quickly. Thank you greatly.

Andy 1:03:40

Larry liked it.

Larry 1:03:41

I liked it. It was a good one.

Paul 1:03:45

Thank you very much, and thanks for thanks for all your expertise.

Andy 1:03:49

Our pleasure. Thank you so much. Ready to be a part of Registry Matters. Get links at egistrymatters.co. If you need to be all discreet, about it, contact them by email at registrymatterscast@gmail.com You can call or text or ransom message to (747)227-4477. Want to support Registry Matters on a monthly basis? Head to patreon.com/registrymatters Not ready to become a patron? Give a five-star review at Apple podcasts or Stitcher or tell your buddies at your treatment class about the podcast. We want to send out a big heartfelt support for those on the registry. Keep fighting, without you, we can't succeed. You make it possible. Joining us now Larry is Ethan from Illinois who I'm going to do the best I can at introducing this. It has questions about federal supremacy over what the states do. And I'm going to sit back and let you guys go at it because this is way beyond my paygrade. But welcome Ethan. Thank you much for joining us.

Ethan 1:05:01

Thank you for having me on here.

Larry 1:05:03

All right, Ethan we received an email from you back in back in July, asking some questions about the registry and about why the federal requirements are different than the state requirements. And I thought, since it's a very commonly asked question that we could possibly dig into it a little bit and see if we can be helpful to a whole lot of people out there listening rather than just talking to you individually off the air, which I'm always willing to do, but but we have a chance to enlighten others.

Ethan 1:05:36

Well, sure, this mostly started from the the idea in Illinois I'm required for lifetime registration. And so I always wondered if there was a case to be made in terms of federal supremacy, because the actual federal SORNA statute classifies me as a tier two and states my full registration period is 25 years.

Larry 1:06:00

And that is a really, really fantastic question. And the answer is, in my opinion, there is no Supremacy Clause argument because there is no federal registry. So in the absence of a federal registry, the Federal registry could not be Supreme. And and so what you have in the case of federal SORNA, is you have a list of recommendations to the states that say with within this framework, if you do at least this minimal level of of compliance, your state will be deemed substantially compliant, so you don't jeopardize your BURN justice, crime assistance funds. But as we'll talk about later, in another segment of the podcast, you can go beyond that. And that's just fine, because you've met the minimum. So in terms of can you say that would be a tier two under federal law, I'm assuming that you've analyzed it correctly, because you're an intelligent guy from the conversations I've had. But that being the case, that would be a 25-year minimum public obligation, but it's not a maximum. It's merely a it's merely a floor that the state would have to have to have for that offense to be classified correctly under AWA standards.

Ethan 1:07:17

Makes sense. So even though the federal law mentions the word requirement, there, they're talking about requiring it the minimum level but not the maximum.

Larry 1:07:26

That is correct in most everything that they're talking about, these are requirements on the state's and the jurisdictions. So it's not just states or jurisdictions. So when you hear requirements for your state, when you're looking at the Adam Walsh Act in the SORNA component of the Adam Walsh Act, you're looking at requirements on the jurisdictions to have a substantially compliant registration program. There's very little that applies to the offender. And I bring up the part that's most important to the offender and that's the traveling across jurisdictional boundaries, and not presenting yourself for registering. That's the key, the biggie of all ones that that that's in there that that people when you move from one jurisdiction to the other, or if you're or if you're physically present in some cases too long in one jurisdiction, you have a federal duty to present yourself to that jurisdiction, but all these things in terms of what's required, these are requirements on the state to be substantially compliant.

Ethan 1:08:24

Right. I actually have some experience with that I live close enough to the Missouri border that I work in Missouri. And so I get to deal with both states' registration systems. I'm actually required to register more often in Missouri even though I don't live there than I am in Illinois.

Larry 1:08:42

Now that's a good thing to point out for the for the listeners, because in in the case of the Adam Walsh Act, you can have an obligation to register in multiple jurisdictions, because it defines an offender as anyone who is not only living or residing in a state but if you also are attending school or are employed and you can have the opportunity to do both depending on geographically where you are. And that's and that may be your situation where you're where you have a duty that's triggered in Missouri, but yet you don't live there. And then Missouri's requirements are what's imposed upon you different than Illinois. And you can't go to

Missouri and say, Well, I don't really like this. In Illinois, I don't have to do that. They said, well, you'll simply stay out of our borders, and you won't have to do any of that stuff here.

Ethan 1:09:24

Here's an interesting question for my situation. Let's say that Illinois didn't require the lifetime registration in my case, but only required me to be on for 10 years, I would no longer be required to register in Illinois where I reside, but I would still be working in Missouri. So if you had any experience with how that would work in terms of being registered in Missouri for the for the job?

Larry 1:09:51

you would, you would have an obligation, you know, a person would have an obligation in Missouri, if they're SORNA, their version of SORNA does defined your conviction as a registerable offense, meaning the offense you committed was equivalent or, in some cases, just simply the fact that you have a sex offense. If they have a duty to register in Missouri, they could care less about what happened in Illinois, the 10 years went by, you're still working in Missouri, you would still have to register there because their law controls.

Ethan 1:10:21

Right. So it doesn't, it isn't tied exclusively to where you reside. It's any any laws that cover any aspect of what you're doing, basically.

Larry 1:10:30

I think more succinctly to put it would be any, any criminal conduct that fits within the statutory definition of a sex offender in a particular jurisdiction. And if Missouri has a law that covers your particular offense and the zone of time that that offense occurred, then regardless of what whether Illinois had discharged you from obligation, you would still have to register, then that brings back what I say time and time on the podcast, had you been free from all registration in Illinois before you ever set foot in Missouri, you wouldn't be going there as a handed off offender, you so they wouldn't know. There would not be any magic knowledge the minute you crossed the Missouri border that you had had, that you had a conviction in the past, but they could easily discover you by someone ratting you out that did know and they say, did you know he's working at such and such a place. Or they could do a routine traffic stop and decide that based on the circumstances, they're going to do a criminal history, and they could discover the sex of it. But without a handoff. If you were going to a new state as an unregistered person, the chances are real good that all you would get would be a notice of a duty to register if they were to run your background. If you've been properly discharged in state A, state B's gonna say well, that's not binding on us and we're going to notify you have to register. And if you don't register, you're you're going to be prosecuted. I've got the challenge out asking for someone to show me that they've been discharged from registration by some mechanism in one state A and that they've been in state B and they were prosecuted without being given notice. Now I'm open to having someone demonstrate that to me. But so far no one has been able to demonstrate that that's been the case and I continue to believe you would get a notice of a duty to register Missouri.

Ethan 1:12:13

Right well another question that I brought up in the email had to do with when the clock basically started on the 25-year issue. And one of the things in SORNA mentions that your clock starts when you're no longer in custody. And so I had a question of whether supervised release in the federal sense or state parole or probation would count as still being in custody.

Larry 1:12:39

That's a really great question and the answer is yes and no

Andy 1:12:44

Thanks Larry.

Larry 1:12:44

The answer is yes. Unless the state says no, it doesn't. Some states particularly say that that the registration term shall be computed from release from supervision requirements. I think Brenda's state may say that or did at one time And some states, like my state, it would count from the time you initially registered without any credit for for any registration in a previous jurisdiction. So the answer is it would be fact specific to what that state gives you credit for. But as a general rule, I think more states give you they recognize your period of registration from when they initially registered. Now, as I perused did some quick perusing before recording, some states give you timeout for any period you're in custody, we don't do that in my state. If you're in custody, it makes no difference. Once you initially registered theoretically, you could spend the entire 25 years or whatever your period it was in my state we don't have a 25 year but you could spend your entire 10 years in custody and and with the only thing that department public safety would argue that would possibly save them in our state it says you shall complete the tenure registrants have to complete an annual renewal. And they would say that since you didn't report in for your annual renewal that that year doesn't count, but there's no particular time out. There's no tolling but some state statutes do toll. But if you don't have a tolling provision, and it doesn't specifically say that post release from supervision, then you would get credit for that 25 years. So that's the answer as best I can give it with the information I have.

Ethan 1:14:18

Sounds good. Those were the two primary questions I had. I know we had discussed a couple of other things that were more specific to my situation. But I didn't know if you wanted to get into those or just stick to the general topics.

Larry 1:14:30

I don't mind as long as we don't have to delve into it to the point where I would be giving legal advice and also to your comfort level how much you want to talk about, about your personal situation. But as long as I don't get myself in trouble, I don't mind.

Ethan 1:14:43

Well, one of the things that I had mentioned, I had brought up that rule about the being classified as a sexual predator if you move to Illinois, and I found the statute that covers that. So In Illinois after January 1 of 2012, if a person moved to Illinois on or after that day, they will be considered a sexual predator with lifetime registration if that person was required to register in another state, even if they would have been considered under the ten year plan in Illinois.

Larry 1:15:22
So any any conviction that relocates to Illinois after 2012 is a sexual predator?

Ethan 1:15:29
That's what the statute says.

Larry 1:15:32
I'd like to take a look at that.

Ethan 1:15:35
I can give you the public act number and everything.

Larry 1:15:39
Yeah. Why don't you shoot that to us? Well, we'll, we'll circle back on this on the following podcast. That's that's an interesting thing that I've never heard of.

Ethan 1:15:48
Yeah, and I, I had mentioned that because I I was classified that way because my original conviction was in Missouri. And then when I was released from the federal system, I ended up in Illinois, which is where my family is currently.

Larry 1:16:02
what do you have? You have a federal conviction, right?

Ethan 1:16:05
Correct. Yeah, my conviction was in the federal the state dropped their case and passed me off to the federal system.

Larry 1:16:12
So yeah, I'll take a look at that. And we can we can circle back and talk about this again.

Andy 1:16:17
So if somebody is convicted of and I know this is like bullshit, but if someone is convicted of urinating in public, and they end up on the registry and they move there, they're considered a violent predator?

Ethan 1:16:29
It says what the actual Act says that after that date, a person moves to Illinois on or after the effective date, the person is considered a sexual predator with lifetime registration. If the person is required to register in another state due to a conviction or other action of any court, they are required to register as a sex offender, which is Illinois' 10 year branch, sexual predator or substantially similar status under the laws of that state.

Andy 1:16:58
That's crazy. Okay.

Larry 1:17:00
Sounds Sounds like sounds like if you made obscene phone calls to a minor in Georgia, you'd be a sexual predator.

Andy 1:17:07
Larry, that's absolutely insane. Now see, as you say, Larry, now that's funny.

Larry 1:17:14
Well, I have to admit that is funny.

Andy 1:17:16
Yeah, that's diabolical. Jesus.

Ethan 1:17:21
Well, Illinois also has some other fun ones. They, one of the issues I had when I was initially being released from federal custody, was trying to find a place to live so that they could transfer me from Missouri to Illinois. My original plan was to stay with my father. But he lives in an apartment complex, which has a bike path going nearby. And so that was excluded. Because in Illinois, they include bike paths as public parks. And so I was I was fortunate that I had a friend who had a relative who was a landlord willing to rent to me and so that we work that out but I was initially excluded from my plan to move to Illinois because there was a bike path too close to my father's residence.

Andy 1:18:09
That is unbelievable.

Larry 1:18:11
Now that is, now I thought I had heard it all and always have I have this thing where I call up my colleagues and I say I have heard at all now I've got a call my colleagues after this podcast and say I have heard it all now.

Andy 1:18:24
We've been talking about Illinois for some time though because they had a really pretty tyrannical scheme going on up there.

Larry 1:18:34
Yeah, that's that's what's keeping Weinberg and Adele busy, Mark and Adele busy.

Ethan 1:18:42
Despite some of the nonsensical stuff that I have to deal with over here I've actually I consider myself fortunate in my situation in some ways. I have an officer who doesn't seem to be out to get me and generally the local police leave me alone. So in that sense it's not too tyrannical, but some of the rules here are pretty out there.

Larry 1:19:08
So, so you know, Ethan, this is really helpful because we're trying to get more of this podcast into the prison institutions where they can't listen to it. And this type of discussion is going to be very interesting to the people who want to know what is registration like? We get that question all the time at NARSOL, what do I have to do? And I say, well you have to do what they tell you. And of course, they want a little more specific information about what all the things that that they might tell them. And this type of interaction and exchange will help people understand what it is they're going to be told to do and what they're facing in terms of barriers and the bike path I have not heard of yet.

Ethan 1:19:42
Yeah, in Illinois it's parks, which is any Park not just a park that has a playground like it is in Missouri. They also include forest

preserves, bike paths, trails or conservation areas under state or local jurisdiction.

Larry 1:20:00

Well, we have an extensive bike trail network in Albuquerque. So that would knock out a whole lot of territory here because I mean, we've got 70, 80, 90 miles of bike paths within the metro area.

Ethan 1:20:13

I'm sure that was the intent in Illinois. My father happens to live near one of the college campuses. And that's why he has bike paths all over the place near his house.

Larry 1:20:26

So, too much Ethan, I've heard it all.

Ethan 1:20:31

Alright. Well, those were really my questions. I wasn't sure if you had any for me, or

Larry 1:20:39

We may have you back again on this hour after after you send me the the statute. Let me look at the statute about the, I just can't believe that they could make your predator just because you have an offense in another state. I've got a I've got to see that and analyze that.

Ethan 1:20:55

Oh, yeah. I'll be happy to send that email as soon as I get off here with you guys. And I'd be happy to come on again and talk about it if you want.

Larry 1:21:01

I appreciate that.

Andy 1:21:04

I don't, I'm still mostly dumbfounded by you have felony jaywalking, and that's listed as a sexual offense somewhere and you move to Illinois and now you're a predator.

Larry 1:21:15

Well, the best analogy is obscene phone calls to a minor in Georgia.

Andy 1:21:19

Sure. Sure, That's crazy. Ethan, thank you so very much for taking the time to be with us tonight. And maybe we'll hear from you soon on the podcast.

Ethan 1:21:31

Thanks. That's great. Thanks for having me on again.

Andy 1:21:35

Larry, it is I guess we're going to move on to some other state Indiana. Is that where we're going?

Larry 1:21:41

yeah, this one shouldn't take long. This one, this one, this one's funny.

Andy 1:21:46

Oh, we're back to funny so is this like being on the lam for 77 years and now you're 77 years old, like that kind of funny?

Larry 1:21:53

It's an even better funny.

Andy 1:21:55

A better funny. Alright. Tell me what's going on in Indiana.

Larry 1:21:57

Well, this is sort of appellate level decision for a person that the suit, I've had the county name at the tip of my... anyway, I've got the right case here. Hope you can hope you can cut this out of here.

Andy 1:22:14

There's a video going on it makes it really hard to cut anything out.

Larry 1:22:17

Well, I don't tell me your problems just find a solution. But this is this is where where the person person moved with out of state convictions and the state of Indiana decided that he was a sexually violent predator. But they did not follow any process whatsoever. They just took a look at the fact that he had two convictions from Florida. And by the definition of the statute, he did not qualify as a sexually violent predator. Those offenses, one of them was consensual which doesn't didn't qualify under Indiana law, but they are arbitrarily notified him the the sheriff of Vanderburgh. I've never heard of that. But anyway, the sheriff's department notified him that he was that he was a sexually violent predator. And he was not amused. And he challenged that. And he won because of the extra extra obligations that are imposed on a person who who is a sexually violent predator, and...

Andy 1:23:28

something like registering every three months or silliness like that?

Larry 1:23:32

Yes. And but the thing, the thing is, this is scary, but they had a process. They were supposed to notify him that they intended to change the information about him and he he would have had an opportunity to appeal. But he didn't. So then the state comes in and says, Well, he didn't exhaust his administrative remedy. Well, of course he didn't because they didn't follow the administrative process to start with. They didn't, they didn't do administratively what they were supposed to do. So the court, the court forgave him for not exhausting the administrative process to challenge it because they didn't follow the administrative process to begin with. And they said sorry, he doesn't meet the definition of a sexually violent predator. You guys invented this. So people...

Andy 1:24:13

Almost like what we were talking about in Illinois, if you just show up and you have, you know, felony urinating in public, then you're a violent predator like by what means this this sounds similar to that.

Larry 1:24:23

It is except that he actually had two offenses in Florida. (Andy: Yeah. I gotcha.). But but he still didn't qualify. The one he put his

hands inside the pants have a 10 or 11-year-old which ended fondling but apparently no penetration and the other one he had consensual romance, but it was it was with someone close to his age. And, and he he did not fit the criteria. They didn't follow the process. And they just said, you don't like it, too bad. You're a predator. And he said, No, sir, I'm not. And he won. And so kudos to him. Kudos to Spencer.

Andy 1:24:58

An appellate level. So this is still within the state. So then it would go to the state Supreme Court next?

Larry 1:25:04

If the if the state wants it to go, they could ask, the higher the top court to review it. I don't know why they would this is black letter law that they got resoundingly slapped by the Court of Appeals. I don't know why they would because there's nothing to appeal. You guys blew it. Let go of it. You screwed up. You didn't follow process. He's not a predator, you'd like him to be, he isn't. Move on. But you never know what these people are going to do.

Andy 1:25:32

And kick rocks and they have, you know, effectively unlimited budgets, and maybe it'll make them happy and sleep better at night that they they're not going to let one escape the system dammit.

Larry 1:25:41

Nope. Not gonna do it.

Andy 1:25:46

I don't think we have any other content other than doing the thank yous and the goodbyes and all that stuff. Is there anything we've missed?

Larry 1:25:52

Well, we have we have gobs of Thank you's. Didn't we get like 50 patrons this week?

Andy 1:25:57

We did. It's pretty close to that. But first, let me let me throw this out there. So Sunday morning I finished editing the podcast pretty early and super patron Mike had said, Hey man, I'm on my way to church and just got the notification that the RM podcast and people say there's no God, I beg to differ Good things come to those who sign up on Patreon. Yes, if you're a patron, you would get the podcast when I finish editing it on Sunday morning usually. So I just wanted to share that because it was kind of funny.

Larry 1:26:22

So well, thank you super Mike. Super patron Mike.

Andy 1:26:27

We got kind of like an old new patron coming back, Patti, she she had to update her credit card. I just wanted to like pointed out cuz she then sent me a personal note saying, Hey, I love the podcast and my credit card is expired. Anyway, welcome back, Patti. We we got a new patron Deborah, thank you so very much. She I guess she wants to get a transcription sent.

Larry 1:26:47

And she got it. We sent out a batch of transcripts Friday. And her loved one was on the list. And again, this is good opportunity to promote that if you are supporting the podcast at 15 a month or higher, we will send the transcript to a person of your choice, you just have to let us know we don't have a fancy form when you sign up on Patreon. We don't have, we don't have any way to capture that. So you have to email us and say I'm one who's supporting you at that level or higher, and I would like to receive it, and I will make it happen. So we sent out I think it's 20 or 21. Yesterday, some were freebies because I'm trying to promote the concept and some are people that have have have have met the requirements and requested it.

Andy 1:27:36

And then of course, we just were talking to Paul and that was impromptu. And so I had this slated here at the end, but holy poop, Paul, you're a beast, thank you and I put in there turtles all the way down. So anybody that's into like computer coding will get that reference. But for the rest of you lay people go figure it out.

Larry 1:27:53

So I'll do my best to figure it out. And I'll let you know next week.

Andy 1:27:56

Yeah, there's your homework assignment Larry.

Larry 1:27:59

Well, and then I have a Congratulations to make to someone. Someone figured out who I am with the picture. They they figured that out. And I want to award a prize to that person because I gave clues but I didn't expect anybody to figure it out. I had said, in the Lincoln administration so by whatever method they figured it out, they figured out that that that was a Secretary of War Edwin Stanton. Now I'm going to give you another challenge. The person that figure it out, of course, you're you're in the running, figure out some unique aspect of Stanton's career that would appeal to me because I said he was my favorite official in the Lincoln administration. So figure out what it is about him and there were many things there were several things I liked about Stan but tell me what you think attracted me to his service to the United States.

Andy 1:28:52

You want me to clue you in on something that is going to possibly upset you?

Larry 1:28:57

What's that?

Andy 1:28:58

We have said on the show who that is.

Larry 1:29:01

Well, I know we have.

Andy 1:29:03

Okay, so if somebody has been a listener for any level of regularity would have heard and seen the picture and because I've been doing the picture thing, the video thing for two or three months.

Larry 1:29:12

but if they've listened to every single episode from beginning to end, and I don't think we've got patrons who do that with regularity.

Andy 1:29:19

Oh, no see, I beg to differ. We have people that have listened to episode one have stuck with us ever since.

Larry 1:29:23

We have people who have listened to all of them, but not every single word of all of them. And not all of our listeners have. But But yeah, so figure out by my personality and what you've heard, what I would be attracted to Stanton. He was a very, very unique individual in terms of his career.

Andy 1:29:39

Can I win or am I excluded?

Larry 1:29:43

And I'll tell you...

Andy 1:29:44

You always hear in prize competitions like family members can't apply whatever if you work for the station, whatever.

Larry 1:29:50

he would have been seated on the US Supreme Court, but he wasn't he died after his nomination, but he had a splendid career. (Andy: Oh, so he was nominated though?) Yeah, he was nominated but he was he did not live long enough, he died relatively young, I think like 58 or 59. But he would have been a Supreme Court justice. So tell me, tell me, tell me about Stanton, what did he do that was unique?

Andy 1:30:11

Excellent. Well, we record the show live on Saturday nights. And if you are a patron, you can come listen to it. Otherwise, you should subscribe to the show on all of your podcast apps, you can find it anywhere you find it on your smart speaker. So if you just want to like speak into the ether, a friend of mine's mom listens to the show Larry because she is very visually impaired. And she she invokes the Google thing in the house, which actually like we haven't had Charles join us for a long time. But for someone that is visually impaired, having one of those smart speakers is probably like one of the best inventions to just be able to say hey, listen to the podcast and it starts playing it for you. Be a great thing. And so anywho Generally, the the people can have it for the for the morning commute. Most people are probably commuting from their bedroom into their office at this point. So it's a long commute and it's very treacherous at this point. But Larry, where can people find the podcast?

Larry 1:31:04

You will go to registrymatters.co

Andy 1:31:09

fantastic we didn't get any voicemail this week Larry but where would people phone in and the voicemail?

Larry 1:31:14

that would be 747-227-4477. If we don't get any this coming week we will disconnect the hotline.

Andy 1:31:25

And if you would so choose, you can record a higher quality one by just using like your phone and record an mp3 and then send us the mp3 over email or something that would work too and it would sound way better than the telephone. The telephone sounds like crap. Larry, please tell me that you agree that the telephone sounds like crap.

Larry 1:31:41

Well, having studied the comparison, I would say that I would agree with you that the quality is less than than stellar.

Andy 1:31:48

It is it is it is and where can they email us?

Larry 1:31:52

That'd be registrymatterscast@gmail.com

Andy 1:31:57

And of course, we love all of our listeners and we love all of our patrons, especially our patrons, and where do they go to sign up on Patreon for as little as \$100 a month did you say?

Larry 1:32:07

Uh, it'll be \$1200 until the until the pandemic is over. So, so that is patreon.com/registrymatters. And we need to spell that out. [Patreon.com](https://patreon.com)

Andy 1:32:22

Fantastic. You can also find us on YouTube, it gets released there And where else you could also follow us on Twitter. I don't do a whole lot there. But sometimes I throw some stuff up there. And I think that's all we got, Larry.

Larry 1:32:36

So I think it is now we're gonna roll into a political dialogue and it will be patron only.

Andy 1:32:44

Yep. Thanks, guys. Have a great night. Talk to you soon Larry.

Larry 1:32:48

Good night.

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