

REPORT ON IMPLEMENTATION OF MEGAN'S LAW

Administrative Office of the Courts
Criminal Practice Division

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I. INTRODUCTION

On October 31, 1994, the New Jersey Legislature enacted the Registration and Community Notification Laws (RCNL), N.J.S.A. 2C:7-1 to -11, also known as Megan's Law. Megan's Law requires certain convicted sex offenders to register with law enforcement authorities, and provides for varying levels of community notification based upon the degree of risk posed to the offender's community. The statutes apply retroactively to juveniles and adults convicted, prior to the enactment of Megan's Law, of a narrow set of offenses when the individual's conduct was characterized by a pattern of repetitive and compulsive behavior.

On July 25, 1995, the New Jersey Supreme Court rendered its decision in Doe v. Poritz, 142 N.J. 1 (1995), upholding the constitutional validity of the statutory scheme but mandating judicial review of prosecutorial decisions relating to notification. In Doe v. Poritz, the Supreme Court held that the State had the burden of going forward, that burden being satisfied by evidence that prima facie justified the proposed level and manner of notification. Upon the prosecutor furnishing such proof, the registrant then bore the burden of persuading the court by a preponderance of the evidence that the proposed notification did not conform to the law and guidelines. Id. at 32.

The Third Circuit Court of Appeals sustained the constitutionality of the

statutory scheme in E.B. v. Verniero, 119 F.3d 1077 (3rd Cir. 1997) against challenges that the notification requirements of Megan’s Law constituted punishment in violation of the United States Constitution. However, the Third Circuit held that as a matter of procedural due process, the burden of persuasion had to be borne by the State, not the defendant. The court also concluded that the State must prove its case by “clear and convincing” evidence. Id. at 1111. That higher burden of persuasion required that all cases where the prosecutor had assigned a tier and a proposed scope of notification, and which a judge had reviewed, be re-opened and re-determined.

A subsequent constitutional challenge, brought by the Office of the Public Defender on behalf of Tier 2 and Tier 3 registrants whose offenses were committed after the enactment of Megan’s Law, involving the registrant’s right to privacy, was addressed by the Federal District Court of New Jersey. The District Court found that the distribution of Tier 2 and Tier 3 notices under the Attorney General Guidelines unreasonably infringed upon plaintiff-registrant’s privacy rights and ordered that the Guidelines be redrafted to reasonably limit disclosure to those entitled to receive it. Paul P. v. John J. Farmer, Jr., Attorney General, et al. 80 F. Supp 2d 320, 325 (D.N.J. 2000). Pursuant to the District Court’s instructions, the Attorney General revised the *Attorney General Guidelines for Law Enforcement for the Implementation of Sex Offender Registration and Community Notification Laws*. The new guidelines

became effective March 23, 2000.

The revised guidelines provide for two versions of notice to persons and/or organizations: an unredacted notice and a redacted notice. The unredacted notice contains the home address of the Megan's Law registrant along with the registrant's name, photograph, description, license plate number, vehicle description and sex offender status. The redacted notice contains the same information as the unredacted notice except that it omits the specific street number of the offender's residence and the exact street address and business name of the offender's employer. In order to receive an unredacted notice, the recipient must sign a receipt form in which he or she agrees to follow the Rules of Conduct and be bound by the terms of the Court Order which authorized the provision of notification and to submit to the jurisdiction of the court. Members of the community who are within the scope of notification, but who decline to sign the receipt form, receive the redacted notice. The guidelines state that persons who do not sign the receipt form, and therefore receive the redacted rather than the unredacted form, are told that they are, nonetheless bound by the applicable Rules of Conduct.

The Attorney General has created four types of Rules of Conduct that are tailored for school personnel, community organization officials, community members and businesses. The main purpose of the Rules of Conduct is to ensure that the

information about the registrant is not shared with anyone who is not authorized to receive it.

The Office of the Public Defender challenged the revised guidelines arguing that the revised guidelines were deficient because they did not require issuance of a court order which would subject the recipient of sex offender information to contempt of court sanctions for unauthorized disclosures and that a person's block of residence is constitutionally protected information which will be disseminated without any safeguards against its improper use in the redacted notices. The District Court rejected those arguments in Paul P. v. John J. Farmer, Jr., Attorney General, et al., 92 F. Supp. 2d 410 (D.N.J. 2000). The Public Defender then filed an appeal to the Third Circuit Court of Appeals which upheld the constitutionality of Megan's Law, and concluded that the revised Attorney General Guidelines adequately safeguard a registrant's privacy interests in assuring that information is disclosed only to those individuals who have a particular need for the information. Paul P. v. John J. Farmer, Jr., Attorney General, et al., 227 F. 3d 98 (3rd Cir. 2000).

II. MEGAN'S LAW - OVERVIEW

REGISTRATION

, Offenders convicted of specified sex offense(s) required to register with law enforcement authorities.

9

RISK OF RE-OFFENSE DETERMINED AND TIER ASSIGNED

, Prosecutor determines risk of re-offense based on the Registrant Risk Assessment Scale, and assigns registrant to a "tier."

9

REGISTRANT NOTIFIED

, Registrant given notice of prosecutor's tier assignment and proposed groups and individuals, if any, to be notified.

, Registrant required to object to tier assignment and/or scope of notification within 14 days.

9

HEARING HELD

, Judge reviews prosecutor's tier assignment and proposed scope of notification, and hears arguments from prosecutor and registrant and/or registrant's attorney.

9

, Judge determines final tier assignment and scope of notification, and enters appropriate order.

COMMUNITY NOTIFICATION

, Groups or persons are notified by law enforcement authorities.

III. MEGAN'S LAW PROCESS

A. Registration

Megan's Law requires registration by sex offenders with local law enforcement authorities or the New Jersey State Police. The registrant must provide his or her name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, address of legal residence, address of current temporary residence, and date and place of employment. The registrant also must provide certain information related to the crime or crimes which required the registration. The law also provides that registrants who change address must re-register, and persons moving to or returning to New Jersey from another jurisdiction must register, if required by law. An individual who fails to register as required under the law may be charged with a fourth degree crime. As of March 1, 2001, 1,261 individuals were indicted for failure to register; 694 persons were convicted for failure to register.¹

Fifteen years after conviction or release from a correctional facility, whichever is later, a registrant may make application to the Superior Court to terminate the obligation to register. The registrant must provide proof that no offense has been committed within those 15 years and that he or she is not likely to pose a threat to the

¹ This data was extracted from a report produced by the Department of Law and Public Safety, Division of Criminal Justice dated March 1, 2001.

safety of others.

As of March 1, 2001, the New Jersey State Police² reports that 7,605 persons have registered. The number of registrants by county are:

Atlantic	354	
Bergen	354	
Burlington	410	
Camden	611	
Cape May	140	
Cumberland	286	
Essex	861	
Gloucester	183	
Hudson	401	
Hunterdon	68	
Mercer	331	
Middlesex	489	
Monmouth	347	
Morris	224	
Ocean		400
Passaic	845	
Salem	103	
Somerset	143	
Sussex	113	
Union	432	
Warren	165	
Other State	345	

² Pursuant to N.J.S.A. 2C:7-4d, the State Police maintains the official central registry of persons required to register pursuant to Megan's Law. The data on registrations contained in this chart has been provided by the State Police.

STATEWIDE 7,605

Registrations from the State Police registry since the enactment of Megan’s Law in October 1994 are:

September 1995	1,990
June 1996	2,951
December 1996	3,666
June 1997	4,181
December 1998	5,730
June 1999	6,118
December 1999	6,478
June 2000	7,052
December 2000	7,416

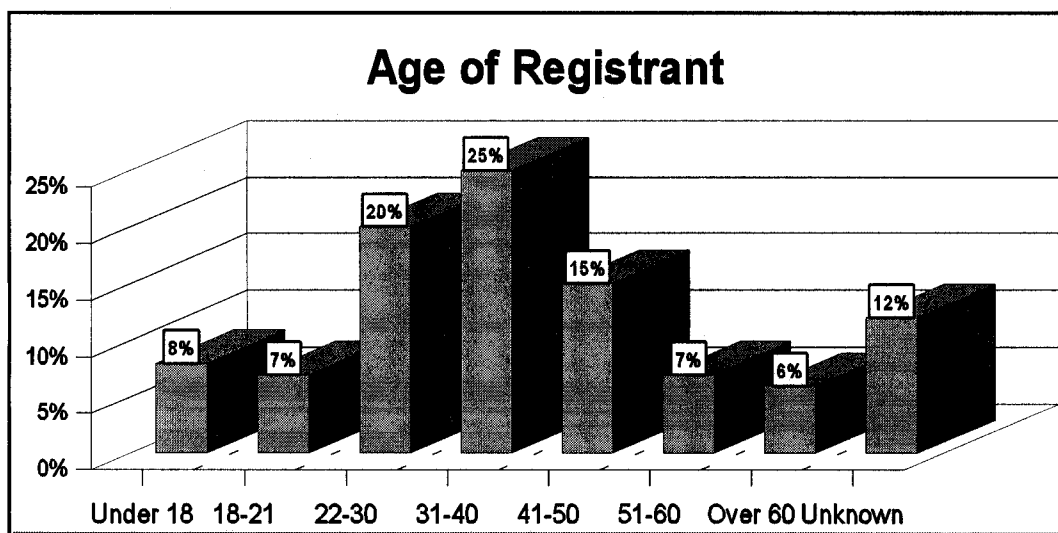
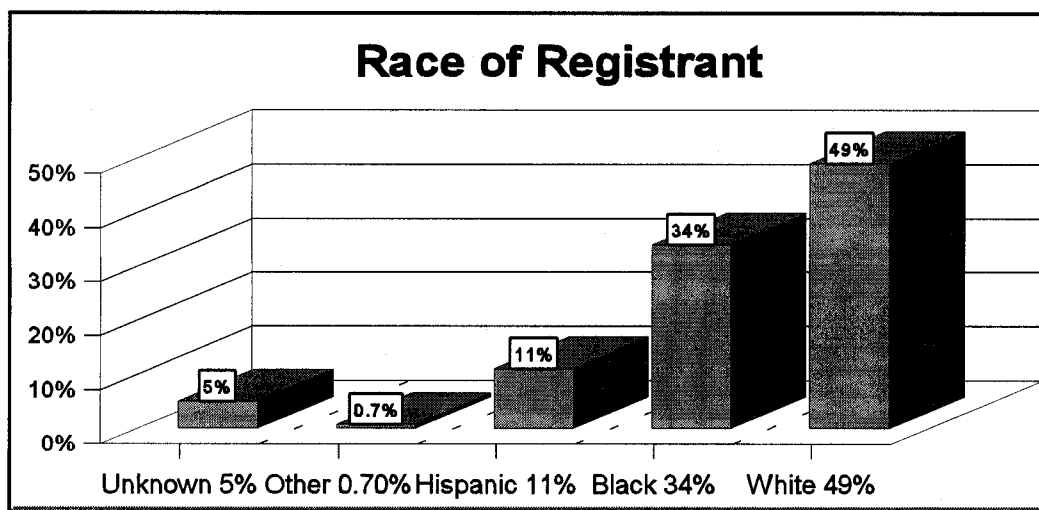
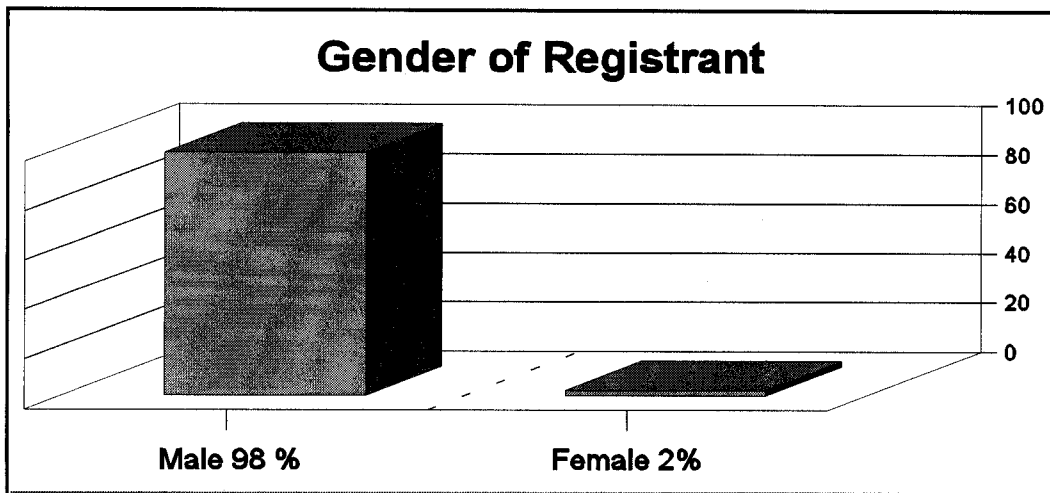
The data show that in the last two years approximately 70 registrants enter in the State Police registry each month.

B. Demographic Data

Demographic data were compiled from the Administrative Office of the Court’s Megan’s Law case tracking system, rather than from the State Police central registry, because the AOC information is more readily retrievable grouped by gender, race and age. The AOC total case number is slightly lower than the true total in the State Police central registry because of a lag time between entry into the central registry and entry into the court’s computerized system. Nevertheless, the data show an accurate representation of the distribution of registrants by demographic category.

Of the 7,273 registrants in the AOC case tracking system as of March 1, 2001,

7,131 (98 percent) are male and 3,572 registrants (49 percent) are white. The distribution by age shows 60 percent of registrants are between the ages of 22 and 50 years, with the highest grouping of 25 percent between the ages of 31 and 40 years.



C. Assignment of Tier³

Each registrant is assigned a tier which determines which groups or individuals in the community will receive notification. The prosecutor in the county in which the registrant resides assigns the registrant a tier using the Registrant Risk Assessment Scale (RRAS).⁴ The RRAS was developed by the Division of Criminal Justice after consultation with county prosecutors, members of the Department of Corrections, staff from the Adult Diagnostic and Treatment Center and psychologists. The RRAS is designed to provide a method of determining what risk of re-offense a registrant poses to the community: high, moderate, or low.

The RRAS consists of four main categories: the seriousness of the registrant's offense, the registrant's offense history, personal characteristics of the registrant, and community support available to the registrant. These four categories provide for a total of thirteen separate criteria. These criteria are evaluated and assigned a point score. The combined points from all criteria determines the final score for tiering purposes: Tier 1 is below 37 points; tier 2 is 37-73 points and tier 3 is 74-111 points.

³ The data on the assignment of tiers was extracted from a report produced by the Department of Law and Public Safety, Division of Criminal Justice dated March 1, 2001.

⁴ The Registrant Risk Assessment Scale, together with a manual describing its use, was issued by the Attorney General in 1995.

The tier assignment determines which groups or individuals in the community receive notice. A tier 1 assignment is designated low risk and law enforcement will be notified of the registrant's presence in the community and provided certain identifying information about the registrant. A tier 2, moderate risk, classification normally requires notification to law enforcement, schools and community organizations. A tier 3, high risk, classification normally requires notification to law enforcement, schools, community organizations, and members of the public likely to encounter the registrant.

The following data provide the number of registrants, by county, who have been assigned tiers by county prosecutors. This information is provided to the Administrative Office of the Courts each month by the Division of Criminal Justice. The data as of March 1, 2001 show that 5,720 persons, or 79% of registrants have been assigned tiers.⁵

⁵ The data for two counties, Cape May and Sussex, shows that there have been more cases notified and/or disposed than assigned tiers 2 or 3. The data on tiers in these counties will be updated in future reports.

	<u>Tier 1</u>	<u>Tier 2</u>	<u>Tier 3</u>
Atlantic	54	210	17
Bergen	135	206	16
Burlington	158	193	10
Camden	229	262	20
Cape May	41	49	11
Cumberland	170	142	8
Essex	271	517	102
Gloucester	50	62	6
Hudson	190	115	19
Hunterdon	27	29	3
Mercer	93	142	11
Middlesex	112	82	10
Monmouth	125	211	16
Morris	22	55	7
Ocean	75	171	16
Passaic	366	212	23
Salem	46	37	0
Somerset	43	41	0
Sussex	41	25	5
Union	89	203	23
Warren	51	43	2
STATEWIDE	2,388	3,007	325

<u>Tier</u>	<u># Registrants</u>	<u>% of Total</u>
Tier 1	2,388	42%
Tier 2	3,007	52%

Tier 3	325	6%
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D. Notification to Registrant⁶

After the prosecutor assigns a registrant to a tier, the registrant is then notified by the prosecutor's office as to their tier classification and the proposed scope of community notification. The registrant has 14 days from the date of the notice to object to the prosecutor's decision as to tier assignment or suggested scope of community notification.⁷

As of March 1, 2001, of the 5,720 registrants assigned tiers, 3,332 registrants (58%) have been tiered 2 or 3. Of the registrants tiered as 2 or 3, 2,686 registrants (81%) have been notified of their tier assignment and opportunity for judicial review.⁸

⁶ The data on the number of registrants notified was obtained from the Megan's Law Case Tracking System.

⁷ The procedures for providing notice to the registrant of tier 2 or tier 3 classification, and for hearing objections to tier 2 or tier 3 classification and manner of community notification, are set forth in an order of the New Jersey Supreme Court dated December 9, 1997.

⁸ There were 103 registrants that were notified and the case was transferred after notice was provided which are not included in the total amount of registrants notified or the cases disposed. There were also 27 cases where the registrant was deceased, registered in custody, registered out of state, non-registered offender or non-registered out of state which are also not included in the total amount of registrants notified or cases disposed.

	# of Tier 2 and Tier 3 Registrants Notified Of Tier Assignment	
Atlantic	211	
Bergen	183	
Burlington	156	
Camden	212	
Cape May	61	
Cumberland	125	
Essex	337	
Gloucester	68	
Hudson	130	
Hunterdon	27	
Mercer	150	
Middlesex	74	
Monmouth	211	
Morris	40	
Ocean		173
Passaic	169	
Salem	35	
Somerset	23	
Sussex	44	
Union	213	
Warren	44	
STATEWIDE	2,686	

E. Case Disposition Hearings Generally⁹

After the prosecutor and registrant have presented their evidence, a court determines the final tier and scope of notification. The Court makes this determination

⁹ This information was taken from the Division of Criminal Justice's report dated March 1, 2001.

after reviewing the papers filed and, if the registrant requests a hearing, hearing evidence during a conference or hearing. The judge makes his findings based on a clear and convincing standard. This standard was required by the Third Circuit Court of Appeals in E.B. v. Verniero, *supra*, 119 F.3d at 1111.¹⁰ A judicial order, required under Doe v. Poritz, *supra*, 142 N.J. at 31, before notification can proceed, is then entered. As of March 1, 2001, there have been 2,485 registrants whose cases have proceeded to disposition either by default, conference or hearing. Ninety-three percent of all offenders who have been notified of their tier assignment have had their cases disposed.¹¹

Every time a registrant moves, within a county or between counties, the court must again make a determination regarding community notification. Thus, it is likely that one registrant can have multiple dispositions over time depending on the number

¹⁰ Subsequent to the decision in E.B. the Attorney General petitioned the New Jersey Supreme Court to adopt the burden of persuasion set forth by the Third Circuit in E.B. In an Order dated September 10, 1997, the Court did so. The Order also required a redetermination of cases previously decided under the burden of persuasion formerly required by Doe v. Poritz, *supra*.

¹¹ The chart on page 18 reflects the cases that have been disposed. This chart does not reflect those cases that were disposed of by the prosecutor under an Administratively Closed Tier 1 determination. An Administratively Closed Tier 1 determination occurs when a prosecutor has used the RRAS and determined that the registrant is a low risk to re-offend. In those cases, the police are notified of the registrant's presence in the community and the case is closed. These cases never appear before a judge.

of times he or she moves. The tier will not change unless there has been a significant change in circumstances, however, the scope of notification may vary if the registrant moves to a geographically different community.

There were 1,569 tier 2 and tier 3 cases (63% of cases disposed) that were resolved after a conference or hearing. In 1,133 cases (72%), the initial tier 2 or 3 designation was affirmed by the court. In 436 cases (28%), the initial tier designation was amended by the court. Of the 1,133 cases in which the initial tier designation was affirmed, 1,045 cases were tier 2 and 88 were tier 3. The 436 cases in which the initial tier 2 or tier 3 designation were amended as follows:

Amended tier 2 to tier 3	4
Amended tier 2 to tier 1	340
Amended tier 3 to tier 2	88
Amended tier 3 to tier 1	4

There were 916 tier 2 or tier 3 cases (37% of cases disposed) that were resolved by default, i.e. where the registrant did not appear at the scheduled hearing to object or oppose the tier classification or scope of community notification. Of the 916 tier 2 and tier 3 cases, 883 or 96%, were tier 2 cases and 33, or 4% were tier 3 cases.

The following chart presents data on the total number of dispositions by county.

	# of Tier 2 and Tier 3 Cases Disposed ¹²
Atlantic	196
Bergen	165
Burlington	136
Camden	193
Cape May	56
Cumberland	125
Essex	303
Gloucester	59
Hudson	122
Hunterdon	23
Mercer	140
Middlesex	68
Monmouth	205
Morris	31
Ocean	162
Passaic	162
Salem	33
Somerset	16
Sussex	42
Union	205
Warren	43
STATEWIDE	2,485

As of March 1, 2001, there were approximately 201 cases (7% of cases notified) scheduled to be heard statewide.¹³ Of the 201 cases, 72 are cases that had

¹² This chart does not include cases where the registrant is deceased, registered in custody, transferred to another county, registered out of state, non-registered offender or non-registered out of state.

¹³ This information was taken from a report generated on cases contained in the Megan's Law Case Tracking System.

been closed but have been re-opened. The breakdown of open cases for each county is as follows:

	<u>Tier 2</u>	<u>Tier 3</u>
Atlantic	13	2
Bergen	17	1
Burlington	19	1
Camden	17	2
Cape May	4	1
Cumberland	0	0
Essex	29	5
Gloucester	8	1
Hudson	5	3
Hunterdon	3	1
Mercer	8	2
Middlesex	5	1
Monmouth	5	1
Morris	7	2
Ocean	10	1
Passaic	5	2
Salem	2	0
Somerset	7	0
Sussex	2	0
Union	7	1
Warren	1	0
STATEWIDE	174	27

F. Descriptive Data

Doe v. Poritz, *supra*, 142 N.J. at 39 established a Three Judge Disposition Committee. The Committee reviews tier 2 and tier 3 cases that have been disposed. To aid the Committee, as well as to provide additional data for reporting purposes,

data from case files have been coded and entered into a computer. Although there have been 2,485 tier 2 and tier 3 cases disposed, there are 1,624 (65%) case entries contained in the Megan’s Law Disposition Database. These cases were the first group of cases disposed after the Third Circuit’s decision in E.B. v. Verniero, *supra*, 119 F.3d at 1111, in which the State’s burden of persuasion was changed from “prima facie” evidence to “clear and convincing” evidence. This change required that all closed cases be re-opened, re-tiered and re-determined.

Of the 1,624 cases contained in this database, 53% were resolved by default¹⁴ and 47% after a conference or hearing.¹⁵ Of the 853 default cases, 95% were initially classified by prosecutors as Tier Two; 5% were classified as Tier Three. The Registrant Risk Assessment Scale scores assigned by prosecutors are as follows:

<u>Score</u>	<u># Cases</u>
Below 41	131
41-45	302
46-50	286

¹⁴ The registrant did not appear at the hearing to object to the tier classification or scope of community notification.

¹⁵ Note that the data contained in the Megan’s Law Case Tracking System on all cases disposed show that 37% were resolved after default and 63% disposed after a conference or hearing. The reason for the difference is that not all cases have been coded and entered into the Megan’s Law Disposition Database. Additionally, the cases contained in the Megan’s Law Disposition Database are the oldest cases that were required to have a redetermination after the Third Circuit’s decision in E.B. v. Verniero, *supra*.

51-55	244
56-60	228
61-65	138
66-73	157
More than 73	138
Total	1,624

1. Cases Where Registrant Defaulted

a. Tiering and Scoring

There were 853 cases in the Megan’s Law Disposition Database where the registrant defaulted, i.e. did not request a hearing on the prosecutor’s risk assessment or community notification decision. Of these, 808 (or 95%) were tier 2 and 45, (or 5%) were tier 3.

b. Prosecutors’ Notification Decision

The data on the next page depicts the notification recommended by the prosecutor in the cases where the registrant defaulted. Prosecutors requested notification¹⁶ to schools in 587 cases and notification to day care centers in 497 cases.

¹⁶ In many cases the prosecutor requested notification of multiple groups. There were also 206 default cases where the prosecutor did not request notification of schools, day care centers, summer camps, community organizations, neighbors or other individuals. Although data on the relationship of the victim is not present generally in cases where there is no notification requested by the prosecutor the scoring of the Registrant Risk Assessment Scale “Victim Selection Factor” (Factor 4) would seem to indicate that in the majority of these cases the victim was a member of the immediate family or household member. The Attorney General Guidelines permit “no notification” where the offender’s past victims are all members of the immediate family or same household. It may then be determined by the prosecutor

The Attorney General Guidelines state that if the offender's past victims are all adult women and there is no documentation in the file that the offender has offended against young children then, when determining the organizations and schools in the community to notify, elementary schools or organizations that supervise young children may be excluded because they are not likely to encounter the offender. The critical factor to be considered in determining scope of notification, according to the Attorney General Guidelines, is the geographical proximity of schools, institutions or organizations to the offender's home or place of work.

Notification to summer camps, community organizations and neighbors were less frequently requested. Community organizations include children's organizations and women's organizations.

<u>Notice to:</u>	<u># Cases</u>
Schools	587
Day care centers	497
Summer camps	341
Children's organizations	465
Women's organizations	262
Neighbors	50

that the offender is not a risk to community organizations or schools which would otherwise receive notification. Members of the immediate family under the Guidelines include, for purposes of this determination, the offender's children, adopted, step and foster children, nieces, nephews, brothers and sisters. Members of the same household include the children of any person living in the household in which the offender lives or where the offender has either full or part-time care or legal responsibilities and may include multi-unit housing and families living in adjacent or adjoining housing.

2. Cases Proceeding to a Conference or Hearing

a. Tiering and Scoring

There were 771 cases in the database where the registrant requested judicial review of the prosecutor's tiering or community notification decision. Of these, 675 (88%) were tier 2 and 96 (12%) were tier 3.

b. Prosecutors' Notification Decision

The data below depict the notification recommended by the prosecutor in the cases where the registrant requested a hearing. As can be seen from the data, prosecutors requested notification to schools in the majority of the cases (602 cases) where notification was requested.¹⁷ Notification to day care centers (517) and children's organizations (481) were also frequently requested. Notification to summer camps, women's organizations, and neighbors were less frequently requested.

<u>Notice to:</u>	<u># Cases</u>
Schools	602
Day care centers	517
Summer camps	366
Children's organizations	481
Women's organizations	290
Neighbors	85

c. Objections

i. Scoring of Factors Contained in the Registrant Risk Assessment Scale

¹⁷ There were 82 cases where the prosecutor did not request any type of notification to schools, day care centers, summer camps, community organizations, neighbors or other individuals. See footnote 16.

Of the 771 cases where there was a conference or hearing,¹⁸ 456 objected to the scoring of one or more factors contained in the RRAS. For the most part registrants objected to only one or two factors. Overall, there were 1,493 objections based upon specific factors.¹⁹

¹⁸ In a number of cases where the registrant or counsel raised certain issues, the initial conference became a hearing or another date was set by the judge for a hearing.

¹⁹ It is important to note that in the Megan's Law Database, there were over 615 cases where a judicial order was originally entered but another hearing (a re-determination) was necessary because of the increase in the standard of review (preponderance of the evidence, new standard, versus prima facie evidence, old standard) required by the Third Circuit. This led to a number of factors being changed due to the passage of time or due to the increased standard of review.

The breakdown of objections is as follows:

	# Cases--This Factor Objected To	# Cases--This Factor Changed
Factor 1 (Degree of Force)	119	53 (45%)
Factor 2 (Degree of Contact)	90	36 (40%)
Factor 3 (Age of Victim)	25	17 (68%)
Factor 4 (Victim Selection)	79	38 (48%)
Factor 5 (Number of Offenses\Victims)	74	47 (64%)
Factor 6 (Duration of Offensive Behavior)	65	37 (57%)
Factor 7 (Length of Time Since Last Offense)	142	162 ²⁰
Factor 8 (History of Anti-Social Acts)	113	56 (50%)
Factor 9 (Response to Treatment)	144	106 (74%)
Factor 10 (Substance Abuse)	114	79 (69%)
Factor 11 (Therapeutic Support)	162	126 (78%)
Factor 12 (Residential Support)	185	145 (78%)
Factor 13 (Employment\Educational Stability)	181	172 (95%)

Of the 771 cases, there were 363 tier changes.²¹ The tier changes are reflected

²⁰ This factor is often changed on motion by the prosecutor before the registrant objects because updated information on the registrant becomes available. This is more frequent in re-determinations.

²¹ Note that the data contained in the Megan's Law Case Tracking System on all cases disposed shows tier changes in a total of 436 cases out of 1569 registrants

below:

Amended tier 2 to tier 1	303
Amended tier 3 to tier 1	1
Amended tier 3 to tier 2	59

ii. Scope of Notification

In the 771 cases where there was a conference or hearing, there were 385 cases where the registrants objected to some element of the prosecutor's notification. In 338 cases, the registrant objected to the scope of notification. In 47 cases, the registrant objected to the manner of notification. The judges altered the scope or manner of notification in 462 cases.²² The most common change by the judges was the group/individuals to be notified and scope of notification.²³

d. Expert Testimony

The computerized data also indicate that expert testimony was presented to the court in 124 of the 771 cases where there was a conference or hearing. Expert opinion is often submitted to the court in the form of an expert's psychological report as opposed to live testimony. The judge can then use the report to determine the risk the registrant poses to the community.

whose case has been disposed after a conference or hearing.

²² Note that although a registrant might not have objected to the scope of notification, judges would alter the scope of notification if they reduced the registrant's tier classification.

²³ There were a number of cases where the judge agreed to tier 1 notification despite the registrant being classified as tier 2. This most often occurred where the victim was a member of the registrant's household.