



Registry Matters Podcast

Episode 179

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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 179 of Registry Matters. What is up there? Mr. Larry, on a Saturday night? How are you?

Larry 00:16

Fantastic.

Andy 00:19

Anything exciting going on in the in the Larry-i-nator's world on a Memorial Day weekend?

Larry 00:24

Not anything particularly exciting, just glad to be with our fabulous audience. And looking forward to a short podcast, we're gonna keep it nice and light.

Andy 00:35

Perfect. So, we're finished right there, we'll just shut it down and call it a night? (Larry: Sounds good.) We were just talking in pre-show about possibly some Patreon extra stuff. Let's tease some things maybe so some people would be inspired to come over and do some Patreon for us? What kinds of things might we talk about as some Patreon extra stuff?

Larry 00:57

we were talking about the immigration problem that would be easily solved and why our political system will not allow that to happen. And the economy is being held back because we don't have the workforce that we need to do the work. We were talking about public assistance benefits and comparing those to social benefits of other types of people who get a little bit larger check because they're on public aid, and they have a larger family and about whether that's good public policy or not. So we're thinking about talking about those. None of those having anything to do with the registry. But it's about public policy, and how the formulation of public policy happens, which is directly related. Formulation of public policy is in response to the will of the people. So that's the that's the correlation and the connection, but it's not directly on point.

Andy 01:48

Of course, of course. Then since this is going to be it's kind of like a throwback to what we were doing. I don't know, six or nine months ago, what are we going to do tonight?

Larry 01:59

Well, we've got a couple of questions. And we've got some articles. And we've got one thing to read from a prisoner who's tried to effectuate change from behind the walls, and we're going to give him a shout out for what he's been doing.

Andy 02:16

Excellent. Then I guess we will begin with some of these questions. Our first question up is:

Listener Question

I don't understand why you people don't have regular segments on recurring issues. I would like to hear about more about early termination from probation petitions, removal, removal from registration petitions, interstate compact transfers, and travel from state to state. I'll also add there and as a personal I see questions from people all the time about going to other countries. I know you've done all of these issues, but it's not consistent. And we forget, would it not be possible to take a question each week on all four of these? My other observation is about the polygraph segments. It seems as though Larry is okay with polygraph testing, and Andy thinks they're junk science. I would like for Larry to stop evading issue and see where he stands on polygraph tests. Are they junk science? Or are they acceptable?

There's a bunch to unpack there, Larry, where do you want to start?

Larry 03:12

There is. I think I'll start on the polygraph testing because they probably are junk science. But the reality is, they are allowed for monitoring people who are on supervision for the type of offenses that we deal with in many states. In particular, there's a statute in our state law that says that, and I think I've read other state statutes that says that. So, whether or not they're junk science is really not the point. The point is, how to best deal with the junk science. And what we've consistently tried to do is to help people understand how they can get through the process of the polygraph without getting themselves in further trouble. But I say that they probably are junk science. I didn't used to feel that way because they were always successful at our law practice when we referred someone to a polygraph and they showed deception, they always confessed and admitted that what we thought they did is what they did do. But having talked to the administrator of most of our polygraphs, he said that there were no better than flip of a coin.

Andy 04:25

If you go back, I'm pretty sure it's episode two. So, we had just started I think the first episode was something related to AWA. I'm pretty sure. And then the second episode was about polygraphs. And if I recall, right, you had a conversation that day and you were like, well, Andy, I What just happened? Oh, I know what happened. So, you had had a conversation and then you decided that you needed to have a little bit of a change of mind about what the polygraph was all about and how it worked and all that stuff. But to that, Larry, I've also changed. Forget whether it works or not. I mean, like, forget, forget whether the actual polygraph does anything. If you say someone showed deception on it, and then oh crap my video froze um, and then if they cop to it and tell you all the things that they've done wrong, well, then I guess the polygraph worked.

Larry 05:18

Well, that's been my position that if the person acknowledges that what we think happened did happen, and they didn't acknowledge it prior to the polygraph. What else could you conclude?

Andy 05:32

I totally understand I got nothing as far as how to work my way out of that one, other than if you go take a polygraph. And they tell you that you're showing deception, don't ever back down and admit to anything because they're not because I think, from what you've said, is, you've never seen anybody that got revoked, for showing deception or something along those lines.

Larry 05:55

I do not believe that anyone can show me a petition for revocation of supervision that says, We seek revocation on behalf of the State, because this person undertook a polygraph examination and showed deception, and then the petition stops there. If you show me that petition, I will admit it and say I'm wrong, but I have not ever seen one of those. You will show me multiple petitions that says to person show deception on a polygraph. And at a posttest interview, they admitted to a plethora of things to the examiner and to the probation officer. That's a whole different revocation petition, because it's not the polygraph that got you revoked, is your admission and confession to violating your terms of supervision. I have seen petitions where people have been dropped from treatment because they've shown multiple episodes of deception. And since they have actually held their position and said, I'm telling you the truth, they've been dropped from treatment. And that has resulted in a revocation. That puts you kind of in a catch 22. If you hold your ground and say I'm telling you people the truth, I can't explain your Kabuki machine. And they drop you from treatment, and are revoked for not complying with treatment, you really didn't gain that much. So it's a terrible position to be in.

Andy 07:25

Yeah, I've told this before. A friend of mine was in treatment, this was years ago. And he was working for barely above minimum wage, maybe eight or nine bucks an hour. And he was doing very manual labor. And it was around Christmas time. And he's paying like 23% child support off of minimum wage or something like that. And they said he had to take a polygraph. And he said, I don't have the money to take one. And I'm like, Well, sorry, you gotta get dropped from treatment. And if I drop you from treatment, and that'll be a probation violation, and you'll go back to prison. It's like, that's how what are you supposed to do? So his probation officer gave him a one month pass, and he would have to take it like in January or whenever it was. That's ridiculous.

Larry 08:03

That's unfortunate. The reality of many of these regimes that they have at last check in my state, they had provisions for indigent people where the polygraph would be paid for by the state. But I don't know how many states do that. And I'm not even sure we're still doing that. But at last check. That's what they were doing. But let's get on to the first question, because my answer is real clear on that. I can't help myself, I'm not going to admit something. And if I've told the truth on the polygraph, I'm not going to change my story to satisfy the examiners post polygraph questions. I don't know what else to tell you.

Andy 08:44

There's a couple other things in there. We have been covering the subjects, to me almost to the point of the different areas that we cover a lot. I'm almost thinking that we cover them too much. I

don't know that we need to, I don't know that I would feel comfortable that we would have enough content to do one every all four of those every week to do probation, petitions removal and all that stuff to do that on a that consistent basis. But when they come up with something of a novel question.

Larry 09:11

well, what the person is really angling for, and I don't know that we can do it, because we don't have any lawyers. But they're wanting us to take particular questions from an individual who's facing one of these things. And I don't think that we can really do that effectively.

Andy 09:33

I mean, like I said, I see, I see questions on Reddit, and then you throw them in here. So I don't know that we could do it that way. But anyway, if they come up, we're certainly going to cover them. But the whole point of this is if you have a question about a thing, and it was something that we already covered, then you could go back and listen to 10 or 20 or 100 episodes ago. This is like an archive of all of the current knowledge about what's going on in the registry world.

Larry 10:00

Well, I guess the point, I would make all that is that if that were the case, then no radio station would ever be successful. Because you would just say, we covered that news story once today already. It was at 7am. And therefore, you didn't listen at 7. So don't bother. We're not covering it again.

Andy 10:17

The difference between that and the this in the radio, though, is that you can't go back in time unless you're recording segments. But no, I mean, like, we can certainly go back and cover AWA and polygraphs again, and I'm not opposed to that at all. Just that if we constantly cover the same thing about polygraphs and early termination petitions, then it's going to be a very boring show.

Larry 10:38

I would agree with that. We would really need fresh questions. And if the people want to submit fresh questions, and if they want to listen to an answer that they may not agree with, because I'm going to consistently say the same thing. I'm going to say that, we can't give legal advice. But if I were doing this, as a friendly consultant, here's the things, here are the things I would tell you to do, and recommend that you do. And we can do that. But probably we could rotate through the different topics. Rather than try to do one of each one every week, we could rotate through those topics. In the course of a month or five weeks, we could rotate back and by then you've forgotten what we said five weeks ago.

Andy 11:21

Yes, exactly. Exactly. I think that was all the things there. We can move on to the second question.

Larry 11:28

That is correct.

Andy 11:30

All right. So question number two, it says:

Listener Question

Larry always recommends that people get an attorney for every issue. I'm probably better informed on this than most any lawyer. I want to get off registration. And my state does permit petitions. Why is it that I can't just simply do a petition myself and tell my story to the judge?

That's a legit question. Like, I like that. Why can't we just tell the judge, hey, I've done these things, I've complied. Why do we need to go through the whole rigmarole of hiring an attorney for 3 grand, 5 grand, 10 grand whatever that number is, and just have the judge award us what we are asking for?

Larry 12:05

You can. You are permitted to do that. Absolutely, you can do that. And I don't recommend it, because we've covered before. But here's one of those things that probably wouldn't be bad to mention it again. To increase your odds of success on your petition for removal, you're going to need to consider a lot of factors that the average lay person hasn't been trained in considering. You may tell a great story to a judge. But it may not be a great time to tell that story to the judge, because it might be four weeks before that judge is going to face an angry mob of voters like Judge Persky did. Therefore, therefore, an attorney might be able to guide you past that troubled period of time, the same thing would apply to the prosecution in that jurisdiction, most of these petitions are served on the prosecution, the district attorney, the prosecuting attorney, whatever the State's Attorney, whatever they call them in that particular jurisdiction. And you may be in the midst of a high-profile case, that would really sink your ship, because there's been a lot of publicity. And this might not be a good time to file a petition. So therefore, those things a Legal Professional can help you with. The legal professional can have the conversation with the district attorney's office and find out how they're going to posture on your particular case. What their, what their opinion is about you, and how vigorously they're going to fight against you, you're not going to be able to have that. You will be able to talk to the judge, the judge is gonna let you make your statement. And you're gonna read your petition if you can put together a coherent petition. But it would be a whole lot better if you knew what the state was going to say before they said it. Because it would help, you would be able to set yourself up with supporting evidence of maybe a psychosexual evaluation. Or you might be able to call some witnesses that might offset what the state's gonna say. We just don't know that. And those conversations are not going to be able to be successfully had between you and the prosecution.

Andy 14:13

I guess we could equate this to almost anything that you might do on your own, whether that's changing oil, or doing something more... probably not changing oil, because that's pretty simple to do, but something a little bit more heavy lifting or fixing your car, you could probably follow a manual and take apart the pieces. But there are certain levels of expertise where it's not just common, unscrew this, but something more nuanced that's a little obscure that goes on when you're doing one of these things. I mean, you know, I work in the computer field and sure you can do all kinds of things on your own. But at a certain point that expertise level becomes so great that you need to call in a professional because

they know a bunch of the traps and pitfalls that you're going to run into. Same thing with like you and legislation kind of things if we talk to you and ask you questions about how a bill what kinds of traps might there be or conversations that we need to have with an opposing politician. That your expertise kicks in, in those areas to tell us what kind of traps we might run into.

Larry 15:11

Absolutely. When you don't understand a game, it's really not a good arena to play in. And that's what I stress to people is, this is not a game that you do very well, because most people don't understand it. You might have seen some episodes of something that resembles court on television. But that is not the real world in most cases of how things are done. And when the stakes are as high as they are getting off the registry and particularly, you won't be able to file a petition again, sometimes for years. I would think you'd want to be successful.

Andy 15:52

Yeah, I think I agree with you. Anything else you want to cover there before we move on to this other note from the person?

Larry 15:59

No, I think we can move on, because we're almost at our full hour now.

Andy 16:03

Excellent, perfect. All right. This was can you tell me who wrote this? Is this? Is this from Gerald? Is that what it is?

Larry 16:11

Yes. He said, I think he's in federal prison, if I remember, right.

Andy 16:19

Okay, and I think it gets set up by reading it says:

I'm writing in hopes of dialogue and adding to the Hate Crimes Act bill to protect additional classes of people. The Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act of 2009, which extended protections to victims of crimes committed based on a person's actual or perceived sexual orientation, gender identity or disability. Today, despite great progress for civil rights, these crimes continue in communities nationwide and in prisons and in the US Department of Justice should continue to be vigilant in its efforts to bring those who practice hate fueled violence to justice. A lot go unreported because of fear of retaliation or death, especially in prisons. I'm asking that this bill be amended to add some of those who have been convicted of sex crimes. They are US citizens, US citizens and human beings and therefore should be added to that bill for the LGBTQ community. Because we people have made them to be a group because they are outcast to groups just for protection. I'm asking for your help in considering these types of people be added to that bill because of vigilantes in the prison, and out asking to add this with the ex post facto act, because this is the same as terrorism, torture, and no one should get away with harming another citizen of the United States of America, just because of its crime or alleged act. We all know that the DA's only want to convict not acquit. Even though both of those are their jobs. No DA, it's a hate crime. Even when you set it up like that. Stop the hate in America. That last sentence is a little

hard to read. I didn't quite figure out how to edit that one while I was reading it. But we get the point.

Larry 18:03

So well, the Matthew Shepard is so old. A lot of listeners won't even remember the name. But he was a young college student in Cheyenne, Wyoming, I believe it was 1999. In that era, he was picked up in a bar. There's not a lot of gay bars anywhere in Wyoming, would actually be surprised if you found a single gay bar in Wyoming. But he was he was picked up by a couple of straight guys. And he thought he was going to go out and have a romantic evening. And they started beating him as soon as they put him in the pickup truck. And they tied him to a fence post and I left him and he died after being hung on a fence post outside town for some number of hours. And so that was what he's referring to. But he wrote this to the US Department of Justice Civil Rights division. And I would personally be supportive of expanding hate crime protection. It generally draws a lot of resistance from the conservative side of the aisle because they say their argument is that it's already a crime to do these things, which it is already against the law, to beat a person and tie them to a fence post. We've already got a law for that. But what I used to miss when I field their response is that it those things are against the law. But you don't want people sitting around thinking about committing crimes and the mob mentality to set in when they're targeting someone because of their sexual orientation or their race or all those things. Because that's, that's the most heinous thing about it. It's already heinous enough to go rob a person. We would prefer that you not do that. But if you're hanging out with two or three your friends and you're drinking a bud and you're doing your Friday night things and you say lets go whoop up on some whatever I didn't want to use the pejoratives but whatever, you go out and you start targeting those people, you would not have committed a crime. But for hate of that group, that is an additional crime on top of the crime. And that's what I had trouble seeing at one time in my life I used to buy exactly until the conservative talking point that these things are already against the law, and they are.

Andy 20:31

But just bat this around with me for a minute. Doesn't that just make it illegaler.

Larry 20:37

Well, it does make it illegaler if there's any such word. But what would happen if people who are not predisposed to do crime to begin with and the group mentality, the mob mentality? Whatever you refer to it. If you if they know that their hatred of the particular group is the thing that's driving them to prison, and they wouldn't have committed the crime but for that hatred? Could that be a deterrent? Maybe?

Andy 21:10

I suppose if, like the young lad that was killed about a year, 18 months ago in Southeast Georgia, if that has a hate crime attached to it, does that then make it across banners across the news saying that this was being charged as a hate crime? which I'm sure it is, but does that then deter the group of people that hates the other group of people from doing those kinds of things? They're still going to hate them, Larry, I don't know that it changes that.

Larry 21:37

Well, I don't know that it does, either. But the threat of a severe penalty might, if we didn't believe that penalty is deterred. Why do we even have penalties to start with?

Andy 21:48

I think we're just mad at them when we take them off the street.

Larry 21:53

So do you don't think that deterrence is any factor in the equation?

Andy 21:58

I, if you are a person that just hates on, you pick your subclass of people, whether that's, that's LGBTQ, whether that's based on race, if you just hate them for that reason? I think you're just going to hate them anyway. And I don't know what stops you necessarily from just going out and going on a rampage. But some level of human decency, I don't know that it's a deterrent, like, Oh, my God, if we go do this thing, we're gonna go to prison for 50 years. I don't know that that factors into the equation.

Larry 22:26

Well, the test the same argument about general deterrence, that that's made all the time, how much do criminal penalties deter people? I don't think I can answer that.

Andy 22:38

I think it would vary from person to person.

Larry 22:40

But I think there is a deterrent factor. That's the reason why. If we didn't believe that we would not even have penalties, we would say, well, that's not gonna stop anybody from doing anything. Deterrence and, and protection, there are some people in addition to deterrence, you also want them not to be able to act. And if you think you can't deter them, that's a place where prison is a certainty. The criminality drops considerably when they're in prison, not completely, but considerably because of the restricted movement.

Andy 23:13

Yes. That's funny, yes, getting locked up would at least prevent you from doing to the general population, you can still certainly do criminal activity to that isolated group of people, but you're not going to do it to just you know, grandma Jones down the street. So, well, let's keep moving along then, Larry. We have an article here. The first article up is from SCOTUS blog. And it's justices won't here Missouri inmates request to choose firing squad over lethal injection. It looks like this story is about an individual who had I think a tumor removed and he's missing a fifth of his brain. And he believes that the current concoction of the lethal injection drugs may cause him to have severely painful and prolonged seizures during the injection. So, he wants to be shot by a firing squad. And it looks like they're denying this. Is that right?

Larry 24:10

I have mixed emotions. Yes. The liberals said that they were disappointed that the conservatives didn't want to hear this case.

They dissented. But I have mixed emotions, because I put it in here for the reason that I want to, to emphasize people say Larry, why don't you argue the Registry's unconstitutional because it constitutes cruel and unusual punishment. And I say repeatedly, if the capital punishment, the various methods we put people to death in this country is not cruel and unusual. It's difficult for me to conceive that anything short of that is going to be considered cruel and unusual. So here's a case where the Supreme Court, the conservatives are telegraphing to you that this man may suffer lots of pain in his execution. The cruel and unusual punishment clause is not adequate. That they don't deem that. So if torturing a person to death, is not cruel and unusual punishment, I don't think registration is that's why I put it in here. But the thing broke down broke down liberal versus conservative in terms of the petition for cert and who voted to grant cert and who didn't..

Andy 25:21

Yeah, if we go back to 240 years ago, what was considered cruel and unusual punishment, as long as you didn't enhance the torture? You could, if you wanted to execute someone that was okay. You just couldn't execute them slower, I guess like you couldn't blood let them let's I don't know, let's make up something. So if that's considered constitutional than just having some people go visit the Popo on an annual basis and get kind of harassed on a regular basis, that sounds like that's not nearly as bad. I agree with that. I don't agree with it. But I agree with that concept.

Larry 25:55

You understand the reasoning of the court. If you believe that we strictly interpret the words. And that's all we do. And we interpret those words based on what was accepted at that time. Capital punishment was widely used in colonial times, there's no way you can conclude that it was unconstitutional, and that the framers had any idea of making it unconstitutional. Therefore, you can't make a constitutional argument successfully to a textualist. The same thing on the cruel and unusual punishment clause. If you look at punishments that were acceptable at that time, in that era, if you don't do any evolving as a society, then having extreme pain, even though we have means of executing people that are less painful, that's not cruel and unusual punishment.

Andy 26:56

Did it, I don't see in this that it broke down six, three. Is that how it came down?

Larry 27:00

That was what I thought I had read. But our listeners will correct me if I'm wrong.

Andy 27:05

I'm looking for a six dash three, but I don't know. I don't see what it says.

Larry 27:09

Yeah, I think it was joined by the other, the other the other two, the other two liberals. But that's all right. It's not cruel and unusual punishment. We're not going to win in our battle in cruel and unusual punishment. Not as long as we have a court that's composed of the membership that we have now. I know that our

audience wishes that the conservatives would be our Savior. And they, they so many of them believe that, but they're not.

Andy 27:36

And then for clarity on how we get the nine justices that we have, I just want to make sure that it's completely clear, is presidents nominate, senate confirms. So we would have to have a president that thinks the way that we would want to think about this kind of subject of what we would consider cruel and unusual punishment for then that person to nominate. And then we would also have to have the composition of the Senate to think roughly along these lines, that they would confirm those kinds of judges.

Larry 28:02

Yes. And what we learned during the previous administration, is that, that they will rush approvals through at breakneck speed when they have control of the presidency. And we learned that they will hold up confirmations and let a backlog of vacancies develop across the federal judiciary when they are in control of the Senate. We learned all of that. And we, it's funny, they ran against packing the court. And they did more court packing than has ever been done in our history.

Andy 28:40

Over 400 judges at the federal level appointed during the previous administration.

Larry 28:47

Yeah, and a lot of those it was funny, in one of the debates and Biden was so off his game that he didn't respond. But it was mentioned a debate. I was handed a whole bunch of vacancies. And the thing would have been to a said, yes, you were but it was because all confirmations were basically shut down for two years. And you were handed vacancies, not because the president at the time wasn't nominating judges, but the senate wasn't confirming the nominees.

Andy 29:18

But Larry to be fair, though, I don't know that that makes it out to the general population. they don't know this is what the processes that the President nominates. And then the senate then confirms the judges at the federal level and at the supreme court level. And I guess the term is in the Constitution. It's with the advice and consent of the Senate. So the President could do all he wants but if the senate doesn't go along with it, which I totally accept and like that it's not just one person making up a rule. But then you end up with a POS in the senate named Mitch McConnell who shuts it all down and won't let anything go. Why don't they let Go on the record and go vote and then you know whether the person in your state was one of the people that you would like or not like, they just shut the whole thing down and didn't even hold a vote for any of them.

Larry 30:11

That is correct. And you misspoke. I want that cleaned up in the transcript. You said the Supreme Court confirms. The senate confirms.

Andy 30:18

oh, my bad, my bad, my bad.

Larry 30:20

The advising and consent is a little bit unclear, but we have history and precedent of how confirmations have been handled. And that's what we generally go on. And the fact that judges normally were considered, and unless they were deemed not qualified, they were given a vote. And the reason why they were not given votes in the last administration before Trump was that they would have been confirmed, because there wouldn't have been any basis to not confirm them. The same thing was with Merrick Garland. When he was nominated to be on the US Supreme Court. Had the committee held a hearing and referred him to the floor, he would have been, he would have been overwhelmingly confirmed as a Supreme Court justice. He was already sitting on a court of appeals, so he would have been confirmed.

Andy 31:14

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I understand. Well, then let's continue on sir. Let's move over to the Marshall project. He died like an animal. Some police departments hogtied people despite knowing the risk. This is Larry I had I guess I've seen this. But there's a there's a picture up on the screen that let me make sure that this is up there right now. Like people have seen this where you have your arms tied behind your back and then that's adhered to your legs that are also tied. It's something you see in like cowboy movies or something like that, I can see that this would be an effective way to restrain people. But I can't imagine that this would actually get used on any regular basis. But this article describes that they use it pretty regularly. It's very sad.

Larry 32:46

It is indeed and these are one of the things this would be one of the things that would be addressed in police reform that you would prohibit these type of things. Kind of like the shackling of a pregnant woman when they're giving birth. Putting handcuffs on a 12 year old, 11 year old kid in school, because the law enforcement apparatus and I'm talking directly to you law enforcement apparatus, you're incapable of making the rules yourself. And that's why we as your employers have to forbid you to do these things like all employers forbid employees to do things that are not acceptable. You should not be allowed to do these things. And I will do all I can to help pass laws and support proposals that will stop you from doing things like shackling pregnant women when they're having a baby and putting handcuffs on a child in school because he burps too loud and it's disruptive in class, those type of things are not acceptable police conduct and you are not able to restrain yourself. So, we will have to restrain you.

Andy 33:56

I didn't, I guess I didn't realize this. I didn't I didn't put the connection together that when they when they pull that super taut, and they and there's a picture up on the screen of if you are pulled cinched all the way tight and your body is at more than a 90 degree angle that puts pressure on your diaphragm making it very difficult to breathe. I'm like well, yeah, that would make sense. But I didn't really think about it. So it would become very uncomfortable. But I like Why couldn't they just sort of leave you a immobilized. Like handcuffs and leg ankle shackles, what are you gonna do? You can't run if you got shackles on your legs. You just can't. I don't know what you're supposed to do.

Larry 34:33

Well, you're missing parts of police training and mentality. Unfortunately, police training is driven by the threat of death. They convince these people when they're training, that everybody's carrying something in the rectum. That everybody's a bad guys that's gonna kill you. You won't make it home to your family. And they teach compliance and escalation tactics are largely the way of achieving compliance, they don't teach de-escalation. They teach escalation. And this is to show and demonstrate superiority of force, you will comply, and this is what will happen when you don't comply.

Andy 35:14

Yes, I get it's, it's I've said this before, it's not to serve and protect, it's to dominate and oppress. That's what the police should have on their, on their cars now instead of to serve and protect, they should have dominate and oppress. Alright, so so we get hogtied. Great, cool. Should we move on?

Larry 35:36

Let's move on. This was about public defenders, I think

Andy 35:40

This one is lawmakers consider bill to ensure rural counties appoint public defenders independently from the judiciary. Can you explain that to me because I don't even understand how that concept works defenders independent from the judiciary.

Larry 35:55

I was hoping that you could explain it because I didn't read the bill number AB 480 in Nevada. But it appears as though that they're going to try to make a more robust defense system in Nevada, particularly the rural areas where it's haphazard at best, and it's going to cost some money. And therefore, that's going to make a difficult sell. And the political environment spending money for criminal defense is just not a very popular thing that gains votes.

Andy 36:27

The thing that it would make sense to me is that there's an independent group, there's like the public defenders of fill in the blank of state. And that would be an independently funded organization outside of the judiciary that but as far as I know it the public defender's work in the same building as the DA does, or at least something nearby. They're very they're tied together, that would, to me would create a potential conflict of interest.

Larry 36:55

Really? How so?

Andy 36:57

Yeah. Just that they are rubbing elbows together. They're having lunch together. I mean, public defenders are ridiculously overworked. But if they'r... a public defender should be effectively the same as a paid attorney. They're just publicly funded. And they should be there to advocate to your best defense and not part of the judicial system itself. I guess. I don't know if I'm being clear in how I'm articulating that.

Larry 37:31

So well, I guess we could come back to this in a future episode. But if it's if it's increasing resources for indigent defense, and making it in a more formal process, rather than haphazard, where the judge says, Hey, there got this case, would you mind taking it for me? And they point out in the article that some of the attorneys are like what we refer to as a Guppy or a newbie, and they're being asked to take very serious cases. And they probably don't have sufficient experience and background to take these serious cases where so many people are facing lengthy prison sentences, including life or maybe even capital punishment. And therefore, it's important that you have robust defense and qualified defense. But no state likes to spend money on that. It's just not politically appealing. Go out, run a campaign tell people you want to spend more money on indigent defense and tell me what kind of reception you receive.

Andy 38:27

Shoot, if you run a campaign on indigent anything, you're not going to do very well, I don't think. Okay, well, then let's move along to Colorado. CBS Denver is where this come from comes from. Colorado district attorney sound the alarm over a bill to revamp sex offender management. This was something that someone posted in discord, I believe. And it says a bill dealing with sex crimes has exploded in controversy at the Colorado State Capitol. District attorney say the bill would allow some of the state's most violent PFRs to be released from prison without any treatment. And did you have any thoughts on this?

Larry 39:03

I sure do. I think it's amazing. You have a system where treatment is so underfunded. So, people were imprisoned and they cannot get treatment. And they're trapped there. And now the district attorneys, they're crying their crocodile tears, about how much they want these people to have treatment, what they really want is extended prison. And this is a convenient way to keep people in prison. Because Oh, we would be happy for them to be out if they had the treatment. And it's just would be a tragedy if they were released without the treatment. Of course, you're not doing anything to try to increase the budget for treatment. You're just magically concerned that they're not getting any treatment. Well, that is just so transparently dishonest. The way you force people to provide funding for treatment is you require them to be released when their day comes for release. Like I say about our state when you've done your time, we don't have early release here, you do a parole period that they named parole, but you only get to that after you've done your time. We need to change our law that says on that day, you shall be released. And magically, we will start finding the funding, so that we can put these people in supervised settings rather than just having them roaming the streets, but they should walk out the prison when their time is up.

And I don't know the system in Colorado well enough to, but I think there's a lot of similarities, they do their time. And then they have these long, extended periods of supervision. And they can't get out because they haven't had the treatment. They'll find the money if you start releasing them. They'll magically find the money.

Andy 40:54

I'm thinking of how things went for me in Georgia that I to make parole that I needed to complete x, y, z classes. Classes did not become available to me until I was getting like ridiculously close to maxing out, forget parole, just maxing out the whole sentence. So then they magically found the space for me to get into a class so that I could max out and do the whole sentence. And I know Georgia is different than other states having split sentences with parole probation and then completing your whole sentence and all that. But they could have sent me through the classes to help me get out two years earlier. And then maybe I could have made it out on parole two years earlier, but they didn't.

Larry 41:30

So well we used to have, we used to have a messed up system here where juveniles were supposed to be taken before a judge within so many hours. And that wasn't happening. And we recognized that the law said that they shall be taken before a judge, but yet the judges were not seeing them within that requisite, and I don't remember the exact number of hours. But I work with a senator who said there's an easy fix for that. He said, let's just add one sentence to the law that says if they're not taken before the judge, they shall be released. And magically the judges will start finding a way to hear them. Well, a couple of senators that don't do criminal law, but yet are attorneys, they were saying well, I feel uncomfortable about that, because bad people might be released. They said nope, you don't have to worry about if you have it in the law, that if they don't see a judge within that requisite period of time, they shall be released, the courts will find a way to see them.

Andy 42:32

Um, but given the court not having infinite resources and infinite time, then wouldn't that push other people's cases? Wouldn't that push that back also? I mean, there's only a finite number of hours and judges and resources to handle all of this stuff anyway.

Larry 42:47

that would be true, generally, civil cases would be pushed aside and they would have to wait their turn. We might have to look at possibly increasing judicial resources if we can't curtail the number of cases that are entering the system. Now remember, the defense attorneys have very little say about which cases that are the system. If you look at the system of how cases are introduced, who does introduction of a case to the criminal justice system? Is it the defense attorney or the prosecution? (Andy: most likely the DA.) right. The person you elect that tells you they're running on a platform of law and order, and I'm gonna make you nice and safe. Remember, when you go in and you punch that name for them, you've just done the opposite of what you claim you're for. Because when they tell you that they're the law-and-order person, that means that they're that they're going to prosecute everything they can get their hands on. And that's part of the problem.

Andy 43:46

I hear you. Alright. Well, let's go over to The Appeal. And this is how these cities are breaking up the work of police departments. I think if I was reading this right, that they were talking about, let's see if this was the right one, they were talking about changing the name of like a police force to, was it public safety or something along those lines to separate out that you have you have... oh there it is. Ithaca's Mayor made headlines in February when he proposed replacing the city's police force with armed and unarmed public safety officers. That's not defunding the police that's changing that you have people that are there for aggressive situations and you have other ones that are there for de-escalating situations. Sounds good to me.

Larry 44:31

Sounds good to me, as well. The problem is it gets so misrepresented. When you hear that term that was coined, and they're so good at quoting terms that that resonate with people. Defund the police. They act as if that that that you're just gonna abolish the police and call it quits and let the criminals roam. No, that's not what anybody's talking about doing. They're talking about re allocating some of the police funding to maybe people who are better equipped to handle things. The police get stuck with a lot of things that they, they'd probably rather not do. And if you could have that dialogue with the police, they would tell you, hey, we've become the social workers. We've become... I mean, you ask a jail administrator, particularly, they've become the psych wards. They don't want to be a psych ward. There's a lot of lot of police duties that police could probably do without that would be better done with someone who's not quite as threatening as a police officer can be to those who were in stress in their life, mental stress. But, but we're not we're not really going to be able to have that conversation because the anti defund is so convincing, that, that it's that it's so much hyperbole there that I don't think we can, there's so many things that we really can't have an honest discussion about this country, because you get vilified for trying to do so.

Andy 45:59

Totally. just like that the ad we played a week or two ago that you were talking about just a little while ago on this episode. But we played that clip from I don't remember the guy's name, but was bashing the other person for the something bill, we got to pass the something bill in Congress.

Larry 46:16

And in fact, that election is happening on Tuesday. And it was the Breathe act. And he said that that we would let rapists and murderers child molesters free. And that that she would want to close all federal prisons within 10 years. The only thing about that is nobody's talked about closing all federal prisons within 10 years. And the federal prisons have very few rapists, very few murderers, very few child molesters because those are all state crimes. Nobody understands that. Nobody understands that though. So all the people run out to vote for him, because his opponent is going to close the federal prisons and release rapists and murderers, child molesters, which they're very few in federal prison.

Andy 47:00

Right God you'd have I bet you'd have to do like, I mean, just like, Nasser, I don't even I don't think he made it to federal prison.

Larry 47:09

He didn't. He didn't.

Andy 47:12

Because he's in Michigan.

Larry 47:14

Yeah, he didn't commit any federal crimes.

Andy 47:17

And Sandusky also.

Larry 47:20

Or Dennis Hastert, and on and on.

Andy 47:22

These are people that have ridiculous numbers of victims that came forward and they end up at the state level. So I'm just supporting the comment you made about the argument that that particular politician made was being dishonest about supporting this act, this act of letting all these people out, the tidal wave of crime blah, blah, blah. But it's at the state level that this would only impact people anyway. Alright, so over at courthouse news, Texas governor signs law banning reality TV crews from filming police. Larry, I gotta get my cops my daily cop drama show on bad boys, bad boys and all that. Why would we sign bills that stop this from happening? That doesn't make sense. I want my entertainment.

Larry 48:03

I don't know. I just thought it'd be funny to put it in here because I have the feeling that the police don't like being watched.

Andy 48:11

I think the police like being watched when they get to go be a badass and you know, they get there the 15 seconds of fame. I bet you they like it from that point of view.

Larry 48:21

So well, I don't know the background of this our Texans can tell us what the backstory is. But, but I don't know how you can actually stop them from filming, you may be able to stop them from distributing it. But in terms of filming, I think that you have the right to film the police. I think that's been pretty well established.

Andy 48:41

And we know that the young lady that filmed the George Floyd event, just sat there on the sidelines and filmed away. I bet you can film them and but Larry to count on my own argument. The police have come by and taken cameras from people I've heard reports of that where they say you can't film us. And you can certainly like follow them around. You don't have to get... you'd have to get releases. But so let me fill in another part of this. If you go back to a program on the media, from WNYC six ish, maybe six months ago, maybe 12 months ago, they did a program about this subject pretty in depth. It's I think it's like a 20-minute-long segment. There's a revenue split between the cop drama shows, and then with the local police department, which I got to think that so they're driving on ratings. And if they get more exciting car chases or chasing people down dark alleys and whatnot, the more

people will tune in, which would drive more revenue to the police department which like they would be incentivized to potentially escalate a situation. I, to me, that seems like a conflict of interest.

Larry 49:50

I don't know enough about that to know about revenue splits and whatnot. But I do know that police used to when cameras were much larger. When you had camcorder. The police were much more likely because there were so few of them, they were expensive. You really can't do it as easily plus the body of case law has evolved to protect those who are videoing the police. But that was a routine thing. They would confiscate it and say, this is evidence in a criminal investigation we're gonna have to, we're gonna have to seize this camera and the video that you shot. While the truth of the matter is they didn't want that video out there. That's why they seized it.

Andy 50:30

Sure. Yeah, yeah, totally. I'm with you. Alright, well, then let's move over to a Washington Post article says Louisiana lawmakers rejected non unanimous juries relief bill. So as I understand it, there was a, we covered it in the last couple of weeks something with the Supreme Court. And there were only two states as I recall Louisiana and Oregon were the last two states to hold out that you can be convicted of superduper like murder kinds of crimes in a non-unanimous jury. So, 11 of 12 jurors could convict you and that would send you to life in prison. And then as I read this, Louisiana lawmakers Thursday blocked an effort to offer a path to release for an estimated 1500 prisoners convicted of felonies by juries that were not unanimous. So the Supreme Court says, didn't they say that you have to have a unanimous jury for those kinds of crimes?

Larry 51:24

They did, but it's not retroactive.

Andy 51:28

Right. I'm with you, so than these people are asking to have some sort of relief applied based on that ruling. And they said no,

Larry 51:35

That is correct. This is a liberal democrat named Randall Gaines, who sponsored legislation to apply this and it could release I think if the article is accurate, 1500 prisoners that were convicted by non-unanimous juries. Now this is the hypocrisy of the whole thing. See the conservatives. They're the stewards of fiscal responsibility, you see. And they don't want government any bigger than it has to be. And there the constitutionalists you understand. All these things that they tout. Well, so now, the Supreme Court has said, you can't convict anybody prospectively with a non-unanimous jury. What if you can't do it prospectively, it stands to reason that you shouldn't have been doing it in the past. Here's a chance for you to demonstrate your true conservative values. You have a prison system in Louisiana, that's overcrowded, underfunded. And you've got all the political coverage you possibly could need. You've got a Supreme Court of the United States saying that you shouldn't have been doing this, although they didn't make it retroactive. You can't do it going forward. So you can clean out 1500 out of your prisons. But rather than demonstrating your true conservative values, you blocked it, you

blocked it. Why? Are you really about cutting government down to size? Or is that just political jargon?

Andy 53:15

Tell me what like, for real though. Do you have any insight? What is your opinion of the mindset of why they would block this? If not, if so, obviously, it's not about money. Is it about just keeping the prison industrial complex, fully loaded?

Larry 53:30

Yes, it would have been the law enforcement industrial complex. Like the DAs we talked about in a previous segment, they would be they would be against it. It would have, without being you would have to develop the public to understand it, it would require some leadership that people don't want to provide when it comes to criminal justice. Someone would have to stick their head up out of the tall grass where politicians like to stay laying low. They would have to say, look, we were doing this wrong all these years. And I'm willing to take the political risk, we should let these people go. And even though normally, you don't get vilified, if you're conservative, there is that risk that within your own party, you might get vilified, because as we've been noticing, in the not-too-distant past, sometimes you're not conservative enough. And you get pushed aside. And so therefore, they could be fearing a conservative backlash if they take these types of risks. That would be by guess not being in Louisiana, but the Louisianans who are so much more brilliant than the rest of the country. southerners take great pride of how much smarter they are than the rest of the country, and how brilliant they are when it comes to applying common sense. Hold your elected officials and the Louisiana House of Representatives accountable. Tell them this goes against your values of the constitution about guilty, only guilty upon unanimous juries. And that it also goes against your values of spending money that shouldn't be spent. These people shouldn't be imprisoned because they should never have been convicted on a non-unanimous jury. Tell them that, that helps give them political cover. Let them hear from you. Of course, I know no one's gonna call. But that's what would give these people incitices would be if they would hear from the constituents. We're not happy with you for killing this.

Andy 55:32

I gotcha. Bizarre. All right. Moving on over to an Associated Press article, prosecutors sue over California prison good conduct rules. You put this in here for some crazy reason, I'm sure.

Larry 55:44

The same reason we had the other article in there about the DAs. This is an example of the law enforcement industrial complex. They do not want the prison population to go down. This would put more people eligible for good time as I understood it, and we just can't have that.

Andy 56:10

And so we were just bashing on Republicans. Isn't California mostly a blue legislative state?

Larry 56:20

That's why we're bashing on them as well, because this is not a partisan issue. I keep saying and for some reason people don't believe me. Registry Matters and FYP is not partisan. We are about

good public policy. It doesn't matter whether the state is Republican or Democrat. If you're doing something wrong. Now, apparently, the California legislature is trying to do the right thing. And they're getting pushback from the district attorneys. Okay, that's fine, then you need to be electing different district attorneys. But we need to call it the way we see it. That's why this is in here.

Andy 56:58

I'm just reading something here. And I think I've known some people that were firefighters in Georgia. But I recall, California being overrun with wildfires, at least if it was not last year, it was two years ago. And those individuals were there on the frontline getting paid pennies to fight these fires, and then they would be released from prison. And then they would not be eligible to work for the fire department to go fight wildfires, even though they were able to do it when they were effectively doing like slave labor, Larry. And, um, but I would think that we would want those kinds of people to receive exorbitant amounts of good time for putting their life on the line to actually save homes and people's lives and property and all that stuff in the state. We would bestow all kinds of goodtime credits on that particular profession. But I think that we would also want them to have those kind of jobs on their way out the door. But here we go. Prosecutors sue over California prison good conduct rules. Yeah. Love it.

Larry 57:53

Well, the thing is, I don't know, California politics well enough to be to be precise. But I can tell you this. If you've got 58 district attorneys, according to the article and 44 suing, I don't believe that 44 of those would be from Republican districts. I think that is as blue as California is that that's a lot of district attorneys from blue districts. And therefore, they need to be called out. You're not the progressive that you probably ran, claiming that you're going to effectuate change if every time you have the opportunity to do some change, you file lawsuits and you oppose it. So therefore, there should be no hate mail. We just called out the conservatives. And we just called out the liberals

Andy 58:45

We'll probably get it anyway. All right, well, let's move over to reason. Baton Rouge cops a strip searched a minor during a traffic stop and entered a family's home without a warrant. The city just settled for 35,000 bucks. Larry, that does not sound like enough money. The case is an indictment on just how hard it is to get accountability when the government violates your rights. What is your point here?

Larry 59:10

I think I was smoking some Whacky weed. I think it's just some police accountability. I was putting some filler in here. It is a low amount of money. The thing that struck my attention was the federal judge called him out for that this officer has had multiple times with difficulty. This wasn't his first encounter. And all we want is police accountability. We know that no group of human beings is going to be perfect. And we know that. We just need to hold them accountable. When you watch the video, I found it relatively disturbing.

Andy 59:49

Alright, so then we'll move over to the final article before we close the show out and this is from a news dash journal. com never heard of this one but someone in chat posted this one on the discord server and says man charged in 2018 murder in Longview, gets 99 years for failure to register as a PFR. That is a lot of time for failure to register, Larry.

Larry 1:00:11

Well, I don't know what you want me to do with that one.

Andy 1:00:17

We beat it around for a few minutes during pre-show, what does it mean, potentially for him for him to say... So it says this is the third time Kellogg, the person that got the sentence failed to register as a PFR. The assistant district attorney said Thursday during closing arguments of the sentencing phase of the trial, third time failure to register. Didn't you have some ambiguity there?

Larry 1:00:40

Well, what I said I'm not sure where this jurisdiction is, where is Longview? Where are we talking about?

Andy 1:00:48

Where are we talking about? you keep talking for a minute now. And I'll try and find where we're talking about.

Larry 1:00:53

So what I was talking about in the pre-show was that when you when you say failure to register, that usually is misleading. It's often a technical violation, some issue of noncompliance, where a person was registered, but they didn't report something within the three days: a job change, a vehicle change, something of that nature. That's not the same thing and should not be treated with the same severity if someone just didn't register at all, the news media doesn't bother to find out and report to the public if the person had a technical violation, or if they just flat out were not registering, that would be very helpful news media, if you would tell us if the person failed to register at all, or if they failed to update some paperwork. That would change the level of severity. But my other point would be in terms of the crime. If you didn't have these laws on your books, they would not be able to impose them. We do not have the potential for that to happen in my state. Since registration is a civil regulatory scheme, it's not eligible for the habitual offender act. Although our habitual offender Act has never had anyone successfully prosecuted under it for the 25 years it's been all the books, no one has ever been sentenced to life in prison. But our civil regulatory scheme, it is a fourth-degree felony carrying indict an 18 month maximum. If you have a previous conviction failed to comply, it elevates to third felony. And it has a whopping three-year maximum sentence. So that's all he could get here. It's not eligible for any type of enhancement beyond the internal enhancement. That means that you (Andy: It's in Texas by the way) you people in Texas, need to change your law, you need to exempt this civil regulatory scheme. This is the reason why you need to argue it's a civil regulatory scheme, you need to exempt this civil regulatory scheme from your habitual offender act. Because this is a civil regulatory scheme, it should be treated like a person who drives without a valid driver's license. The punishment would get more severe, but they would never get 99 years. But also, you should put something in your statute that

makes it clear that failure to register all together is is not the same as failing to comply with a particular nuance of registration.

Andy 1:03:15

And what you're saying there is someone is still living at the same address, still driving the same car license hasn't changed. And they forget to whatever, they don't register, but they didn't go move to a new address trying to like evade the system. They just like, oops, sorry, I forgot. But all the data is still the same.

Larry 1:03:33

I can make it more heinous than that. Say a person has a job. And they lose their job. And they're all distraught about losing their job because they can't support their family. And the law says that you shall report within 48 or 72 hours any change in your employment status. Well you're too worried about trying to get a job. So you can keep food on the table, and you don't get in within 72 hours. That's a failure to comply. You could conceivably get the same penalty for failure to report that you're no longer working there because that is a change in your job status. Right?

Andy 1:04:08

Yeah, totally.

Larry 1:04:09

They prosecute people for that here.

Andy 1:04:13

Okay, sure. And a person in chat says Indeed, I had a technical violation, I forgot to update my phone number, forgot I even registered it. Caught it when I was signing the form. He said, We don't play those gotcha games. So at least not everyone sucks. The key is if they were looking for something to pin on me. There you go if they don't care currently, but if they do want to get me for something, there it is.

Larry 1:04:34

So but yeah, it's really it's really sad that that they put so much emphasis on this civil regulatory scheme to play the I gotcha. And they do play the I got you. You may have some departments that don't, but too often, that's what they do. They place an extraordinary amount of resources in to tracking to see if they have an I gotcha moment, because the penalties are so extreme.

Andy 1:05:01

Gotcha. Larry that closes out the articles for the evening. We are like right at an hour. (Larry: Fantastic.) We did fine job of moving these things along. Should I play the teaser that I released to the patrons? Should I do it? Or should I not do it?

Larry 1:05:17

I think you should play it because they're going to see what a musician you are and what a treat they're going to have when we reach 100.

Andy 1:05:26

It's more like a musician that I was some time ago. Hopefully this will work, I will give it a shot.

Saxophone Solo

All right. The whole point of that was that so when we reach 100 patrons, then you have requested a song that I put out a questionnaire to people on Patreon to see which song that they would like me to play. I'm way out of practice as you may be able to tell from that. But that was a teaser that I have said I was a musician a long time ago, and I did not lie.

Larry 1:06:23

Well, I am sure that when we get ready for you to play on the stage with 1000s of people listening around the world, that you will have practiced, and you will be playing at the highest level that could be imagined.

Andy 1:06:38

I will get there. So now that we are in striking distance, I will be practicing on a regular basis to get my chops back up so that I don't embarrass FYP. And me especially and definitely not you, I don't want to embarrass you either. And with that, Larry, as far as new patrons, we did have a pretty substantial increase from Chris, for his support. And people are renewing their membership and doing the annual thing, which I think is fantastic. They get a little bit of a perk of a discount by doing it that way. And I don't know you didn't tell me if anybody subscribed to the other method of doing it like by the mail. But did anybody do that?

Larry 1:07:20

We did not. We are receiving inquiries, people are taking advantage of the opportunity for a sample. And we're gladly sending out the sample transcripts. And we know that the podcast is more expensive than anything else you're probably subscribing to. Well, maybe not prison legal news. But yet again, I don't even know what they charge anymore. But we realize that but it's a weekly infusion into your to your life. It's not like you have to wait a month or it's not like you have to wait every two months or three months. It's a regular weekly infusion into your life.

Andy 1:07:55

I like it. I think it's fantastic. If you want to find any show notes or anything, you can find us over at Registrymatters.co. I would certainly encourage you to find a podcast app on your cell phone and find the podcast in that podcast app and subscribe to it that way when we release the show. It comes out at midnight on Tuesdays. That is like 11:59pm on Monday night is actually when I release it, but you'll have it for your if you're driving to work. But for your working time on Tuesday, you'll have the podcast available to you. And otherwise, you can leave voicemail and you find all that stuff over at Registrymatters.co. And of course patreon.com/registrymatters. That is our favorite way for you to support the podcast. And Larry, I don't think I have anything else that we need to cover tonight. And with that I will let you go and have a great weekend.

Larry 1:08:44

Thank you very much. Good night.

Andy. 1:08:46

Talk to you soon. Bye bye.

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