



RM Episode 250 Recorded 1/7/23

Announcer 00:00

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Andy 00:17

Recording live from FYP studios, east and west, transmitting across the internet. This is episode 250 of Registry Matters. Good evening, how are you this fine evening, sir?

Larry 00:29

Doing marvelous. I'm glad to be back with you one more time.

Andy 00:32

Just once? This is the last one?

Larry 00:35

I don't know. You've been trying to get rid of me. Every time you've asked me during the session--how much longer I've got to stay. So I don't know.

Andy 00:44

Well, before we do anything, I'm gonna say make sure that you do all the likes and subscribes, and the notification bells, all those other things on YouTube to use that algorithm and whatever to game the system. That's all I'm trying to do is game the system. You know?

Larry 01:03

I'm familiar with the concept of gaming the system.

Andy 01:08

So give me a rundown of what we have going on tonight.

Larry 01:11

We're going to revisit an issue we covered, I think on 243 of Registry Matters. We talked about people who were being discharged from military custody. And we're gonna be talking about their duty to register and how quickly they should register. And what happens if they don't register. And we're going to have the same guest back--barring technical issues--that we had back on Episode 243. Then we have a number of articles to talk about. I think we're going to have a very spectacular episode of Registry Matters.

Andy 01:52

Fan-freakin-tastic. Alright, now this is episode 250. And Larry, I have been swamped for six months. I thought, you

know what, I won't do anything for episode 200. I'll kick it back to 250. And I still haven't had any free time to do anything. So a couple people knowing that this was coming, sent a couple things to play for you. So I have two to play for you--one very short and one just delightful. Okay, so without further ado, I'll play these little clips for you. Okay, you ready?

Larry 02:30

Sure.

Announcer 02:32

Registry Matters and the FYP studios are proud to present their 250th episode. It just goes to prove YOU PEOPLE will listen to anything.

Larry 02:43

No idea who that is. I wouldn't have a clue.

Andy 02:48

I'm fairly certain you know who that is. That is the individual that does the intro thingamajigger and then also the ending. Anyway, he's my voiceover guy. And his name is Rick and I adore Rick. Now the other one that I have to play for you comes from an individual you know as Deputy. And he's just literally a treasure. He's a hoot. He's brilliant. He's a very, very, special individual. I'm quite happy that he is here and helps with any issues that I have with the server or technical things. He helps also run the discord server. But he's fabulous. And so here's that.

Deputy 03:25

Hey, you people. Here we are--250 episodes of the Larry show is in the books.

Larry 03:34

This is all confusing to me.

Andy 03:36

It is certainly unusual, Larry.

Deputy 03:38

250. Through the good, through the bad, through everything. We've now made it 250 episodes

Andy 03:51

Everyone has to drink now.

Deputy 03:53

It is with great privilege that I now present to you this exclusive, limited-edition gift for being such great You Peoples. Introducing the Handout-on-the-Bible-2023-Larry-

calendar. Each month comes with quotes direct from Larry such as

Larry 04:14

"You did put your hand on a Bible, and you swore to uphold the law and to enforce the law."

Deputy 04:19

Along with 12 Full-color exclusive photographs of our favorite legal minds celebrating the seasons. See Larry holding sparklers while dressed in Lady Liberty in July, or the ever-effusive Larry holding a Christmas Bible well dressed as one of the wise men for December. Not available in stores and not available anywhere. It's the Hand-on-that-Bible 2023 Larry calendar available never but only from FYP Productions. But seriously, I don't want to take anything away from this monumental occasion of 250 episodes. Seriously. You 250 episodes, which is insane. And congratulations, heartfelt from the bottom of my heart. Like, wow, 250 episodes. Congratulations, Andy. Congratulations, Larry. There are no words. And here's to another 250 more. You guys are killing it. Thank you, guys, so much for everything you do.

Andy 05:30

Any thoughts?

Larry 05:32

That is really wonderful. I appreciate the effort that must have gone into creating that.

Andy 05:38

It was, but he's phenomenal. He's played some stuff--I don't know if I should say this because this was pretty anonymous. But he ran a radio show, Larry, while he was inside, and did it over the telephone and got recorded and got broadcast. He's amazing and fantastic. And he does amazing work and has a phenomenal radio voice. So all right, then I guess we should go into this feature event, don't you think? So we see you people brought back the special guest, who is Ashley, and her spouse is in military custody. And we discussed it on Episode 243, as you already said. And why are we going back to this so soon? It seems like we should have some sort of statutory limit of limitations of the minimum window before we bring a guest back. But this is only seven or eight weeks. And we did take a couple of weeks off during the holidays. Why did we bring her back so soon?

Larry 06:39

Well, because the issue is confusing, and I feel it is at the very least FYP can do is try to help those who have served our country. And they now need information about their future obligations. And especially since the information is really hard for them to obtain, and they're kind of in a

different circumstance from the rest of the PFRs. Being that they get shipped to one facility, particularly mostly one state. And so we're trying to enlighten them a little bit further with information.

Andy 07:11

So again, our guest is Ashley, and her husband is at the Joint Regional Correctional Facility in Fort Leavenworth. And thank you very much for joining us again, Ashley. We tried to have you on last week even but even still, like as short notice is still in order. So thank you again, for coming back. And I guess we have had sort proxy communications with her husband. And so we have a bunch of questions, and I'll begin with this. So I'm going to send most of these at Larry. And then Ashley, if you need to chime in, feel free to let me know and I will bring you in. But to clarify some of the questions I was asking you through Ashley, this is what Samuel wrote, "To clarify some of the questions I was asking you through Ashley, I thought I would write. I have to admit, I am thoroughly confused. As for us here, we do have DOD and Department of the Army regulations stating clearly that one must register 'within 3 days of release from confinement' (that is from Army Regulation 27-10)." Larry, can you explain how you can say that a person does not have to register within three days when it says so in the DoD regulations?

Larry 08:25

Well, I'll start with what Samuel explained, and I'm gonna quote from him. He said this regulation seems to come with no mechanism on enforcement. However, as the majority of the inmates will leave here with no requirement for supervision due to having sentences of less than three years. So how would anyone know whether or not they had registered at all and within the three days. It's a mystery to me." Okay, I'm only guessing but my guess is that the Joint Regional Correctional Facility probably provides a list to the state of Kansas since the facility is located there. And they probably provide a list to the US Marshal tracking unit that hunts down missing PFR. So there's a there's a unit within the federal marshal's operation funded by the Sex Offender Management apprehension registration and tracking office, the SMART Office. And my hunch is that the marshals would be looking for all these people who are released because if they get that notice what they would do is calibrate for a future review within a specified number of days after release. They would go back and circle and look and see if that person has registered anywhere. If that person hasn't registered anywhere, my theory would be that the marshals would begin a nationwide search for the individual and that would not be good when they located you. So that's what I think happens. But again, these are all my opinions and speculation.

Andy 10:06

And you think that upon exit from that establishment, that fine housing unit that he is living at right now that when he leaves that, it is some sort of do you an automated document push? Do you think they call up and say, Hey, Joey, so and so just left from such and such, and so keep your eye on that they show up in three days.

Larry 10:30

I don't think they call. We're in a technological society now where things are done electronically. So I would think what they would be doing would be as a courtesy to Kansas. I'm not sure if Kansas can require it. But even if they cannot require it, as a courtesy to Kansas State, they would notify them by electronic means that that an offender is being discharged from that facility. Very few of them are going to end up registering in Kansas because they didn't originate there. But in addition to that, since they can be dispersing anywhere in the nation, they would send the same electronic communications to the marshals because the marshals would be the ones who would ultimately be tasked with tracking them down, because the state only tracks under jurisdictional boundaries. That was an impetus for the Adam Walsh Act to begin with. When they passed Awa. The state, once they were satisfied that the person was no longer there, they had no economic interest to do anything else. If you've left the state of Iowa, and I was fairly satisfied that you've left there, why on earth would they want to hunt you down and bring you back? They would want you doing whatever you're doing illegally in another state. So that's why as a component of the Adam Walsh Act, they created this Fugitive Apprehension team. So once there's a jurisdictional boundary has been crossed by a person who has a duty to register, the marshals have that necessary jurisdiction, and they would track him down. That's my opinion. It'd be nice if we could confirm this, but I think that's probably what they do.

Andy 12:07

Samuel also then stated, "States seem to vacillate between initial registration after confinement needing to occur within three days of entering the state or three days of release from confinement. Georgia and North Carolina, for example, state clearly that one must registry within three days of release from confinement. Georgia even clarifies that this requirement pertains to those punished under the Uniform Code of Military Justice (OCGA 42-1-12(e)(5). My understanding of your conversation with Ashley is that these statutes only pertain to people incarcerated within that state. If this were the case, though, why would Georgia specify that, even for residents, the three days pertains to either release or entry into the state (suggesting that it does not pertain to only those incarcerated within the state?"

Holy moly, this starts looping around and getting confusing.

Larry 13:02

I never intended to convey that the registration requirements only apply to those incarcerated and the state. My intent was going to be that that a state beyond where a PFR is incarcerated does not have the requisite jurisdictional hook to require anything of the PFR until the state gains jurisdiction. Generally, jurisdiction attaches once the person does one or more of the items on the list that require him to register. And as a general rule, these things are becoming employed, attending school, being physically present for a certain number of days, or establishing a residence of the state. If the person is released in another state jurisdiction does not commence by Georgia, if that person is released in Iowa, until one of more of those things occur. Now, I didn't forget what he said about what the code of Georgia says about even those in military custody. What I'm guessing, and I didn't do the research prior to this program, but I'm guessing since Georgia has a large number of military installations, that it would seem that there's likely a brig of some type. I know they have brigs all over United States. They don't do long term incarceration in Georgia, but I am confident that there's a military installation possibly in Georgia that has a brig. You got Robins Air Force Base, you got Dobbins Air Reserve Base, I could go on and on. We got all these military installations at Georgia. So it could be that someone in the drafting process of the Georgia General Assembly said Well, what about these people and we got our jail houses covered, but what about them that are released from whatever that facility might be? It houses military confiners. But other than that, it may have just been an add on, but clearly, just because it says it doesn't make it something that they can enforce because they have no jurisdiction to require a facility in other state to provide them any notice whatsoever. Now the military, again, as a courtesy might be providing it to the state of Georgia. We don't know all these things. But that being said, even if he if he is, if Georgia is provided a list of people that he's been released, if he didn't do anything that would trigger their jurisdiction, there would be a prosecution would die on the vine, even if they tried to initiate one because there's just no basis to require him to do anything until he attaches himself to Georgia.

Andy 15:36

So Samuel also said, "I do understand that there are jurisdictional issues with Federal, State, local, military, etc. etc., but I do not understand another way to read these statutes or why some states would specify release from confinement over entry into the state. Accepting the later raises confusing questions, while abiding by the former makes things straightforward and simple." Can you explain why the state statutes read release from confinement?

Larry 16:16

Sure, because both things are happening. It's because there was an understanding that 1) there's no jurisdiction for required registration for a person not connected to the state. It would be like requiring a person to register a motor vehicle when they weren't connected to the state. And 2) the problem they were attempting to address in their lawmaking capacity was to capture the large number of offenders that would need to register from their prison system. I would just venture a guess that 95% of the people that are in the Georgia prison system are going to be staying in Georgia when they're released. Maybe 85%, but a huge number of them. They want to capture that population as quickly as possible. So that's why they have the language in there about upon release. Okay, under his logic, what about the people who never go to prison? He didn't mention anything about people who were put directly on probation. I guess we could read into that, that they don't have to register, correct.

Andy 17:17

Oh, man. Sounds good to me.

Larry 17:20

So that the language came about because they're trying to capture the bulk of the people who are being released from prisons that they do have jurisdiction over. There will be a second segment of people who will be entering the state who will be just registrants, who may have nothing to do with the correctional system but rather the civil regulatory scheme. Or there'll be people coming in on compact who are serving a part of their parole or probation, and they're compacting into Georgia. And they need to get registered within the requisite number of days that Georgia provides. Say, for example, they compact again, from Vermont, where I think it's 10 days. I'm just doing that from recollection--I may be wrong--but I think they have a 10-day window. When you come to Georgia that 10-day window is out, though. It is no longer relevant, because you're not in Vermont any longer. So they need to have guidelines for both segments of the population.

Andy 18:17

So then, to continue, Samuel asked, "if the requirement is only that registration must occur within 72 hours of entering the state. It would seem to me that we are working on the honor system here. Is this the honor system?"

Larry 18:34

It is indeed. But it's an honor system with huge consequences for those who do not comply in a system that has a plethora of reporting systems in place to distribute leads to law enforcement. It's not like your little motor vehicle. If you don't register it, within the requisite period of

time, for example, you go move from New Mexico to Colorado and say Colorado has a 30-day window that you need to register your vehicle and you don't do that. Nobody in New Mexico was reporting that to Colorado. So the only way Colorado is going to pick up on it is if they ask you for verification of when you arrive there, and somehow know that they can discern that you were there longer than the 30 days. And they're likely to impose an economic penalty for late registration. So it is an honor system, as I said, but it has a lot of reporting taking place since correctional facilities are reporting who their discharging. Courts are reporting who they're placing on supervision. There are all these reports flowing that has people looking for you. In addition, the law enforcement apparatus has nearly unlimited resources to track you down if you don't comply, as opposed to most civil regulatory schemes where you just have to happen to stumble upon you if you don't comply. This one is geared up with vast money to go out and track you down.

Andy 19:58

Samuel asked, "what constitutes entering the state." You know, Larry, this was a whole lot of consternation for people when we had the conference in Ohio of setting up temporary domicile. The language seems almost intentionally vague to confuse you, or, like they like it. There are certain words that could be very explicit and straightforward without a lot of interpretation. But when it says set up temporary domicile upon entering the state, like, does that mean when you put your head down on the pillow in the hotel? Or does it mean when you like registered it? Like, when does that time cross? So to continue? "In other words, what act triggers the start of the 72-hour clock driving across the border, landing in an airport? How does one prove this? If an authority shows up on my door accusing me of not registering on time? What do I do? Show them an airline ticket stub?" I say you flip them the two birds there. That's probably not the right answer.

Larry 20:53

I don't strongly encourage that. My understanding is that a person enters the state when he or she crosses the state line. I mean, we stressed in this podcast that statutory schemes are supposed to be drafted with precision and ordinary language that a person can understand. So you've entered the state when you actually enter the state and cross the state line. But at the point, you cross the state border, you have indeed entered the state. But even though you have entered the state that in of itself does not necessarily trigger a duty to register. He or she would have to meet one or more the other criteria that we just talked about above, which is very similar throughout the country, things that triggered due to register. And it's been my experience that they do not ask for proof when you actually

entered the state. But having said that, it's not beyond the realm of possibility that they might pose such a question, if they have any suspicion or reason to do so. And this would be far more likely when a person is transitioning from one state where he or she is registered already to another state. Say you're already in a system that has generated a report. For example, my state, you have to notify them—I think it's 10 days before you're going to move out of state and maybe 30 days, but you have to notify them that you're going to move they trigger a notice to the state you tell them you're moving to. That doesn't apply to all the scenarios that Sam cooked up because he's not leaving as a registered person yet. To my knowledge. I don't think they're registering people in Fort Leavenworth. So in the situation he's described, it would be very unlikely they would ask that. But I mean, could they ask that? Yes, I suppose I could. Nothing stops them from asking, when did you get here? And I don't suppose anything bars them from saying, can you prove that? But I guess my question would be, how do you prove a negative? If you say, well, I got here yesterday. Let's say you're driving down I-75. You've been in Georgia for 7, 14, or 15 days, and you're driving down I-75. And you have only done campgrounds. You've only stayed at places where there's no registration. If you had a hotel, there's no credit card swipe or anything that they could ever get. And you said, well, I just got here on your two hours into Georgia. I just rolled in. How would they know? I mean, trust me. They don't have we joke about the hovercraft. There's not a hovercraft assigned to you. You don't have that level of importance that they're going to put a detective on you, following you, the day you get out of the prison in Fort Leavenworth to make sure that they know what you are doing. You're just not that important. Is it important to register? Absolutely. It's important. If you don't do it, you'll go to prison. But they're not tailing you in real time.

Andy 23:51

Al in Maryland asked, would they even look at credit card swipes.

Larry 23:55

I think they could very easily do that. After serving on the Grand Jury here in Albuquerque—I served three months—it would take virtually nothing to get a subpoena for them. The cops asking for it is all it takes. So if law enforcement came and said that they're investigating or failure to comply with PFR requirements, and they wanted to get credit card data, I think they would have virtually no trouble to get it because we issued probably at least 40 to 50 easily subpoenas and we didn't question any of them.

Andy 24:30

Samuel then posed the following: "What if I never 'reside' in North Carolina but simply 'visit' my family; never

exceeding the time I am allowed to stay in the state before registering in fourteen days. On Day thirteen, I go to South Carolina and 'visit' my buddy Carl for a day or two before going home to 'visit' my family again?" Wouldn't this be completely legal?

Larry 24:52

Yes, on its face, it would be completely legal. But keep in mind that some, if not all states, have a cumulative number of days that person can be present over a one-year period. And sometimes it's a rolling one-year period. And that can trigger duty to register. Now, again, I don't know how they would know. But the cumulative number of days that you've been in the state. They do have that on their books. In addition, you do not want to play games with the system, because this is one of the reasons that laws are amended. Law enforcement people approach legislatures with examples of how registrants are gaming the system. So if you make it known that "Well, I tell you what I don't read your law real close it as long as I leave and go back across the state line for at least a few hours and come back, I can skirt this." That is not going to go over well, because that will be handed in as the reason why we need to change the requirements of the law. So if you got to do that game, I don't encourage it. If you got to do it. Don't tell anybody you're doing it.

Andy 25:52

God, I don't know why you wouldn't tell anybody. Um, well, let's keep going. "Obviously, I am being facetious, but my point is this: If no one is tracking my movement, as you said to Ashley in your phone conversation, and if I were not on supervision, why would I register in the first place? This laissez-faire attitude of registration seems to fly in the face of everything you and Andy have been telling us about US Marshals and sting operations and SUVs pulling up in front of my home." I want to interject here for just one moment. Registration is scary as you fill in that next word, but at the same time, there's still humans on the other side of it and unless something triggers them unless or they have some sort of wild hair up their hiney, they're not coming to go look for you. Like you have to kind of like trip some trip wire somewhere for them to come at you. But when they do, they're gonna come for you. So I don't think we have a laissez faire attitude about it. But that we also have an attitude of like, try to live your life also, and don't live in fear.

Larry 26:54

Correct. And this is kind of an example that occurs when a conversation has been filtered through another person, no disrespect to anybody. But start a conversation about a room of a dozen people and come up with one sentence and ask people to circulate that sentence around the room and come back and see if it makes the round. I have never

suggested or even implied that a person should take the registration obligations lightly. You should not. What I have said is that a person can overthink and come up with wild scenarios, and then obsess over them. Some of the scenarios communicate are very creative, to say the least. And in fact, it takes a very creative mind to come up with some of these hypotheticals. The reason you should register is that you have an obligation to do so. And failure to fulfill that obligation will eventually send you to prison. They will find you it's not like it was pre-Adam Walsh, when the states had no interest in tracking down the missing PFRs. And there were alleged to be 100,000 who had gone off grid. The federal marshals have unlimited resources. And they love making these cases. They yield very long prison sentences in the federal system. And long term of supervised release following this. And if you get convicted of a registration violation, and the federal system, you're going to serve a period of incarceration, and you're going to be put back on PFR type supervision polygraphs and all that stuff. Take this seriously. It is not to be played with. If you have an attitude that you can fly under the radar if you stay in this country, they're going to find you.

Andy 28:39

There's a movie clip out there I was almost gonna grab it for this episode tonight. I can't remember what movie it was from, but it was "we will find you and we will kill you." They just kept repeating that. But what if I jaywalk? "We will find you and we will kill you." I was like this totally fit for this scenario of this. Alright. Then Samuel wrote the following. ""I imagine that SORNA/AWA was passed to clean up these issues. What I am hearing, though, suggests to me that the 72-hour regulation is completely arbitrary. As an example, is there anything codified to prevent the following scenario: After leaving Ft. Leavenworth, I needed some time to collect my thoughts. I am not destitute, so I rent a car and head for Colorado to see the Rockies, being so close. I spend a few days at a family-oriented resort, then leave the state well before I would need to register in Colorado. I am heading to Iowa to see my brother. While there, we go to my nephew's school to see a play in which he is the lead. Afterwards, he asks if I can help chaperone my nieces' sixth birthday party at the park. I leave Iowa well before I would need to register and go see my friend in Washington. He surprises me by announcing that he has purchased tickets for a cruise for both of us as a getting out of prison gift. We leave the next day on a family-friendly cruise. Now in international waters and having still not registered anywhere, I am good to go. After a few days, we return. I fly out of Washington well before I would need to register in that state. I arrive in North Carolina, and I register in Cumberland County, where I will reside, within 24 hours of entering the state. It is now two weeks since I left confinement, but I am well within the parameters of

registration under the entering the state model." Larry, do you see any potential violations here?

Larry 30:18

Let me emphasize this is for non-supervised individuals. I see a plethora of violations if you're under supervision, because all those things you described would have been off limits as a condition of parole, probation, any type of PFR supervision. But at first glance, as he described it, I don't see any problem. Everything he described would be legal. What I do see in the scenario is that it's extremely unlikely to occur in the real world. This means that nobody and the various legislatures would have ever thought of this. And even if they had thought of it, there's really nothing they can do. A non-supervised person is free to travel as he or she sees fit. When they're released from custody, all the person needs to do is be cognizant if there could be a registration obligation in the states they're visiting. So I would encourage him, not that the hovercraft is following him, but just in case he has any encounters with law enforcement, and they run his history if he's in all the states he mentioned. And they say, oh, we see that you have this conviction, make sure that you've thoroughly analyzed what all the various things that could trigger a duty in that state. Like in Las Vegas, Nevada, if he were to go there. If he went to Las Vegas, Nevada, he would have 48 hours it is my understanding to get registered, and therefore he could be in violation of Nevada law, and possibly the federal law as well, because I think we can agree that Kansas and Nevada are separate states, right?

Andy 31:54

Yes, that's an obvious question. Yes, they are separate.

Larry 31:57

In order to get to Nevada, you'd have to travel in interstate commerce leaving Kansas. That act defines a movement across jurisdictional boundaries as they travel interstate commerce. So therefore, he would have left Kansas, he would have traveled in interstate commerce, he would be in the state of Nevada, he would have exceeded the requisite 48 hours, which is the perfect jurisdictional setup for the marshals to prosecute him. So if the Las Vegas Metropolitan Police were to have some reason to run his background, something tells me that they would relate this to the US Marshals because the federal law is so much tougher. They'd like to hand these cases off. They don't want to do the work, and they can send them away on the federal government's dime. I've never heard such a scenario in all my life. I mean, this is one of the best ones I've ever seen. But if you're going to do all these things, then make sure that you're complying with the registration obligations of that state within the requisite time of being in that state. Newsflash, if you register in Nevada, they will keep you on the list for the rest of your life. Even though you move out,

they'll show you are no longer there. But you're still listed on their list. So think really hard about going to Nevada, think really hard about going to Florida. There are a number of states that have very short windows of registration, and you'll be stuck on their list for the rest of your life. Even though you're not having to register there, you'll be stuck on their list.

Andy 33:25

And just to pile on top of that one, that, like Georgia, when you move to Georgia, it says if you are on a registry anywhere else, not whether you're required to register, whether you've been convicted or anything like that, that that is the wording is that are you required to register anywhere else. And if you are on listed on one of those registries, then you get to register in Georgia when you get there.

Larry 33:46

I have told this story before, but it's been 100 episodes back. There was a guy many years ago who contacted me in my capacity as a consultant. He had been convicted in the state of Wisconsin. And he did not have to register in Wisconsin because his crime predicated their coverage period. This was like in '93., and this wasn't covered with his conviction. And he decided he was going to make him a bunch of money in Nevada. He goes out there and they said, "Welcome to Nevada, we're glad to have you here. And in order to work in the gaming industry, you need a gaming card. And so you need to run down, get fingerprinted, and we'll give you your card." And so he got fingerprinted and they ran the background check. They said oh, you've got this old conviction from '93. And so then the Nevada authorities said, "by the way we understand you're not registering in Wisconsin, but our coverage period encompasses you because ours goes back further than 93. So we'd really appreciate if you would get registered with us." And he did get registered. He discovered that since he was on the Nevada registry, working in the casino industry was not as exciting as he had hoped. It faded its luster when he had to register, so that he wants to go back to Wisconsin. He gets back to Wisconsin, and they have that exact same language you just described to Georgia. If you're registered anywhere, you have to register there. And he said, wait, I'm not required to register, and they said, look at what it says in the law book. It says, if you enter this state while registered in another jurisdiction, you will register here. And I said it can't be any clearer than this. And he says, well, I don't agree. They said, well, if you don't agree, we're gonna lock you up. So he registered, and then he decided to move to the state of New Mexico, because our coverage period doesn't start to 95. And he was off all supervision prior to 95, related to his offense. So he comes here. And then New Mexico said, well, we don't have any basis to require registering. So you're done. Then he goes

back to Wisconsin, as a non-registered person, point of making. This is very nuanced, convoluted stuff. There's not a soul that can tell you this stuff. There's nobody you can call. It's all very unique to your circumstances as what you do.

Andy 36:10

Samuel continues, "I have not heard or read anything yet that would suggest that my activities in this scenario would not be completely legal. So, again, what am I missing? I have been telling guys here that they need to register within three-days of release. In fact, I was half-way through an article to help inform the inmate population of this requirement when Ashley spoke with you. It is now on hold, as, apparently, I have been wrong all this time." Has he been wrong all along? Larry?

Larry 36:37

No, he has not. So each person's circumstances are completely different. Some will be leaving JRCF under parole supervision. Under those circumstances, that person will not be permitted to take cruises and travel across the United States, or two week or one month vacation. That person is going to have explicit conditions on their parole that says you will report to a parole officer in X number of hours or days. On the other hand, a non-supervised person could do exactly what he described. The person leaving under supervision should follow explicitly what their conditions are that they're being told, unless you want to risk being violated right away. If they tell you to report within 24 hours, you do report within 24 hours. And if you have a difficulty before you get discharged, and you ask look what happens if the bus I'm riding blows up and is no longer operable? And I'm not going to make it. Or suppose there's a snowstorm. It came up in this scenario of things that was discussed. What happens, who do I call. And that's what you need to ask before you leave. Because they will violate you if you don't reach the destination report in time. But if you're not under supervision, you're only on a civil regulatory framework, which is a whole different standard. It's still serious business, and you need to comply with it. But you have basically freedom to do what you want to do and go where you want.

Andy 38:16

And it's a civil regulatory scheme, right? I mean, akin to your driver's license. I know not, but sort of, right.

Larry 38:26

Right. It's a civil regulatory scheme. We need to learn to say those words. Even though it feels very pure, there are many aspects that are very punitive. It helps you when you're arguing in a political setting against things they want to add on you if you can bring yourself to utter those words. I've not been able to get many advocates to do that. You can

say, look, folks in a civil regulatory scheme, we can't do these things. Because the civil regulatory scheme is vulnerable to a constitutional attack if you start trying to inflict punishment. We know that you feel bad for the victims. We understand that you want to help out these people. But you can't do this within the civil framework of a regulatory scheme. Try those words. You'll find that they're very effective. But most people just reject them out of hand because they don't want to say them. They say, "I don't understand why you're so stupid. You don't understand. There's nothing simple. There's not a regulatory about that this is punishment. Why can't you I admit that?" I do it all the time. But it's still on the books as a civil regulatory scheme. And you use that to your advantage. And you tell them "Hey, this is a vitally important public safety tool that can't be jeopardized by trying to inflict punishment. They've paid their debt. They've done their time they've done their supervision. This is merely a tracking mechanism; we cannot impede their liberties through a civil regulatory scheme."

Announcer 39:48

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Andy 40:36

Well, I'm going to bring Ashley on, Larry. And so Ashley, do you have any follow up questions that you wanted to go over?

Ashley 40:45

I do. First, I want to say my husband knows what he needs to do for his situation. He is in a role at the prison where guys ask him questions, and he's supposed to find answers and get back to them. And he gets a lot of questions, and his goal is to inform the inmate population there. And unfortunately, there's no one there who either cares enough to help them with these questions. And I mean, we're talking like less than a handful of guys who maybe get released each month. So they feel like with such a small population, they should be able to have someone help them and answer questions. And no one can seem to be bothered to do any research or help them, and they certainly can't do it themselves. So I appreciate that you guys are answering questions.

Larry 41:47

I somewhat disagree with the assessment of people. I don't know what their job descriptions are. I don't know what they're required to do or what their role is. But registration is very nuanced and complicated. Enforcement is very uneven, even within the state itself. And many states operate on a hybrid system, meaning that the state police or the state law enforcement doesn't run the registry itself. It's all delegated to Georgia, for example, 159 different counties in Georgia. In Texas there are 254 different counties, and the different counties have their own unique way of doing things and interpreting the law. And some counties are far more zealous in their enforcement. And they even are prompting them things. And in addition to that, there's a plethora of locally imposed restrictions across the country. All states don't have locally imposed, but many do by counties and cities. But the bottom line is that I don't know what other information that we talked about, and what information additional than what they're being provided today. What the bottom line is that you're going to need to register, and you should register as promptly as you can when you enter the state. And they will tell you what you need to do when you get there. They will tell you. It's just like when you take your car--Andy and I talked about that earlier--I'm pretty sure you take your car and the documentation, and you try to register it. And they say, well, we'd like to register your car, but it needs an emission inspection certificate. Do you have that one? No, I don't. Well, it needs a emission inspection. Have you taken it by to get the VIN as well? No, I haven't done that either. It has to be certified because it's coming into the state new. They will tell you what you need to do when you get to the registration office. The registration is going to be very similar around the country. Some states have a lot more information they're going to collect. But as far as I know, everybody collects a photograph. Everybody will collect a DNA sample. Everybody collects your name and where you're working at. Most if not all the states now what you know what your online identifiers are, but there's even litigation pending against that. They will ask you where you're going to be employed. Some states will ask you more stuff even if it's not in the statute. In the case of Cumberland County in North Carolina, they have been known to impose things that are not in the statutory scheme. So I'm not clear at all what they feel they're missing. They're being told you have to register their big toe, within three days, which is the most conservative application. It may not be three days. They may be going to Vermont, where it's 10 days. But if you register as quickly as you can, I'm not sure what else they're wanting to know that they feel like they're lacking, and maybe I'm just not able to comprehend. So help me understand what they're missing.

Ashley 44:34

So I think all of these questions and crazy scenarios popped up last month. They started a new thing at the prison where when the guys were released, they would take them to the airport and fly them home. So they're on their way. But now they send the guys from prison at Fort Leavenworth to Fort Sill, Oklahoma, where they do the out-processing kind of stuff, and then they fly them home. This whole time they're unsupervised, they're released, you know, as soon as they leave Fort Leavenworth. So the guys were kind of getting worried does that day one start? You know, when they leave Fort Leavenworth, and then they're wasting their time in Fort Sill. And then that's where the lizard scenario came up like, what if the planes delay? What if, you know, it's just like in the federal government, they're not going to be like, well, the army said, you know that they're just concerned that that's adding, but I guess that's not a real issue if it really truly doesn't start until they enter their home state.

Larry 45:43

Well, we did discuss that. And we did a lot of work of trying to do the best we can on this program. If you were to go to Fort Sill, and I've never been there, but I think Andy was stationed there. But if you were to go to Fort Sill and you had the ability to come and go from that military installation and mingle in the public, I would think that you would need to register in conformance with Oklahoma's law in whatever that time of entering the state. Because you have, in fact, entered Oklahoma. But if you're not free to come and go, which I think you've made it clear that they wouldn't be free to come and go, they're just doing a stop off there to be processed, I will just about bet my teeth that no state official or county official is going to come barging into a military base and say, well, you know, we want to find out because it seems like you might have some PFR is in here. I mean, they're not going to do that. So the question is going to be if they are they free to come and go. So a blizzard comes hypothetically. Oklahoma is a three-day state, and there's a blizzard of all blizzards, and they can't get out of there for four days, and they're free to come and go for those four days. Theoretically, I would think that they would have a registration obligation. Does anybody really care if they were just passing through? I have never heard of a person who's passing through a state in what you described as their final destination, and they got held up for an extra 24 hours, I have never heard of a prosecution of such now. Is it possible? I suppose anything's possible. But you think with me being on the National Lawyers lists or the state lawyers lists or having trained attorneys, you would think that if this had happened or if it was a reasonable possibility, I would have heard of it by now. But I haven't heard of that. So I don't think that's a realistic fear. But I mean, could it happen? Yes, it could happen I suppose. Andy, how deep does the snow get in Fort Sill, Oklahoma?

Andy 47:39

Well, being super specific--it like never snows, but it will be really, really cold. And it will snow, but it is like a half inch because there's this Wichita mountains scenario thing there. Like it doesn't snow there. I was there for two and a half three years and it never snows.

Larry 48:04

Well, I'm thinking that yes, you could run the risk of having to register in Oklahoma. If you were there long enough. I don't know the specifics on how long all the different things that can trigger a duty at Oklahoma. And Oklahoma is a tough state, and you could get a lot of state time for not registering. So again, I would say if you got trapped in Oklahoma, do your homework and make sure that you don't have an obligation to register. Make sure you know exactly how long you can be there. There is a flight record if the military flew you there because something tells me the military is notorious for keeping records. They keep records of when the wind is blowing, and how many knots it's blowing and, and all these different degrees of the bow and the stern. And they're notoriously good at documenting. So that would be a case where they might be able to prove it.

Ashley 48:48

Yeah, I think the fear was more of not so much having to register in Oklahoma but showing up to register at home, if you've been after you've been delayed in Oklahoma, and then they're like you got released three days ago. Why are you just now here? You say we overthink things. But this is all brand new to all these guys. And it's scary stuff. So they don't want to mess up on accident and end up back in prison.

Larry 49:18

Well, I appreciate that. I understand, particularly with this harsh sentencing. But when everything else fails, when you're trying to defend a crime, the prosecution when they're screening cases, most rational prosecution screeners look at can we prove the elements of the crime and the elements of the crime of failure to register the general elements are that they have to know that they have a duty to register, and they have to willfully or intentionally not do that registration. And assuming that on the scenario that they've cooked up that Georgia actually has jurisdiction before he ever gets there, which they don't, in my opinion, but say Georgia did have jurisdiction, then it would revert to what the prosecution could prove in terms of the requisite elements. You've got an impossibility to finish you can always assert. So you get this before the jury and you say, "ladies and gentlemen of the jury. This prosecution was needless, pointless, because my client was a servant of our country and the armed forces. They were released from military custody, and they were unable to make it to Georgia within three days. Are you going to convict him for

this? Or do you want to send a message to the prosecution for wasting everybody's time?" That prosecution is never going to get past screening. Because Georgia doesn't have jurisdiction to begin with until he enters the state and if he got stranded at Oklahoma, you just don't have the requisite elements. You can't beat those. So this case would be on life support the minute that it was filed.

Andy 51:04

Larry someone in chat says, "Crime, what crime? It's a civil regulatory scheme."

Larry 51:08

Well, you can be prosecuted for failing to comply with civil regulatory schemes.

Andy 51:12

Yeah, if you don't have a driver's license for X amount of time, you are going to get in trouble eventually.

Larry 51:18

Yes, you will, you will get a very light citation to begin with the monetary fine, but you keep doing it and then what? Everything that's civil regulatory can be punished. Failure for a young man to register for the United States draft can result in up to five years of incarceration in the federal penitentiary system. That's a civil regulatory scheme. I think everybody would agree. There's no punishment inflicted by registration for the draft, so do it. You are subject to find out you are subject to prosecution. Do they give people five years for failing that reg? No, they don't. But they could. It's on the books.

Andy 51:52

Please continue. Ashley. Do you have any other questions?

Ashley 51:57

I think I'm good. They have a ton of parole questions. But we'll save that for another day.

Larry 52:03

So well, that we will keep doing this from time to time. It'll probably be a few more episodes before we come back to it again. But these are good things. And if these guys are thirsting for information, we'll do the best we can. Remember, we're not experts in the military. My professional career has done nothing in this arena yet, so we're learning with you.

Andy 52:26

I was sharing with Ashley, the other day that they're not the first people to be convicted of this. If 900,000 or 800,000 people are on the registry, how many of those people were convicted through the military? I bet you the number is in maybe in the hundreds that were actually convicted in the

military. So the number of people that they could even like coordinate between each other to try and figure out what information they could coalesce together would be scant at best.

Ashley 52:58

Yeah, I think that's why it's super confusing to everyone at the Fort Leavenworth prison. Most of them don't live there. And they're not going to stay there when they leave the prison. And the civilian versus military rules, they don't always translate the same. So it's very confusing.

Andy 53:20

And Larry, I told you this earlier that I would chill out on questioning them so hard. Like there's this whole thing about the government doesn't do anything. But these are people that would like to get a government job. And then they get placed there. And their requirement is to inform these people about something that they probably don't have a legal background in. Or maybe they do, but this isn't their life's work either. And they have to know all of the ins and outs of how this whole registry thing is going to work. They're just there to get their GSA pay and go home at five o'clock every day. I would hesitate to bag on them so hard about them not being able to offer any information. They're not getting paid extra to know anything more than anybody else knows. This is my opinion.

Ashley 54:09

I'll keep my mouth shut on that.

Andy 54:11

I just don't think that that is their role. Like experts at it. They're not Larry level of information about every individual 50 registries, the seven territories, every county all 5000 counties in every little city jurisdiction. That's like, there's a lot for them to know about every individual's situation.

Ashley 54:32

I agree.

Larry 54:34

Well, we've gone a little bit long, but I think it's been worthwhile. So we'll have to drop some of these articles. If you don't have anything else, Ashley, we really appreciate you being with us again.

Unknown Speaker 54:45

Thank you. I appreciate you guys and all the guys appreciate you. They want to thank you.

Andy 54:50

Thank you for being here again. It was fun. Now the fun stuff, Larry.

Larry 55:01

Let's do the prison telephones and let's do the police shootings. I just can't help myself on the police shootings.

Andy 55:12

Good grief. You people put in this article about the record number of people killed by the popo. "Law enforcement killed at least 1,176 people in 2022, making it the deadliest year on record for police violence, since experts first started tracking the killings." What on earth does this have to do with PFRs?

Larry 55:49

Not much until your loved one is on the wrong end of an encounter with the police. "In 2022 132 killings (11%) were cases in which no offense was alleged; 104 cases (9%) were mental health or welfare checks; 98 (8%) involved traffic violations; and 207 (18%) involved other allegations of nonviolent offenses. There were also 93 cases (8%) involving claims of a domestic disturbance and 128 (11%) where the person was allegedly seen with a weapon. Only 370 (31%) involved a potentially more serious situation, with an alleged violent crime." So this is a huge problem. And it is going up according to the stats. Anyway, that's why I put it in here because it's a serious issue.

Andy 56:49

Hey, do you think it's a valid argument to try and compare this to another country like our neighbors to the north? Where they have about a 10th of the population, and they have like 30 police killings a year. Is it relevant to compare us to them like that?

Larry 57:12

Yes, it is.

Andy 57:15

Okay, um, according to the article, there is also some jurisdictions and states that have seen reductions in lethal force, "California, the most populous state has experienced a 29% drop in killing since 2013, while Texas, the second largest population has this 30% increase in that timeframe, according to Mapping Police Violence." Now, why would there be a 30% increase in Texas?

Larry 57:40

Well, I can't say for sure, except Texas has not made reduction in number of police killings a priority. "The consistent numbers year after year make clear that "broad systemic change" is necessary to prevent these killings, said Dr Elizabeth Jordie Davies, a Johns Hopkins postdoctoral fellow and expert on social movements. While there have been growing calls to defund police, leaders of both political parties have advocated the opposite – pushing for the expansion of law enforcement. There's a continual

commitment to using violence to control people and manage problems in this country. And as we keep giving police more money and power, we'll continue to see more police violence," Dr. David said. Dr. Davis sounds almost like me, because I've been saying if you give the police unlimited resources, without any accountability mechanism, without asserting your direct supervisory control, what would you expect?

Andy 58:43

Ah, is this a red versus blue issue, Larry? Is this a mindset of a super blue versus a super red state where they say don't take my guns? Don't try it in Texas, all that stuff. Do you think it's that?

Larry 58:56

I don't think so. I don't. I think it's bipartisan. I mean, Biden came out said, oh, no, we don't need to defund the police, he said. Nobody ever talked about defunding the police meaning eliminating all funding. They talked about reducing and redirecting some of the funding to police to maybe what was mentioned in the article, which was more mental health responses, which they've tried in subsidies, rather than sitting out the uniformed officers to pull guns on people. But it's pretty bipartisan. When you put your finger up and test the pulse of the population, the people with their cute phrases of defund the police, they scared the hell out of everybody to think that there was a movement to actually take all funding away from the police. There never was. So I don't think it's red versus blue. I mean, Team Red is more likely to be willing to give the police whatever they say they need. But Team Blue is right in there, giving the police more research resources than they actually need. But the reality is if you talk about reducing funding, you see what happened. We've ran spots from, from MMA political ads explaining what happens, you know, the fear of crime. We've done it.

Andy 1:00:10

All right. And then you did also want to cover this other article there. All my stuff's out of order since we ran long, and I'm really picking on you. But this is from AP news "Biden signs bill to ease cost for prisoners calls to families." And so we have some good news here, President Biden signed this law, a bill aimed at easing the cost of for prisoners to call family and friends. The legislation clarifies the Federal Communications Commission can set limits on fees on audio and video calls inside corrections facilities. This is good news. I vaguely recall that this was put into place during the Obama administration who was challenged in the courts. So right before I got out, Larry in 2014, calls up to that point where about 25 bucks for a 15-minute call. And then just as I was walking out the door, they became like \$4. But then states sued, because that's a significant

revenue stream for them. And I believe that it reverted back during the following administration. So it is coming back.

Larry 1:01:14

Yes, you are correct. You are indeed. According to the article, "in 2017, under President Donald Trump, the FCC abandoned the fight to lower the cost for prison phone calls. A federal appeals court eventually ruled the FCC didn't have the authority to cap the rates. Now with this legislation, the FCC may indeed have the authority."

Andy 1:01:39

You just said that they may have the authority. What do you mean by that?

Larry 1:01:44

Well, the statutory language gives authority, but they may or may not. Keep in mind that this law, like all laws, is presumed to be constitutional. However, it does not mean that it is not vulnerable to challenge. I can think of several challenges that the telecommunication industry might assert. I mean, we are short on time, but I could start articulating them. But also keep in mind that this is a cash cow for the companies. And to some degree, the prisons as well. They're not likely to go down without a fight. So I just don't think that they're going to say, well, we have finally seen the light now. We don't want this money anymore. I don't see that happening.

Andy 1:02:23

There you go again. You know, I wanted to find a whole bunch of superhero guys to fight Doctor Doom and Gloom. And so I also see that Governor Newsom in California signed legislation making calls for how many dollars, Larry? How much is that one?

Larry 1:02:39

It says free.

Andy 1:02:41

Oh, can that stand?

Larry 1:02:44

Not sure. I don't see how, if it's vulnerable, and I believe that they are vulnerable. You're talking about--I'm just the messenger here--but you're talking about capitalism although the inmates are not free to choose their phone carrier. But you're talking about a system where companies have invested enormous sums of money setting up these elaborate communication systems in prison so they can monitor and pick up on key words. And you're telling them that they do not have a right to have a return on their investment, that they can't make any money. And of course, the question is, what's the fair amount of money? Well, I've always been told that the capitalist market will determine what is the fair return. And theoretically, other

companies could come in and make a similar investment. Or they could pitch to the prisons that we can do this cheaper. So if you're a big believer that capitalism solves all problems, and it doesn't need any governmental intervention, then you would say that this is an intrusion into the capitalist system. I mean, you couldn't say anything to the contrary, could you?

Andy 1:03:46

No, I guess not.

Larry 1:03:48

So therefore, I think that we could see challenges. We're likely to see challenges, and time will tell if they can do this. But this is definitely an intrusion into the capitalist marketplace. And I just don't know if it's going to stand or not. The regulatory framework is very limited in terms of what they can and cannot do.

Andy 1:04:10

Well, very good. Is there anything else we do? I mean, maybe we have a minute or two before we have to close it all down. Do you have anything else that you want to do before we get on here?

Larry 1:04:21

Well, not really.

Andy 1:04:23

Okay, I have to ask you this thing. So I put an article in there about laws changing across the country, and this one just jumped out at me. California jaywalking. So despite the protests of law enforcement agencies, California has decriminalized jaywalking, Larry, which tells me that all the jokes that I make about felony jaywalking were not untrue, because if they've decriminalized it then it was criminal before. So your turn?

Larry 1:04:55

Well, I think you're onto something here. That's one of the things that was on the books as a pretext. A lot of little petty things are not really there because we're so concerned about them happening. It's like seatbelts. I mean, seatbelts are great. And I recommend wearing them, although I'm not completely 100% With Biden belted, but it gives protection. With jaywalking, I mean, most of the cops could care less if you get splattered. But if you're walking around and you don't look like you belong there, quote, you look a little bit out of place, and you will just don't fit you Jay Walk, they have a reason to encounter you and ask you for identification, and to do an NCIC background check on you. So the fact that some of these things are being decriminalized, it will stop some of the pretextual stops. Now, law enforcement will invent others. They don't give up and go away without a fight. So they'll find other things.

But every time we can get a nuisance crime off the books and decriminalized, it stopped some of the pretext that goes into how law enforcement uses those offenses.

Andy 1:06:06

You just can't admit that when I say felony jaywalking that I wasn't exaggerating? You just can't do it, can you? So anything else? Did you want to do anything before we pop out?

Larry 1:06:21

Just, welcome. I think we got like 10 new patrons over the Christmas break.

Andy 1:06:25

We did?

Larry 1:06:28

I was guessing.

Andy 1:06:29

Oh, I'm not aware of any, to be honest. I think everyone pretty much goes on mental vacation, as well. But I will say Happy New Year to everybody. It's going to be a fantastic year for Registry Matters. And I will be sending out all of those little receipts for your contributions for the year. So if your company does any sort of matching program, that would be fantastic if you could submit those. So happy 2023 to you, Larry, and I'll see you next week.

Larry 1:06:58

Thank you. Looking forward to it. Take care.

Announcer 1:07:04

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