

Josh: [00:08](#) ***music plays***

JP: [00:08](#) Hey everybody! This is the legal disclaime, where we tell you the views, thoughts, and opinions shared on this podcast belong solely to the person talking to you right now, and not necessarily Brady or Brady's affiliates. Please note, this podcast contains discussions of violence that some people may find disturbing. It's okay. We find it disturbing too.

Josh: [00:29](#) ***music plays***

JJ: [00:44](#) Welcome back everybody to "Red, Blue, and Brady," and in particular, welcome back JP.

JP: [00:50](#) It feels great to be back after being sent away by Christian Heyne to every corner of this country.

JJ: [00:55](#) He's alive!

JP: [00:56](#) I'm back!

JJ: [00:57](#) Yeah, Christian fails to mention when he's running his hashtag replace JP campaign, that the reason why JP is not here is because Christian has told him to go other places--

JP: [01:05](#) Yeah. Well, it's funny how all of my travel happens to match up with when the podcast are being recorded, but uh, it's great to be back in a new studio.

JJ: [01:15](#) We are, everyone's seen the photo I tweeted out now of our little Harry Potter studio, but we have a table now that's functional. We're not on the ground!

JP: [01:23](#) Well, I'm glad that we're also joined by a lawyer as well. In this fun little podcast room we have here.

JJ: [01:30](#) This is part of our sort of legal palooza. You've noted that the last couple of podcasts we've been focusing on different legal cases and different...legal events, I guess you could say, that have been happening in the news that Brady has been involved in. But today, we don't have Lowy. We have--

Josh: [01:43](#) hi, I'm Joshua Scharf. I am Legal Counsel and Director of Programs here at Brady.

JJ: [01:48](#) Today we're talking about a new trend, which is people labeling their towns, their counties, a so-called "second amendment" air

quotes, "sanctuary cities," quote. And we're going to talk about why cities isn't the right term and sanctuary cities isn't the right term and there's a whole big mess around this. So Josh, I'm going to kick it right to you. And so what, what, is this so called second amendment sanctuary place?

Josh:

[02:13](#)

Yeah. So it's something that we've been seeing, I guess with increasing frequency lately. Um, and, and since you use the word trend, maybe I start with what it's not. And it's really not a grassroots movement of what it's trying to bill itself to be. But you know, from our work in some of our public records work, really this is a, an exercise that's being orchestrated by the gun lobby. Frankly, organizations like the NRA, like to spread this around the country and perhaps with the desire to make it appear like a grassroots movement, but there's, there's really some orchestration behind this. So what exactly is it? And it could be a lot of things, but really what we see is some element of local government, uh, sometimes a city or a township, sometimes commonly a county, often a sheriff's office, basically going on the record in the form of a resolution or some type of statement pushing back against really common sense gun safety measures that are being passed in the states. And saying, we're not going to respect those laws here, or we're not gonna enforce those laws here. Or we disagree with those laws. A variety of different things. They can be very broad, they can be very narrow. But really it's, it's a pushback. I can say this, I think, because I have an 18 month old at home and, and I'm an expert in this, or am becoming an expert in, is really, it's a giant temper tantrum. It is, it is pushing back against common sense gun safety laws that save lives, uh, being passed by elected officials, statewide officials, you know, who, uh, who've ran on those platforms.

JP:

[03:47](#)

And we're often seeing these happen in places that have recently flipped to gun safety majorities. So as uh, Josh, mentioned, they're temper tantrums aimed at, this is the last thing that we can do after we have these new legislators brought into our state Capitol who want to pass gun violence prevention legislation. So some of the states that we've seen it the most is states like Virginia. States like Illinois, where their state legislators have recently flipped in order to pass gun violence prevention legislation. And oftentimes, Josh, we've heard sanctuary city used in uh, an immigration sense. Can you explain to us a little bit why this is different?

Josh:

[04:33](#)

Yeah, I'd be happy to do so, because...right? I think this is an exercise in branding from those that are pushing these to try to draw a parallel to what's seen as more of a progressive

sanctuary city movement about immigration laws. And it's a misnomer, right? These things are fundamentally different and I think those that are branding needs as so-called second amendment sanctuaries are taking my replacing a bet that people will be ignorant to the underlying principles and just look at the titles, right? So what do you have on the immigration side is immigration is a laws are a federal policy and in our system of federalism and states' rights, the federal government enforces federal policy. It's not up to the states to implement federal programs like immigration laws. So on the immigration side you see a certain location, localities, saying we're not going to use local resources, local taxpayer money to fund to, to you know, basically support a federal immigration program. What we're seeing on the so-called second amendment sanctuary side are laws that are passed by state governments and local officials saying, we're not going to enforce those laws. And that's fundamentally different because there's no federalism components that's at play for gun safety laws that are passed by states that need to be enforced by state officials. So I think it's a creative branding exercise, but it's, it's at its essence a false comparison.

- JJ: [06:04](#) So is then this, this effort, this temper tantrum, which I kind of, I love calling it that instead of a--
- Josh: [06:10](#) Please do!
- JJ: [06:10](#) --instead of using a wrong one. So we'll, we'll brand it ourselves. So this temper tantrum, is this just symbolic though, you know, it's passing one of these resolutions. Is this just a form of public venting that's taken the form of sort of a civil procedure, or why does this actually matter?
- Josh: [06:24](#) Yeah, so yes and no. You see it commonly referred to I think in the press as symbolic measures. Those sometimes that pass these things, uh, when they're backtracking, they'll refer to them as symbolic. Unenforceable. Yeah, to some degree, that's true. Now every, every resolution is a little bit different and they follow different patterns. Some are much worse than others, but yes, right. In our system of government, it's a elected state. Legislature passes legislation and an elected governor signs that legislation into law. If those laws are challenged as being unconstitutional, it is a court that makes those decisions and local government really doesn't have a role in declaring these unconstitutional in picking and choosing what's going to be the law within the confines of their county or their township. But there is danger to these things, right? You have a county council, you have a sheriff commonly a sheriff going out there

and publicly stating, we're not going to enforce these laws or we don't believe that these laws apply here.

Josh:

[07:34](#)

And even if they're wrong, they still have an audience and perhaps it's a rank and file, a law enforcement officer who, here's a message that, for example, an extreme risk law, a law that is designed to temporarily restrict someone, someone's gun rights when they're found to be a credible threat to themselves or others, that if they get perhaps an order from a court to go collect a gun from somebody who has been determined to lose their rights temporarily because of state's extreme risk law. And if the rank and file says, you know what, I don't, I heard my sheriff, I heard my counsel say that we don't do those here. Right? And if they make that decision not to enforce that order and then you can just game this out and you can see the potential danger. And the fact is if someone does get hurt because of a scenario like that, that plays it out like that, not only is it terrible that someone--that a sheriff or a commission, one of their own citizens who their essence is to protect the public safety--when one of those people get hurt, like that's bad enough, but their own taxpayers are potentially on the hook then to pay any damages in a lawsuit where law enforcement or the city acted negligently and led to their, their injuries. This is actually the theme that a couple state attorney generalx have really hit on in some letters to, some of the, they're sheriffs that have publicly stated, they're not gonna enforce the laws of saying you're really creating enormous risk for your, the members of your community and also the taxpayers.

JJ:

[09:11](#)

And I think that's why I've, I know I've heard both you and I've heard JP now talk about how these are very hypocritical, sort of, I don't want to say laws, but sort of hypocritical creations because in what worlds are law enforcement officers not responsible for carrying out the law?

Josh:

[09:26](#)

Yeah. This whole thing drips in hypocrisy and I think a few things, right? First of all, I guess more irony is, is you're not creating a sanctuary for anyone, right? You're actually creating a danger. And you know what we see, often when people that support gun rights are in power in state legislatures or in the governor's office, we see them passing and promoting what are called preemption laws. Uh, making the argument that the state is supreme in the state and we can't have a patchwork of local gun laws and making an argument that only the state can exercise authority over guns and that local communities have no authority. But as soon as they lose control, as JP was saying, of legislatures and governors offices, all of a sudden the script

flips and now they're in essence advocating for a patchwork of gun laws and saying the state is not supreme. So you see that type of hypocrisy play itself out.

JP: [10:27](#) And I think that for people to understand what the, the size and impact of this issue is, you need a little bit of the numbers and the data of where and how many counties and even whole states are bringing forward these sanctuaries. So four states have declared their entire state sanctuaries, Alaska, Idaho, Kansas and Wyoming. And in some states there have been a large amount of counties that have brought forward and pass these things. Colorado, 38 counties, Illinois, 67 counties, uh, New Mexico, 26 counties, six cities in one town, Oregon, 14 counties have passed it. And in Virginia, 49 counties have passed sanction, second amendment sanctuary resolutions. So we'll link to a lot of that information. Um, so you can dive into the details. But this pro, this issue is not something that you can kind of look away and say, Oh, this doesn't really matter close to me. It's hitting a lot of places all across the country.

JJ: [11:34](#) And maybe just to see how this has sort of played out before, can you guys tell me a little bit more about the case of New Mexico?

Josh: [11:41](#) New Mexico is an interesting case and one that caught our attention early on when we saw that about 25 or so sheriffs in New Mexico signed onto a declaration that was sponsored by the New Mexico's Sheriff's Association. And to be clear, this is not all of the sheriffs in New Mexico, but a good number of them, basically saying, declaring themselves sanctuary counties, urging their county councils to pass these resolutions, uh, and really implying that they were not going to be enforcing gun violence prevention laws that the newly elected New Mexico legislature had planned to pass in, and the governor had planned to sign into law. This caught our attention obviously. And one of the things that we decided to do was file a series of public records requests to each one of these sheriffs and counties, so you get a sense of what was going on behind the scenes because frankly it followed the pattern of a coordinated effort that was being orchestrated from outside.

Josh: [12:39](#) And surprise, surprise. That's exactly what we found, is that the NRA was very much behind this effort, had dedicated lobbyists working on this effort to really get the sheriffs to publicly state this. They had been drafting potential legislation for them or resolutions, I should say. Uh, had been drafting editorials, giving them talking points, orchestrating the whole thing from behind the scenes. We weren't surprised, but you know, we went

public with it, wrote a report available at our website. I'm sure you guys all link to it.

JJ: [13:12](#) It's linked in this descriptor of this podcast, we link everything.

Josh: [13:15](#) Yeah. And it also, you know, found some really crazy things in their sheriffs that were stating that they believed that they were more powerful than the president of the United States, which is really just an absurd concept. And also, you know, circling back to the hypocrisy of this, right? We have to remember that it's the gun lobby that has always had this "enforce the law mantra," right? And enforce the law, enforce the law. There are good gun laws on the books--

JJ: [13:42](#) "And enforce those first!"

Josh: [13:44](#) Right, the laws, and here they're actively lobbying behind the scenes to not enforce the laws. And really when it comes down to is we don't like these laws and that's really the truth.

JP: [13:56](#) And oftentimes the NRA and the gun lobby will push a patriotic versus unpatriotic idea, of if you support the second amendment totally and fully with no regulations, you're patriotic. And if you say that we need to pass any type of legislation that would address gun violence, you are unpatriotic. But here we are. We were able to see through some of these open record requests that the gun lobby was asking law enforcement officers to not enforce the law and to break their state constitutions.

Josh: [14:32](#) Yeah. The second amendment is not the only part of the constitution, right? We set out separation of powers. We give powers to the legislative branch, we give powers to the executive branch.

JJ: [14:42](#) It's not just one thing?! It's not just on a post-it?

Josh: [14:45](#) Well, some people might think you could fit it on the post-it if it belongs to a sheriff, but believe it or not, we have different branches of government with different functions and law enforcement is supposed to do just that. Enforce the law. They don't write the law. They don't sign ugh, legislation into laws, and they certainly are not the ones who determine what laws are constitutional or not.

JJ: [15:07](#) Well, especially if it seems like citizens in these areas have already shown what their preferences are through voting, which in the case of Virginia--

Josh: [15:13](#) Yeah! It's the citizens that suffer. Right? The sad thing is that a lot of these resolutions are focused on extreme risk laws, and extreme risk laws are a huge tool to prevent suicide, and some of these rural counties that have sheriffs that have come out and county councils that have come out in favor of these so-called sanctuary resolutions are the same counties, the same jurisdictions that suffer the most from high suicide rates. That's tragic. That's just tragic.

JJ: [15:43](#) Oh, um, should you be worried one about your, this gun lobby initiative coming to your town ,and if you are worried, what should you do?

Josh: [15:50](#) Be vigilant about these things. Local politics are important, right? And local measures are important. Well what can you do? Um, the first thing is, is show up, right? Resolution don't get passed in back rooms. Maybe some of them do still, but they're not supposed to be right? They're going to be public hearings and there should be an opportunity for people to speak up against these things. I know a group down in Florida just organized, uh, to show up at one of these hearings and successfully defeated a, one of these so-called sanctuary, second amendment sanctuary resolutions, which is huge and really important.

JJ: [16:27](#) And we have link to the audio of it actually too, which is amazing--

JP: [16:31](#) Yeah, our great Sarasota chapter led by Carol Rescigno was able to to testify in one of the resolution hearings and was able to bring forward very simple points that we talked about so far, of this, "is opening up our county to a lot of lawsuits that public safety is really important and that law enforcement doesn't have the ability to overstep, and and decide which laws to implement and not to implement." And sometimes just being there in person explaining to some of these county commissions or your local town councils that these things could have a real impact and we should try to nip them in the bud if we can.

Josh: [17:12](#) Yeah, follow, follow the lead of Sarasota and show up and fight these things off. The second thing that you should do is vote. Vote in local elections, vote for candidates that promote public safety over gun industry profits. And then the third thing, should you unfortunately find yourself in one of these

communities that does pass one of these things is, dig. Find out why, who was behind the scenes? Almost every state has a, some type of public records laws. Some allow you to get records from the legislative branch officials. Some are more limited where you can just go to executive officials, law enforcement, submit open records, requests for correspondence who was behind these things, who, who was emailing back and forth. I think we generally know what you're going to find. Um, but to put pressure on your lawmakers, to be transparent in who they're dealing with on these things goes a long way as well.

- JP: [18:10](#) And please reach out to us if you do hear of it happening in your local community and you need some ideas on what to say when you talk to leadership in your community. We are here to help. And in addition to that, take a look out for people who may be hurt from these types of resolutions happening in your area. So if you hear about an ERPO, an extreme risk law not ending up being brought forward because of one of these, uh, sheriffs or county councils, let us know because those are the things that we can bring forward and really try to make sure that these counties know through litigation, through advocacy, that public safety is of utmost importance. Even more important than passing some of these resolutions if it makes them happy and it solves some of their temper tantrums.
- JJ: [19:01](#) But I know that Brady is releasing a sort of 101, everything you ever wanted to know or are afraid to know about the sort of temper tantrum on our website and as sort of a resource toolkit is coming for what people can do. So, so just everybody out there learn to fight Sarasota style. It's the way to do it.
- Josh: [19:17](#) All right. So thank you Josh. So much for coming on.
- Josh: [19:20](#) Yeah, thanks for having me. I should say, you know, I know I work with you guys every day. So I was a little starstruck when I got into the studio to be with JJ and JP, but you know, you guys have made me feel really comfortable and well still starstruck. Happy to be on. Thank you.
- Brady music: [19:39](#) ***music plays***
- Josh: [19:39](#) Thanks for listening. As always, Brady's lifesaving work in congress, the courts, and communities across the country is made possible thanks to you. For more information on Brady or how to get involved in the fight against gun violence, please like and subscribe to the podcast, get in touch with us at bradyunited.org or on social @bradybuzz. Be brave and remember, take action, not sides.

Brady music:

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Speaker 5:

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