

***Attorney General Guidelines
for Law Enforcement
for the Implementation of
Sex Offender Registration
and Community Notification Laws***

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I. INTRODUCTION

In response to the public's demand for greater information regarding the identity and whereabouts of previously convicted sex offenders who might prove a threat to the safety of those in the community, the Governor and Legislature passed the Registration and Community Notification Laws (RCNL), N.J.S.A. 2C:7-1 et seq., commonly known as Megan's Law. This law provides for the creation of a state registry of sex offenders, as well as an Internet web site registry, and a community notification procedure, which mandates County Prosecutors to place offenders into one of three categories which are distinguished by the level of risk of re-offense by the offender. N.J.S.A. 2C:7-6 et seq. Following passage of the legislation, certain offenders filed suit in State court, raising a number of constitutional bars to the implementation of the law, culminating in Doe v. Poritz, 142 N.J. 1 (1995) in the Supreme Court of New Jersey, which upheld the constitutionality of the statute. Further, the Court's opinion required the inclusion of a judicial review of the Prosecutor's determination as to risk of re-offense and the scope of notification to the community.

As the Supreme Court of New Jersey made clear, the purpose of this legislation is to provide pertinent information to law enforcement and, in appropriate circumstances, to neighbors, parents and children, as well as community organizations which care for or supervise women or children. It is hoped that, armed with knowledge of the descriptions and whereabouts of sex offenders and pedophiles, community members will be in the best possible position to protect their children and themselves. To facilitate this process, various state agencies have been charged with the responsibility of informing County Prosecutors about the imminent release of such offenders. In turn, the County Prosecutors have been charged with the responsibility of determining the risk of re-offense and placing the offender in a "tier" based upon that determination. Further, pursuant to these

Guidelines, the County Prosecutors have been charged with overseeing the actions of local law enforcement agencies and the State Police who will, pursuant to N.J.S.A. 2C:7-6 and 7, disseminate the appropriate notification required in each case.

Since handing down the Doe decision, the Supreme Court of New Jersey further refined the hearing process in response to the decision of the U.S. Court of Appeals for the Third Circuit in E.B. v. Verniero, 119 F.3d 1077 (3d Cir. 1997). Also upholding the constitutionality of the statute, the Third Circuit held that due process requires a standard of proof of clear and convincing evidence, with the burden of persuasion on the State for the purpose of determining the risk level of the offender, the geographic area within which notice is to occur and those to whom the notice will be provided. The Supreme Court of New Jersey incorporated these principles into the judicial review procedures.

The statute provides for the Attorney General to promulgate guidelines and procedures to promote uniform application of the law. N.J.S.A. 2C:7-8. In Paul P. v. Farmer, 80 F. Supp.2d 320 (D.N.J. 2000), the federal court made clear that these guidelines must establish a system of community notification which mandates a uniform method of distribution that reasonably limits the disclosure of information to those citizens entitled to receive it. Accordingly, the following guidelines provide law enforcement with the pertinent procedures for registering offenders, conducting the hearings required by the Supreme Court of New Jersey and implementing community notification, thus fulfilling the legislative mandate of the statute authorizing community notification and complying with the decisions of the courts. You should also be aware that the United States Supreme Court ruled in Smith v. Doe, 538 U.S. 84 (2003), that sex offender Internet registries do not impose unconstitutional punishment. Also, in A.A., ex rel. v. New Jersey, 341 F.3d 206 (3d Cir. 2003), the U.S. Court of Appeals for the Third Circuit held that the Internet publication

of registrants' home addresses did not violate the registrants' constitutional privacy rights.

II. STATUTORY RESPONSIBILITIES

It shall be the responsibility of the Prosecutor of the county in which the person will reside to transmit registration forms to the Division of State Police. It shall be the responsibility of the Division of State Police to maintain the State Registry and Internet Registry of sex offenders, including the update of current information, the input of new registrants and provision of that information to the National Sex Offender Registry. The Division of State Police shall also act as the contact point for the State of New Jersey for dissemination of sex offender information to other states, where appropriate. This includes informing the registering agencies of other states about the relocation of sex offenders in or out of those states. Thus, whenever a law enforcement agency receives a registration card which lists an out-of-state address, the card should be sent to the Division of State Police, Records and Identification, State Bureau of Identification, Records Assembly Unit, which will notify that state's registering agency. Also, the Division of State Police will notify the registering agency in another state when a registrant leaves New Jersey for that State.

Upon receipt of a completed sex offender registration form, it shall be the responsibility of the County Prosecutor to render a determination as to the level of risk of re-offense and the scope of community notification for each offender. The decision is subject to judicial review in accordance with the procedures established by the Supreme Court of New Jersey. Under the direction of the County Prosecutor, the chief law enforcement officer of the municipality, or the State Police in municipalities where there is no local law enforcement officer, shall then effectuate community notification of the location of registered offenders. Notice will be provided to the appropriate law enforcement agencies and, in certain circumstances, the community likely to encounter the offender. The Prosecutor of the county where the person will reside shall assess the risk of re-offense, coordinating, where needed, with the County Prosecutor where the

conviction was obtained and any appropriate law enforcement agency. Community notification of the tier designation must then be provided to the offender as more fully set forth below. The Prosecutor of the county in which the registered person will reside shall, with the coordination of local law enforcement, determine the appropriate scope of community notification, which shall mean the geographic area in which community notification is to take place. Subject to judicial review, community notification shall then be effectuated by local law enforcement, State Police, county investigators or any other duly authorized employee of a law enforcement agency, with the oversight of the Prosecutor's Office. Such Tier Two and Tier Three community notifications shall be conducted through the means set forth herein.

The information needed to render an assessment of risk of re-offense will be provided to the Prosecutor's Office by the appropriate agencies at least 90 days prior to the inmate's release. Upon receipt of this information, the Prosecutor may contact the Department of Corrections or the Department of Human Services in writing to obtain additional records to aid in the determination of the risk of re-offense for community notification purposes. Those records are to be kept confidential by the Prosecutor's Office.

III. OFFENDERS TO WHOM THE STATUTE APPLIES

The community notification statute applies to all sex offenders who are required to register pursuant to N.J.S.A. 2C:7-1 et seq. Offenders who must register include persons convicted, adjudicated delinquent or acquitted by reason of insanity of the offenses defined below. The offenses requiring registration include:

1. a conviction, adjudication of delinquency or acquittal by reason of insanity for aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping pursuant to paragraph (2) of subsection c. of N.J.S. 2C:13-1 or an attempt to commit any of these crimes if the court found that the offender's conduct was characterized by a pattern of repetitive, compulsive behavior, **regardless of the date of the commission of the offense or date of conviction, adjudication of delinquency or acquittal by reason of insanity;**

2. a conviction, adjudication of delinquency or acquittal by reason of insanity for aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping pursuant to paragraph (2) of subsection c. of N.J.S. 2C:13-1, endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child pursuant to subsection a. of N.J.S. 2C:24-4, endangering the welfare of a child pursuant to paragraphs (3), (4), or (5)(a) of subsection b. of N.J.S. 2C:24-4, luring or enticing pursuant to section 1 of P.L. 1993, c. 291 (C. 2C:13-6), criminal sexual contact pursuant to N.J.S. 2C:14-3b. if the victim is a minor, kidnapping pursuant to N.J.S. 2C:13-1, criminal restraint pursuant to N.J.S. 2C:13-2, false imprisonment pursuant to N.J.S. 2C:13-3 if the victim is a minor and the offender is not a parent/guardian of the victim, knowingly promoting prostitution of a child pursuant to paragraph (3) or paragraph (4) of subsection b. of N.J.S. 2C:34-1, or an attempt to commit any of these offenses **if the**

conviction, adjudication of delinquency or acquittal by reason of insanity is entered on or after the effective date of the Act, October 31, 1994, or the offender is serving a sentence of incarceration, probation, parole or other form of community supervision as a result of the offense or is confined following acquittal by reason of insanity or as a result of civil commitment on the effective date of the Act;

3. a conviction, adjudication of delinquency or acquittal by reason of insanity for a similar offense or sentence imposed under the laws of the United States, this state or another state, as set forth in N.J.S. 2C:7-2 b (3).

Note: In In re T.S., 364 N.J. Super. 1 (App. Div. 2003), the court determined that registration laws cannot be applied to kidnapping convictions without either a related or an underlying sexual offense for which the offender was convicted.

Offenders who must register also include nonresident students and workers under the following circumstances. Persons who are required to register as sex offenders in other jurisdictions, and either (1) are enrolled on a full-time or part-time basis in any public or private educational institution in this State, including any secondary school, trade or professional institution, institution of higher education or other post-secondary school, or (2) are employed or carry on a vocation in this State, on either a full-time or a part-time basis, with or without compensation, for more than 14 consecutive days or for an aggregate period exceeding 30 days in a calendar year must register in this State.

IV. NOTICE TO OFFENDERS OF DUTY TO REGISTER

Offenders on parole or probation should be notified by the State Bureau of Parole, Probation Services in the Administrative Office of the Courts or the Department of Human Services of their duty to register and that, upon registration, they will be subject to a determination by the Prosecutor's Office as to which tier is appropriate in their circumstances, based upon an assessment of a risk of re-offense.

Incarcerated offenders will be required to register prior to their release and should be informed that they will be subject to a determination by the Prosecutor's Office, placing them in an appropriate tier based upon risk of re-offense.

Resident offenders must be advised by the appropriate agency at the time of initial registration in New Jersey that they have an obligation to register in any state where they are employed, carry on a vocation, or are students in accordance with the nonresident state procedures.

Offenders moving to this State must notify the chief law enforcement officer of the municipality in which they intend to reside or the State Police within 10 days of their arrival in New Jersey. Also, upon a change of address, offenders must notify the law enforcement agency with which they are registered and must re-register with the new agency at least 10 days prior to the move.

Verification of Address: Offenders who have been found to be repetitive and compulsive must verify their address with the appropriate law enforcement agency every 90 days. All other offenders must verify their address annually. In addition to appearing to verify a previously-provided address, offenders may be required to appear at the local

police headquarters or State Police barracks to register under the law or re-register with a change of address. The law enforcement chief executives must provide a private area outside of public view for completion of the registration form, or permit the registrant to fill out the form without requiring verbal communication of the information (which might publicly identify the registrant as a sex offender). Each police agency must advise the Megan's Law Unit of the County Prosecutor's Office as to which method it will employ.

Re-registration of Address: There is no exception for those registrants who change their address by moving within a municipality or county. The time period for determining the verification requirement is calculated from the date of initial registration or most recent re-registration resulting from a change of address or release from incarceration, not the date the individual appears at the law enforcement agency for address verification.

Registration Requirements for In-State Registrants Enrolled In or Working At Institutions of Higher Education: On October 28, 2000, the federal Campus Sex Crimes Prevention Act, 42 U.S.C. § 14071(j), was enacted, requiring states to establish special requirements relating to registration and community notification for sex offenders who are enrolled in or work at institutions of higher education. To comply with these requirements, New Jersey amended Megan's Law. In accordance with the law, registrants must be advised by the appropriate agency at the time of initial registration of the obligation to provide information when they (1) enroll in any public or private educational institution in this State, including any secondary school, trade or professional institution, institution of higher education or other post-secondary school on a full-time or part-time basis, or (2) are employed or carry on a vocation in any public or private educational institution in this State, including any secondary school, trade or professional institution, institution of higher

education or other post-secondary school in this State on either a full-time or a part-time basis, with or without compensation, for more than 14 consecutive days or for an aggregated period exceeding 30 days in a calendar year. The registration information obtained from the offenders must include any anticipated or current school enrollment at or employment by any institution of higher education, and this information must be included on the registration form.

Upon a change of school employment or school enrollment status, a registrant shall notify the law enforcement agencies with which the person is registered no later than 5 days after any such change.

In addition to any other registration requirements, a person required to register who is enrolled at, employed by, or carries on a vocation at an institution of higher education in this State, must also register within 10 days of commencing such attendance, employment, or vocation with the law enforcement unit of the educational institution, if any. A law enforcement unit is defined as a campus police department or other form of state recognized law enforcement agency, not a campus security department. If there is no law enforcement unit, that person must register with the local law enforcement agency having primary jurisdiction for the campus.

In cases where the school address is only a temporary address, the campus police department or local law enforcement agency should use a registration card which reflects the fact that the person is enrolled or employed at the school. **They should not submit the registration card to the State Police for inclusion in the Megan's Law State**

Registry.¹ In cases where the school address is a permanent address, the campus police department or local law enforcement agency will follow established registration requirements. If the person is a nonresident, registration shall conform to the requirements set forth in Registration Requirements for Nonresident Students and Workers.

Note: When it is determined that a sex offender falls within a Tier Two or Tier Three category, the additional community notification shall conform to the requirements set forth in XI. Scope of Community Notification, and the methods used to conduct community notification shall conform to the applicable procedures set forth in XII. Methods of Community Notification.

Registration Requirements for Nonresident Students and Workers: Persons who are required to register as sex offenders in other jurisdictions, and either (1) enroll on a full-time or part-time basis in any public or private educational institution in this State, including any secondary school, trade or professional institution, institution of higher education or other post-secondary school, or (2) are employed or carry on a vocation in this State, on either a full-time or a part-time basis, with or without compensation, for more than 14 consecutive days or for an aggregate period exceeding 30 days in a calendar year must register in this State. Such persons must, within 10 days of commencing such school attendance or employment, register with the chief law enforcement officer in the municipality in which the educational institution, employer, or vocation is located. If the municipality does not have a local police force, such persons must register with the Superintendent of State Police.

¹Please note, however, that the card should be provided to the County Prosecutor's Office to keep that office apprised of the offender's location.

Note: When it is determined that a sex offender falls within a Tier Two or Tier Three category, the additional community notification shall conform to the requirements set forth in XI. Scope of Community Notification, and the methods used to conduct community notification shall conform to the applicable procedures set forth in XII. Methods of Community Notification.

Failure to Register: Pursuant to N.J.S.A. 2C:7-2, a sex offender who fails to comply with the requirements of Megan's Law commits a crime of the fourth degree. In such cases, the confidentiality provisions of Megan's Law would not apply because failure to register is a separate and distinct offense. Therefore, the offender may be treated in accordance with the regular judicial process with the attendant publicity, and indictments for failure to register need not be under seal. Prosecutors, however, may not disclose an offender's tier designation or scope of community notification in anticipation of future community notification. Any concerns Prosecutors may have over the appropriate information to disclose related to an indictment or conviction for failure to register, or the disclosure of information under emergent circumstances engendered by an offender's failure to register, should be brought to the attention of the Attorney General's Office.

Note: Pursuant to N.J.S.A. 2C:43-6.4, a sex offender who violates a condition of the special sentence of parole supervision for life without good cause is also guilty of a crime of the fourth degree. The law expressly provides that such violation must receive a term of imprisonment, except for extraordinary cases where the court is clearly convinced that imprisonment would be a manifest injustice. The law also provides that a sex offender who violates any condition of parole supervision for life may be subjected to parole revocation as an alternative to prosecution for the fourth degree crime (applicable to those who committed sex offenses after the January 14, 2004 effective date of P.L. 2003, c.267).

V. COMMUNITY ORGANIZATIONS WHICH MAY RECEIVE
COMMUNITY NOTIFICATION

Where a registrant's risk of re-offense is moderate or high, community notification is to be provided to organizations in the community deemed "likely to encounter" a registrant.

The Prosecutor's Office shall maintain a list of community organizations which are eligible to receive community notification. Organizations to be included on the community notification list are to be limited to those groups, agencies and organizations that own or operate an establishment where children gather under their care, or where the organization cares for women. All public, private and parochial educational institutions up through grade 12, licensed day care centers and licensed summer camps will be automatically included on the community notification list and do not need to register. Other community organizations must register with the local law enforcement agency or, where the community has no local law enforcement, with the State Police having jurisdiction in that community, in order to be included on the community notification list. Community organizations may also register directly with the County Prosecutor's Office.

The Prosecutors' Offices shall not include on the list community organizations which do not meet the criteria of ownership or operation of an establishment where children gather under their care, or where the organization cares for women. Inclusion on the community notification list does not automatically require that a given organization is entitled to receive community notification as to every offender about whom the Prosecutor provides community notification. Rather, the purpose of the community notification list is to enable the Prosecutor to identify those community organizations which are "likely to encounter" a given registrant in order to provide community notification in any specific

case.

Note: Community notification may be provided to organizations in the community which are not registered, if ordered by the court.

As part of their registration, community organizations should provide the name of a designated official, who will serve as the contact person for receipt of community notification information and who will be responsible for storage of the Notice and for sharing the information with staff in accordance with the procedures and standards established under these Guidelines. This individual should be the ranking official in charge of the community organization at the location at which community notification is to be provided. For example, for a day care center or summer camp located in the zone of community notification which is a franchise of a larger enterprise, the designated official should be the director of the specific branch that is to receive community notification, rather than the chief executive officer of the entire enterprise. However, when community notification is being provided to local branches of such larger enterprises, the Prosecutor's Office may, as a matter of discretion and without providing offender-specific information, coordinate with senior members of those enterprises in order to facilitate community notification.

Local troops, packs and divisions of large organizations such as the Boy Scouts or Girl Scouts must complete a community organization registration form to indicate an interest in being notified and to provide the Prosecutor's Office with the needed information. Similar to how large business organizations are treated, when community notification is being provided to local branches of such organizations, the Prosecutor's Office may, at its discretion and without providing offender-specific information, coordinate

with senior members of those organizations in order to facilitate community notification. Those individuals may provide updated information about local troop leaders or local volunteers, and may assist in coordinating meetings with those troop leaders and volunteers in order to facilitate the community notification. Those higher level members should not, however, be provided with the actual community notification information in a specific case unless they are part of the local branch “likely to encounter” the registrant.

VI. DEFINITIONS RELATED TO SCOPE OF COMMUNITY NOTIFICATION

For purposes of these guidelines, Tier One offenders encompass those who are a "low risk of re-offense." This offender is one who, based on such factors as the type of crime, the lack of violence in his behavior, the lack of a substantial criminal history and the existence of ties to the community, presents a relatively low risk of harm to the community.

For purposes of these guidelines, Tier Two offenders encompass those who are a "moderate risk of re-offense," thus constituting a relatively moderate risk of harm to the community in that the pertinent documents demonstrate that they are relatively likely to re-offend in comparison to Tier One offenders, warranting limited notice for the protection of the public.

For purposes of these guidelines, Tier Three offenders encompass those who are a "high risk of re-offense" in that the available record demonstrates that there is a relatively high risk of re-offense in comparison to Tier Two offenders.

The term "likely to encounter" shall mean for purposes of these guidelines that the law enforcement agency, community organizations or members of the community have a fair chance to encounter the registrant. The critical factor in making this determination is geography - i.e. the proximity to the registrant's residence, place of work or school, or any other sites visited on a regular basis. The "likely to encounter" zone of community notification may be as small or large as the facts and circumstances warrant, subject to judicial review and these guidelines.

The State is not required to make a particularized showing that the registrant is personally likely to show up at a particular location. Within the zone, schools and

community organizations are presumptively appropriate recipients of community notification. Only then do limiting circumstances receive consideration. The registrant is permitted to demonstrate that circumstances pertain to his or her case which limit this presumptive scope of community notification.

VII. PREPARATION OF DISCOVERY FILE

Each Prosecutor's Office should set up a separate Megan's Law file for each registrant in which all information and documentation relied upon to reach the tier determination will be kept. For discovery purposes, this file shall be provided to registrant's counsel or to a pro se offender and shall be made available within two days of the receipt of the Application for Judicial Review. The transfer of any of these files from one county to another should occur immediately upon receipt of information to insure that a tier determination will be made by the Prosecutor in the county in which the offender resides. When a probationary sentence is imposed, a discovery packet should be sent immediately after sentencing to the county of residence if it is different from the county of conviction.

Note: Records maintained pursuant to Megan's Law shall be open to any law enforcement agency in this State or any other state. N.J.S.A. 2C:7-5a.

If the Megan's Law file contains any materials rendered confidential by statute or court rule, for example, DYFS records, those documents should not be turned over to the offender until the Megan's Law judge has reviewed them in camera. Following the in camera review, the judge will determine whether the materials should be turned over, in complete or redacted form, or withheld. The following is a non-exclusive list of records which may fall within this limitation.

Examples of Confidential Records

Autopsy and Medical Examiner Reports	<u>N.J.A.C. 13:49-3.1</u> – may only be disclosed by County Prosecutor or Attorney General once a death is referred for criminal investigation.
Child Abuse and Child Sexual Assault Victims	<u>N.J.S.A. 2A:82-46a</u> – the name, address and identity of a victim under the age of 18 shall not appear on the indictment, complaint or any other public record. <u>N.J.S.A. 2A:82-46b</u> – it is a disorderly persons offense to disclose a report containing a child victim's name, address or identity. <u>N.J.S.A. 9:6-8.10a</u> – requires that all DYFS reports released to law enforcement be kept confidential.
Criminal Investigation Records	Executive Orders 123 and 69 – provide that these records are not subject to public disclosure.
Domestic Violence	<u>N.J.S.A. 2C:25-33</u> – provides all records maintained pursuant to this act shall be confidential and shall not be made available to any individual or institution except as otherwise provided by law.
Electronic Surveillance	<u>N.J.S.A. 2A:156A-19</u> – provides that it is a third degree crime to knowingly use or disclose the existence of an intercept order or the contents of an intercept, except as authorized by statute or court order.
Grand Jury Information	<u>N.J.S.A. 2B:21-10</u> – provides that any person who, with the intent to injure another, makes an unauthorized disclosure of Grand Jury information commits a fourth degree crime.
Internal Affairs Investigations	Attorney General's Internal Affairs Policy and Procedures – provides that contents of internal investigation case files are confidential. (Law Enforcement Guidelines page 11-20)
Juvenile Delinquency	<u>N.J.S.A. 2A:4A-60a</u> – records pertaining to juveniles charged as a delinquent shall be strictly safeguarded from public inspection. <u>N.J.S.A. 2A:4A-60h</u> – disclosure is a disorderly persons offense.
Juvenile-Family Crisis (Runaways, Truancy, etc.)	<u>N.J.S.A. 2A:4A-60a</u> – records pertaining to juveniles found to be part of a juvenile-family crisis shall be strictly safeguarded from public inspection.

N.J.S.A. 2A:4A-60h – disclosure is a disorderly persons offense.

Search Warrants

Court Rule 3:5-4 – provides that it is contempt of court to disclose the existence or basis for a search warrant prior to execution.

Medical Records

Attorney General Directive (December 22, 2002)- provides that medical records obtained via grand jury subpoena should be segregated and disclosed to defense counsel only if required by R. 3:13-3 and if there is no basis to redact and seek protective order.

VIII. CRITERIA FOR ASSESSING OFFENDERS

The necessary criteria and weighing procedures are set forth in the RRAS and manual which accompany these guidelines. All registrants must be evaluated as to the level of risk they pose at the time of the Prosecutor's evaluation.

TIER ONE: Law Enforcement Alert

All registrants will, at a minimum, be designated a Tier One offender, requiring community notification to law enforcement.

Where the Prosecutor finds that the risk of re-offense is low, then the offender shall be placed in Tier One and the Prosecutor shall notify law enforcement agencies likely to encounter the offender.

TIER TWO: Law Enforcement, School and Community Organization Alert

Where the Prosecutor finds, based upon the application of the criteria set forth in the RRAS and the manual which accompanies it, that a registrant's risk of re-offense is moderate, then the offender shall be placed in Tier Two. The Prosecutor shall, at a minimum, in addition to local law enforcement agencies, also notify at least those community organizations, agencies and groups which have properly registered with the Prosecutor's Office and are likely to encounter the offender, and all local educational institutions, licensed day care centers and licensed summer camps which are likely to encounter the offender. Upon reaching a determination that the offender is a Tier Two offender, community notification shall be made to those organizations and groups which are likely to encounter the offender. It should be emphasized that it is the responsibility the Prosecutors and the Courts to determine who is to receive Notices. The Notice provided to community organizations and schools shall conform to the requirements set

forth in XI. Scope of Community Notification, and the methods used to conduct community notification shall conform to the applicable procedures set forth in XII. Methods of Community Notification. Additionally, information for certain Tier Two offenders is publicly available and updated by means of the Internet, as explained in XIII. Internet Registry.

TIER THREE: Community Notification

Where the Prosecutor finds, based upon the application of the criteria set forth in the RRAS and the manual which accompanies it, that a registrant's risk of re-offense is high, then the registrant shall be placed in Tier Three. In the case of a Tier Three offender, the Prosecutor shall notify, in addition to community organizations and law enforcement agencies, members of the public likely to encounter the registered offender. The notice provided to community organizations, schools and the public shall conform to the requirements set forth in XI. Scope of Community Notification, and the methods used to conduct community notification shall conform to the applicable procedures set forth in XII. Methods of Community Notification. Additionally, information for all Tier Three offenders is publicly available and updated by means of the Internet, as explained in XIII. Internet Registry.

Note: Prior to the dissemination of any community notification under Tier Two or Tier Three, the County Prosecutor's Office or law enforcement must go to the listed address and verify that the person who will be the subject of community notification is in fact residing, working or attending school at that address. The County Prosecutor's Office may also verify additional locations frequented by the person who will be the subject of community notification and conduct appropriate community notification.

**IX. NOTICE TO OFFENDERS OF TIER DESIGNATION AND SCOPE OF
COMMUNITY NOTIFICATION**

Prior to the effectuation of a Tier Two or Tier Three classification and accompanying community notification, the Prosecutor shall provide written notice to the offender, by form provided by the Attorney General, informing the offender that community notification will take place unless the offender makes application to a court on or before a set date, which must not be shorter than two weeks from the date of the notice. The notice will also inform the offender that such application may be made to the designated Judge of the county by sending in a form application to be supplied by the Attorney General, informing the Judge of the basis of the disagreement or objection and the need for assigned counsel or the name of registrant's counsel. The notice should further inform the offender that he or she has the right to retain counsel or have counsel provided by the court. At the discretion of the Prosecutor's Office, the notice may inform the offender that the court order may permit subsequent community notification to take place without additional judicial review where there is a change in location but no change in tier.

This notice must be personally served, along with a separate acknowledgment form to be signed by the registrant for return by the server to the Prosecutor's Office. The registrant must also be personally served with an Application Form to complete and return to the court if the registrant chooses to object, a completed RRAS with a copy of the manual, and sample Internet form, if applicable. The registrant should also be provided with the reasons underlying the factors set forth in the RRAS determination, either by completion of the form itself or the inclusion of a statement of reasons on separate pages.

Situations will arise in which it will be impossible as a practical matter to provide timely notice to the offender. For example, if a Prosecutor's Office is not advised of the

release of a person determined to be a Tier Three offender until after the date of release, then, in order to protect the public, notice to the offender may not need to be completed prior to the implementation of community notification. The Prosecutor's Office may apply to the court for an order allowing community notification to take place without service of notice to the offender. This may occur, for example, when an offender who has been civilly committed is released on short notice by a judge.

Also, situations will arise where registrants will intentionally avoid service of the notice. In those situations, the Prosecutor's Office may apply to the court for an order allowing community notification to take place without service of notice to the offender, where the Prosecutor can demonstrate that a good faith effort was made within the allotted time frame to serve the registrant. If service has not been completed within 3 days of the date that initial attempted service is made, then the Prosecutor may apply to the court for an order allowing community notification to occur without notice to the registrant. Community notification should only be conducted in that location if the Prosecutor has reason to believe that the offender still resides there or the residents are otherwise likely to encounter the offender at that location. If the investigation reveals that the offender has moved and has no geographic connection to that location, then a warrant should issue, but no community notification can be conducted.

In the absence of a previous order permitting subsequent community notification to take place without additional judicial review where there is a change in location but no change in tier, the Prosecutor may personally serve the registrant with a proposed consent order to permit such notification, an acknowledgment form for waiver of counsel, the amended notice of scope of community notification, an application form to complete and return to the court if the registrant chooses to object, and a separate acknowledgment form

to be signed by the registrant for return by the server to the Prosecutor's Office. Should the registrant consent, the order must be signed by the court. Otherwise, established procedures to amend the scope of community notification should be followed.

X. CONDUCT OF PRE-HEARING CONFERENCES AND HEARINGS

Pre-hearing conferences will be conducted by the trial court and are an opportunity to obtain from the offender any additional, pertinent information and to allow the offender to raise any questions regarding the factual basis of the scale score. The trial judge has broad discretion in the conduct of the pre-hearing, including deciding to proceed to a final hearing at the time of the pre-hearing conference, if there is no reason for delay.

The burden of persuasion will remain with the State throughout the conduct of the case and the standard of proof is clear and convincing. The case should include the completed RRAS form with all accompanying statements of reasons, as well as the materials contained in the discovery file. Prosecutors should be prepared to set forth a factual basis for scope of community notification by any means which will meet the burden of clear and convincing evidence that the area designated fulfills the requirement that these are the persons and institutions likely to encounter the offender. This may be fulfilled by a map identifying the urban, suburban and rural population density. The map should show the registrant's residence and all community organizations and schools to be notified, along with the registrant's place of business/employment and attendant groups to be notified, where relevant. The completed map should be a part of the discovery material. **CAVEAT:** Under no circumstances should the map include the names or locations of battered women's shelters, residential day care providers or group homes for the developmentally disabled which care for women, or any private residence. If so ordered by the Court, that information should be revealed in camera and at no time provided to the registrant or counsel.

In every case, a clear and complete record should be made before the trial court, setting forth the reasons for the decision reached. If scope of community notification has

been tailored in any way, the record should contain a concise statement of the basis for the decision so that the trial judge can fully evaluate the decision.

All tier and scope of notification determinations made by the court should be embodied in the court order, including posting on the Internet Registry.

XI. SCOPE OF COMMUNITY NOTIFICATION

Information concerning the offender, which is subject to incorporation into the Notice, includes the offender's name and a recent photograph, along with a physical description, specification of the offense of which the offender was convicted or adjudicated which renders him subject to the provisions of Megan's Law, the address of the offender's place of residence and of any place of employment and/or schooling, and vehicle description and license plate. In addition, in appropriate circumstances, the prosecutor may include places regularly frequented by the offender.

In setting forth the offense for which the offender was convicted, the Notice should set forth the crime as listed in the Penal Code and should include only those facts which are needed by the public to protect themselves and their children. This information should never include the name of the victim, but may include information about the offender's past victims (such as age or gender) which is pertinent to the risk posed by the offender. The Notice must also stress that law enforcement will carefully investigate all allegations of criminal conduct taken by any person against the offender, the offender's family, employer or school and will criminally prosecute where appropriate.

A. DETERMINING SCOPE

1. When it is determined that an offender falls within the **TIER ONE** category, then community notification is to be limited to only those law enforcement agencies "likely to encounter" the offender, unless needed for law enforcement purposes.

2. When it is determined that an offender falls within the **TIER TWO** category, then community notification is to be provided to law enforcement agencies and such community organizations and educational institutions which, by reference to the definitions set forth

in Section VI, are likely to encounter the offender. The decision as to which groups should appropriately be notified should be made on a case-by-case basis, following careful review. Community notification to community organizations that do not have permanent facilities should be determined based on the location at which the organization most regularly meets, even if the organization does not own that facility. For example, implementation of community notification to a boy scout troop that regularly meets in a community center should be determined based on the location of the community center as the relevant geographical factor to ascertain whether the troop is located in the zone of community notification.

The delivery of Notices is to be accomplished through cooperation between the Prosecutor's Office and local law enforcement, or, in those communities having no local law enforcement, with the State Police. It will be the responsibility of each of these community organizations and schools to take appropriate steps to educate and alert those staff members who are charged with the care and supervision of children, emphasizing that this information is intended to assist such staff members in the protection of their charges, not to provide notification to the community at large. Guidance in providing this information to schools and community organizations is found under separate headings in XII. Manner of Community Notification.

3. When it is determined that an offender falls within the **TIER THREE** category, the Prosecutor will have the responsibility of arranging for community notification to be provided to those members of the public likely to encounter the person registered as determined in accordance with the definitions set forth above. To accomplish this, the Prosecutors and law enforcement agencies shall utilize the methods of community notification as set forth in XII. Methods of Community Notification. For guidance on

conducting community notification concerning a Tier Three offender to parents and guardians of children attending a school located in the zone of community notification, please refer to the applicable heading in Section XII.

The intent of the community notification component of the Registration and Community Notification statute is to allow law enforcement officials to alert the public "when necessary for the public safety." N.J.S.A. 2C:7-1. Moreover, the Court in Doe v. Poritz, in defining the scope of community notification, states that "factors other than geography may be considered if they are relevant to the offender's likely whereabouts, such as an offender's proclivity for certain locations, and geographic considerations may be affected by the nature of the offender's characteristics and the institution in question..." 142 N.J. at 37. With this in mind, the scope of community notification should be tailored to notifying those members of the public at risk from a particular offender who they are likely to encounter. Hence, once the tier designation has been made, the scope of community notification should, within the confines of the assessment procedure and the methods of community notification set forth here and in the statute, be tailored to meet the intent of the statute and to notify those in the community who are at risk.

Relevant factors concerning the offender's "static" past history and "nonstatic" present involvement in therapy are considered for each offender when applying the RRAS. When determining the scope of community notification, those members of the public to whom the offender is a risk should be considered. This must include reviewing the relationship between the offender and past victims.

B. EXAMPLES

The following are examples of instances when Tier Two or Tier Three community

notification may be properly tailored. They are for illustrative purposes only and are not intended to establish a strict requirement or an exhaustive list. The final determination rests within the sound discretion of the member of the Prosecutor's staff authorized to tier offenders and must be made on a case-by-case basis considering all facts and circumstances of an individual case:

1. If the offender's past victims are all members of the immediate family or same household, then it may be determined that the offender is not a risk to community organizations or schools which would otherwise receive community notification concerning a Tier Two offender. Members of the immediate family will include, for purposes of this determination, the offender's children, including adopted, step and foster children. Members of the immediate family will also include nieces and nephews, and brothers and sisters, to whom the offender has regular access. Members of the same household will 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. Members of the same household does not require a family relationship. The definition may include multi-unit housing and families living in adjacent or adjoining housing. The focus should be on the class of victims and the access to those victims, as well as the relationship of trust between victim and offender. Prosecutors should give careful consideration to whether the offender's acts were "predatory," in that the offender intentionally placed himself or herself in a household which included children in order to have an opportunity to offend. Prosecutors should look to the facts, surrounding circumstances and past history of an individual case to reach this determination. When a determination is reached that an offender is predatory, then this limitation on community notification is not appropriate. There may be other circumstances, determined on a case by case basis, in which the limitation on community notification is not appropriate and the determination will

be at the Prosecutor's discretion, subject to judicial review. Also, cases where the victim(s) is the friend or acquaintance of children living in the home do not fall into the category of incest offenses.

Even in the case of an incest offender, it may be appropriate to notify officials of the school being attended by a victim, so that the child can be monitored for any indication that the child is again being victimized.

2. 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.

3. There may be circumstances where certain factors, such as the proclivities of the offender, warrant an expansion of the scope of community notification in order to protect the public. This determination is within the discretion of the Prosecutor, subject to judicial review.

The critical factor to be considered in determining the scope of community notification on a case-by-case basis will be the geographical proximity of schools, institutions or organizations to the place of residence, any place of employment and/or schooling, or, if appropriate, places regularly frequented by the offender.

XII. METHODS OF COMMUNITY NOTIFICATION

Community notification must be performed in as uniform a manner as possible, adhering to the procedures set forth in this section. Every law enforcement officer involved in implementing community notification should be provided with, and follow, the “Law Enforcement Guidelines for Community Notification” (Exhibit L), which summarizes for reference purposes various Rules of Conduct applicable to the implementation of Megan’s Law by law enforcement. In carrying out community notification, there must be a strong emphasis on providing pertinent information, constructive knowledge and guidance to the community, as well as advice concerning the consequences of vigilante activity and the proscriptions on the improper dissemination of community notification information to people outside the geographic area designated by the court order.

As previously indicated, the Notice must stress that law enforcement will carefully investigate all allegations of criminal conduct taken by any person against the offender, the offender’s family, employer or school and will criminally prosecute where appropriate. Additionally, Notice recipients are to be provided with a form which sets forth general rules governing appropriate and inappropriate use and disclosure of community notification information (see Exhibits H, I, J and K, which are the Rules of Conduct for school personnel, community organizations, members of the public and businesses, respectively). The Notice recipient should understand that he and any other person in the household with whom the recipient shares the information must comply with the applicable Rules of Conduct. The Prosecutor’s Office should also conduct community education to further inform the public about the purpose and implementation of this law.

The dissemination of a press release, announcement on a radio station or publication on the Internet may not be substituted for the particularized form of community

notification required pursuant to this section. Further, inquiries received from the press about particular offenders and their status may not be answered by members of law enforcement. Such information is to be disseminated only within the limits set forth here.

If members of the press or media contact a school or community organization concerning a particular offender or community notification, they may be informed about the procedures which have been put in place and other general topics. No one may reveal the name or any other specifics regarding an offender. No one should confirm or deny whether notice as to any particular offender has been disseminated.

A. Tier Two Community Notification

Information about convicted sex offenders is being provided to school and community organization personnel so that they can take all appropriate steps to protect those children and others under their supervision. Only law enforcement has the authority to decide who will receive notice, subject to court order and the procedures set forth in these guidelines. Therefore, it is imperative that school and community organization personnel receiving notice understand that they are receiving sex offender community notifications in their official capacity and are not to disseminate information about an offender to anyone not permitted by these guidelines to receive such information. Particularly in the case of a public school employee, there should be an understanding that improper dissemination of the information about an offender may lead to disciplinary action being taken. It should be stressed that if any school or community organization employee has reason to believe that an offender who has been the subject of a community notification is a danger to someone outside the school or community organization environs, then he or she should immediately contact the local law enforcement agency or the County Prosecutor. Additionally, it should be made clear that law enforcement will carefully

investigate all allegations of criminal conduct taken by any person against the offender, the offender's family, employer or school and, where appropriate, criminal prosecution will occur.

Note: School and community organization personnel should be advised to keep in contact with the Megan's Law Unit of the County Prosecutor's Office. Any questions regarding the handling of notices should be addressed to the County Prosecutor's Office.

1. Tier Two Community Notification to Schools

This procedure shall apply to Tier Two community notifications provided to all public and private schools located in an area where the students are likely to encounter the offender. The Notice and accompanying forms are to be prepared by the Prosecutor's Office in accordance with the information set forth in these Guidelines. The decision as to which schools to notify will be made by the Prosecutor, subject to judicial review. The District Superintendent (or Chief School Administrator, where appropriate) shall have no authority to decide which schools in his or her district should be notified, but if a District Superintendent thinks that a school in the community notification area has been inadvertently omitted, the Superintendent should contact the Prosecutor's Office.

A staff person from the Prosecutor's Office will contact the District Superintendent. The District Superintendent may share with the County Superintendent the community notification information he or she receives, but it must be clear that the District Superintendent should not notify the school(s). The District Superintendent should be given a copy of the Notice and appropriate forms at the same time copies of the Notice are distributed to school principals. The District Superintendent should also sign a School Principal Receipt Form as discussed below.

When contact is made with the District Superintendent, the principal of the targeted school(s) will receive community notification from the Prosecutor's Office. The school principal should be provided with a copy of the Notice, the "School Personnel Rules of Conduct" (Exhibit H), accompanying forms and any other brochures or informational materials. Every Principal involved in implementing community notification should be provided with, and follow, the "Information Reference Sheet for Principals" (Exhibit M), which summarizes for reference purposes various Rules of Conduct applicable to the implementation of Megan's Law by school principals. Prior to providing community notification, the liaison charged with delivering the Notice should review with the principal the confidential manner in which the information should be treated, emphasizing the manner in which the community organization should maintain the information and the rules governing the sharing of the information (that is, with access limited to any person who in the course of the duties of his or her employment or assignment is regularly in a position to observe unauthorized persons on or near the property of the notified school). The basic rules are set forth in summary form in the Information Reference Sheet for Principals and School Personnel Rules of Conduct, which are also to be provided to the principal and any other school personnel receiving access to the community notification information.

The liaison shall present the principal with a "School Principal Receipt Form" (Exhibit O) that the principal must read and sign in order to receive the community notification information. The School Principal Receipt Form shall recite the signatory's understanding that the information in the Notice is to be treated as confidential and may be shown only to appropriate persons (as indicated below) in accordance with the updated Megan's Law School Community Notification Memorandum, and is only to be used to take precautions to protect those at risk from potential harm. The form shall also state the signatory's assent to be bound by the School Personnel Rules of Conduct. Upon

signature of the School Principal Receipt Form, the community notification information shall be provided to the principal. The Prosecutor shall retain copies of all signed School Principal Receipt Forms for each completed community notification. If the principal is unable or unwilling to sign the School Principal Receipt Form, then Notice should not be provided.

The principal of each school will have the discretion to make the determination as to which personnel within the school should be informed of the community notification and should have access to the Notice. This determination must be made within the context of the following definition of employees or volunteers who may fit this description: **The principal should show the notice to any person who in the course of the duties of his or her employment or assignment is regularly in a position to observe unauthorized persons on or near the property of the notified school.** All school personnel receiving access to community notification information must read and follow the School Personnel Rules of Conduct.

The following is an illustrative list of those employees who may be given access to the Notice for use in the course of their job-related activities. Because job duties and titles vary from district to district, this list is meant only to provide examples. It is not meant to prevent showing the Notice to someone who meets the definition above but whose job title is not included on this list, nor is it meant to require that principals notify everyone who is in a job title included on this list. Principals should make a determination of whom to notify based on the definition above and on the specific job duties carried out in their schools.

List of employees or volunteers to be considered for community notification:

1. aides
2. bus drivers

3. coaches
4. maintenance staff
5. professional support staff
6. school level administrative staff
7. security personnel
8. teachers' assistants
9. teachers

If any of the above functions are performed by private vendors (for example, bus companies), the principal or District Superintendent should inform the private vendor so that employees who in the course of the duties of their employment are regularly in a position to observe unauthorized persons on or near the property of the school may be notified. The principal is not permitted to disseminate this information to the following:

10. members of parent-teacher organizations
11. community organizations using school facilities [but see below]
12. other schools
13. parents or guardians of students [but see below, for Tier Three community notification]
14. press or other media
15. students

The principal may provide appropriate persons with access to the Notice, provided such persons first read and sign a Megan's Law Receipt Form (Exhibit Q) provided by the Prosecutor, which the principal shall forward to the Prosecutor for retention.

Tier Two Community Notification Occurring During School Vacation: When community notification concerning a Tier Two offender occurs during summer vacation, or some other time when school is closed for an extended period, the procedures under this section should be followed for any school personnel who are working during the vacation period. The principal should show the Notice to other, appropriate school personnel in accordance with the Guidelines upon their return to school.

Community Organizations Using School Facilities: If a community organization using school facilities, such as a scout group or athletic league, requests this information

from school personnel, the organization should be directed to register with the Prosecutor's Office and be provided with registration forms to be completed by the director of the organization and sent to the Prosecutor's Office. Community organizations which have direct supervision over children and/or women may register with the Prosecutor's Office if they wish to receive notices. Community Organization Registration Forms will be provided to school principals and district supervisors so that they may be given to community organizations upon request. This provision also applies to parent-teacher organizations.

2. Tier Two Community Notification to Community Organizations

This procedure shall apply to Tier Two community notifications provided to all registered community organizations, day care centers, and summer camps authorized to receive community notification. The Notice and accompanying community notification forms are to be prepared by the Prosecutor's Office in accordance with the information set forth in these Guidelines. Before providing community notification to a community organization, the Prosecutor's Office shall confirm the identity of the designated official responsible for showing the notices to staff. That individual should be designated on the Community Organization Registration Form, but the Prosecutor's Office should verify that this is the correct person prior to conducting the community notification.

Prior to providing any community notification, the Megan's Law liaison should review with the designated official the confidential manner in which the information should be treated, emphasizing the manner in which the community organization should maintain the information and the rules governing the sharing of the information (that is, with access limited to staff members charged with the direct supervision or care of children or victims, and not to parents, community organization members or the general public). Every

designated official should be provided with, and follow, the “Community Organization Information Reference Sheet for Official Supervisors” (Exhibit N), which summarizes for reference purposes various Rules of Conduct applicable to the implementation of Megan’s Law by community organization officials. The designated official should also receive copies of the “Community Organization Rules of Conduct” (Exhibit I), which specifies the rules governing the use and sharing of community notification information by community organization staff. The Prosecutor’s Office shall have the responsibility to communicate with the designated official and update any pertinent information.

In providing Notice, the liaison shall present the designated official with a “Community Organization Designated Official Receipt Form” (Exhibit P) that the official must read and sign in order to receive the community notification information. The Community Organization Designated Official Receipt Form recites the signatory’s understanding that the information in the Notice is to be treated as confidential and may be used and shown only to appropriate staff members in accordance with the Community Organization Information for Official Supervisors reference sheet, and is only to be used to take precautions to protect those at risk from potential harm. The form shall also state the signatory’s assent to be bound by the Community Organization Rules of Conduct. Upon signature of the Community Organization Designated Official Receipt Form, the community notification information shall be provided to the designated official. The community notification information shall include a copy of the Notice, the Community Organization Rules of Conduct, accompanying forms and any other brochures or informational materials to be provided shall be hand-delivered to the designated official in charge of any community organization receiving community notification. The Prosecutor shall retain copies of all signed Community Organization Designated Official Receipt Forms. If the designated official is unable or unwilling to sign the Community

Organization Designated Official Receipt Form, then the Notice should not be provided.

The official designated for the community organization may show the copy of the Notice to any staff member who is charged with the direct supervision or care of children or women. All staff members receiving access to community notification information must read and follow the Community Organization Rules of Conduct. All staff members must also read and sign the Megan's Law Receipt Form provided by the Prosecutor (Exhibit Q), which the designated official shall forward to the Prosecutor for retention.

Additionally, community organizations should be made aware that staff members from County Prosecutors' Offices will be available to provide necessary information by providing informational brochures and any other informational materials or holding meetings to give general information.

B. Tier Three Community Notification

The Tier Two community notification procedures applicable to schools and community organizations should be followed with respect to providing notice to those entities. In addition, the following procedures should be implemented for providing community notification to community members and businesses within the court-authorized community notification zone and to the parents and guardians of children attending schools located within the area in which the court-ordered community notification to the community concerning a Tier Three offender.

1. Tier Three Community Notification to the Community

The Prosecutor's Office is responsible for the preparation of the Notice, which shall include the information as set forth in the first paragraph in Section XI. The Prosecutor's

Office shall coordinate with the Police Chief, Barracks Superintendent or Megan's Law liaison in the appropriate municipalities to determine an action plan which considers the number of law enforcement officers to be included in the community notification process, the time in which the community notification will be conducted and the number of Notices and accompanying materials needed to conduct the community notification.

Community notification shall be conducted by law enforcement delivering the Notice by hand to an adult member of each household and to a full-time adult supervisory employee or owner in every business located in the area in the scope of community notification. Along with the Notice, the recipient shall be provided with a "Megan's Law Receipt Form" for his or her signature (Exhibit Q). Upon signature of the Megan's Law Receipt Form, the Notice shall be provided to the eligible recipient. Only one resident of a household need sign the Megan's Law Receipt Form in order to receive the Notice. Signed Megan's Law Receipt Forms shall be retained by the Prosecutor's Office.

In the event that there is no adult resident present at a residence on the attempt at personal service, then a copy of the attached "Attempted Delivery Form" (Exhibit G) should be left under the door or in the mailbox of the residence, which directs the resident to contact the local law enforcement agency or the County Prosecutor's to receive important public safety information and informs the resident that he or she may also obtain the information by means of the Internet at the following site: www.njsp.org, clicking onto the NJ Sex Offender Registry icon. A door hanger may be substituted for the Attempted Delivery Form.

Under no circumstances should a Notice be left with a juvenile under the age of 18, unless the juvenile is an emancipated head of the household. Also, Notices should be

handed to an adult resident, and may not otherwise be left at the location (even in a secured mailbox or inside a residence) or provided to a neighbor or childcare giver to remit to the adult head of household.

In each hand-delivery, a copy of the “Megan’s Law Rules of Conduct” (Exhibit J) should also be provided to the individual receiving the Notice. Moreover, the obligations set forth in the Megan’s Law Receipt Form must be explained to the individual and a signature obtained. If the individual is unable or unwilling to sign the Megan’s Law Receipt Form, then the Notice should not be provided. The recipient should be advised that he or she may obtain a Notice at the local police station or Prosecutor’s Office upon signature of the Megan’s Law Receipt Form. Alternatively, the recipient may be advised that this information is publicly available by means of the Internet at the following site: www.njsp.org, clicking onto the NJ Sex Offender Registry icon.

When hand-delivering a Notice to a place of business, you must identify the owner, manager or supervisor who is in charge on a full-time basis, and provide community notification to that individual. That individual should be provided with one copy of the Notice and the “Rules of Conduct for Businesses” (Exhibit K). In delivering the community notification information, the responsible individual should be instructed to follow the applicable Rules of Conduct, including the requirements that the Notice is **NOT** to be posted in any location, and that the community notification information may be shown to employees but not with customers. The responsible individual should also be advised to maintain the Notice in a secure location which is not accessible to the public. The Notice should be shown to any security officers employed by the business at that location, who should be afforded access to the Notice when necessary. The Notice may not be shown to corporate officials or any employees of the business who are not regularly employed at

or assigned to that location.

2. Tier Three Community Notification to Parents and Guardians of Schoolchildren

The Prosecutor's Office shall provide community notification to the parents and guardians of students attending a school located in the area for which the court has ordered community notification about a Tier Three offender. The Prosecutor's Office may obtain a mailing list of the parents and guardians of its student body from the affected schools (which have received community notification in their own right). However, in lieu of providing the mailing list to the Prosecutor, the school may elect to furnish the Prosecutor with pre-addressed envelopes or mail the community notification materials itself. A copy of the Notice, Megan's Law Rules of Conduct, and any other accompanying information or brochures should be sent to the parents and guardians by regular United States mail. A cover letter should also be included, which fully explains the nature and purpose of Megan's Law and contains warnings concerning the consequences of vigilante activity and the proscriptions on the improper dissemination of community notification information to people outside the immediate household. The cover letter should also explain that the school principal has been provided with all pertinent information about the offender and has been authorized to share the information with appropriate school personnel for the safety of the students.

In consideration of the fact that some portion or all of the parents and guardians may have received community notification through the hand delivery procedure provided for members of the public likely to encounter the offender, the Prosecutor may, at his or her discretion, eschew mailing the Notice to those residences confirmed to be in the court-ordered zone of community notification.

Parents or guardians of newly enrolled students should be advised to contact the local police headquarters or County Prosecutor's Office if they wish to obtain any Notices to which they may be entitled (that is, those Tier Three Notices previously distributed to parents and guardians of children attending the school, provided that the offender has not relocated to an area outside the zone of community notification where the school is located). Dissemination of such Notices will be provided in accordance with the procedure set forth in Section XII. Alternatively, the parents or guardians may obtain the information by means of the Internet at the following site: www.njsp.org, clicking onto the NJ Sex Offender Registry icon.

Tier Three Community Notification Occurring During School Vacation: When community notification concerning a Tier Three offender occurs during summer vacation, or some other time when school is closed for an extended period, the procedures under this section should be followed for any school personnel who are working during the vacation period. The principal should show the Notice to other, appropriate school personnel in accordance with the Guidelines upon their return to school. With respect to mailing the Notice to parents and guardians, the principal may supply to the Prosecutor a mailing list (or pre-addressed envelopes) of the parents and guardians of children attending school during the vacation or break period, and a full mailing list or pre-addressed envelopes of all students' parents and guardians as soon as practicable upon resumption of the school session. The Prosecutor shall be responsible for mailing Notices and accompanying materials to those parents and guardians at the time of receipt of each mailing list. If the school itself will perform the mailing, it must comply with this procedure.

XIII. INTERNET REGISTRY

Information about certain sex offenders contained in the State Registry is publicly available by means of the Internet at the following site: **www.njsp.org**. Click onto the NJ Sex Offender Registry icon. The State Police are required under the law to maintain this Internet Registry of sex offenders, including the update of current information and the input of new registrants. If any law enforcement agency learns that information contained in the Internet Registry is outdated or inaccurate, the State Police should be immediately notified to correct the information. Also, instructions on the process for correcting information that a person alleges to be erroneous are posted on the Internet site.

The public may, without limitation, obtain access to the Internet Registry to view an individual registration record, any part of, or the entire Internet Registry. However, pursuant to N.J.S.A. 2C:7-14(a), warnings are posted on the Internet site that state any person who uses the information contained in the Internet Registry to threaten, intimidate or harass another, or who otherwise misuses that information may be criminally prosecuted. Pursuant to N.J.S.A. 2C:7-16(b), any person who uses information from the Internet Registry to commit a crime shall be guilty of a third degree crime. Any person who uses information from the Internet Registry to commit a disorderly persons offense or petty disorderly persons offense shall be guilty of a disorderly persons offense.

Personal information, including addresses, are posted on the Internet site. Circumstances may exist, such as the use or threatened use of information from the Internet Registry to harm, threaten, intimidate, or harass a specific sex offender, which justify the removal of certain personal information. Such personal information will be re-posted on the Internet Registry as soon as practicable.

Inclusion in this Internet Registry is determined by the court-ordered level of notification, in accordance with N.J.S.A. 2C:7-8c. Such inclusion may be affected by a subsequent re-evaluation of the level of notification, as explained in Section XV.

All Tier Three (high risk) offenders are included on the Internet Registry, regardless of the age of the offender.

All Tier Two (moderate risk) offenders are included on the Internet Registry, unless the court has ordered notification as if the offender is a low risk to offend or the sole sex offense committed by the offender is one of the following:

1. An adjudication of delinquency for any sex offense as defined in N.J.S.A. 2C:7-2b;
2. A conviction or acquittal by reason of insanity for a violation of N.J.S.A. 2C:14-2 or N.J.S.A. 2C:14-3 under circumstances in which the offender was related to the victim by blood or affinity to the third degree or was a foster parent, guardian, or stood in loco parentis within the household; or
3. A conviction or acquittal by reason of insanity for a violation of N.J.S.A. 2C:14-2 or N.J.S.A. 2C:14-3 in any case in which the victim assented to the commission of offense but by reason of age was not capable of giving lawful consent.

“Sole sex offense” means a single conviction, adjudication of guilty or acquittal by reason of insanity for a sex offense which involved no more than one victim, no more than one occurrence or, in the case of an offense which meets the criteria of paragraph two above,

members of no more than a single household. Notwithstanding the above, the prosecutor may seek to have an offender who falls within one of these exceptions included on the Internet Registry by showing by clear and convincing evidence that the facts and circumstances of the individual case demonstrate that the offender poses a risk to the public that is substantially similar to the risk posed by a Tier Two offender who does not fall within one of these exceptions.

No Tier One (low risk) offenders are included on the Internet Registry.

XIV. MAINTENANCE OF RECORDS OF COMMUNITY NOTIFICATION

Each Prosecutor's Office and local police headquarters shall maintain separate notebooks for each tier, containing a Notice for each registrant. The notebooks should be maintained in a secure location, accessible to Megan's Law liaisons and other law enforcement officers as appropriate. These notebooks shall be for the sole use of law enforcement agencies, with the following exceptions: (1) individuals who reside in a Tier Three community notification area who were not at home during the attempted delivery; (2) individuals that have moved into the community after a Tier Three community notification has been completed; and (3) parents and guardians of children that enroll at a school located within the zone of a Tier Three community notification after the community notification has taken place.

These individuals shall be provided with a Notice at the local police or Prosecutor's Office upon presentation of appropriate identification and documentation. In the case of a person not at home during an attempted door-to-door delivery, there must be furnished a form of picture identification, documentation of the residence located within the zone of community notification (such as a utility bill) and the Attempted Delivery Form Letter which had been left at the residence. In the case of a new resident, there must be furnished a form of picture identification, and documentation that demonstrates that the person actually resides at the location in question. New residents should be provided with information about such offenders as they would have received had they been a resident at the time the community notification initially took place, unless the offender's tier classification or the scope of community notification has been changed in the interim to preclude such community notification. In the case of a parent or guardian of a child newly enrolled at a school located within the zone of community notification, there must be furnished a form of picture identification and documentation that the person's child actually attends the

school in question (such as official school correspondence addressed to the parent or guardian). Parents and guardians of schoolchildren shall be entitled to receive copies of any Tier Three Notices distributed to the school at any time during the school year.

To receive a Notice at a police headquarters or County Prosecutor's Office, an eligible recipient must present proper identification and sign a Megan's Law Receipt Form, as described in XII. Manner of Community Notification. The recipient should also be provided with a copy of the applicable Megan's Law Rules of Conduct. If a recipient eligible to receive a Notice (i.e., a resident who was not home at the time of attempted Notice delivery, or a new resident) does not wish to sign a Megan's Law Receipt Form, the recipient should not be provided with a copy of a Notice.

Alternatively, an eligible recipient may be advised that this information is publicly available by means of the Internet at the following site: www.njsp.org. Click onto the NJ Sex Offender Registry icon.

Signed School Principal Receipt Forms, Community Organization Designated Official Receipt Forms, and Megan's Law Receipt Forms shall be retained by the Prosecutor's Office in a secure location for five years. The Prosecutor's Office shall retain all other records contained within its Megan's Law file in accordance with Schedule Number 903, "Records Retention and Disposition Schedule for County Prosecutor's Office."

XV. ONGOING OBLIGATION TO TIER AND NOTIFY

Prosecutors and local law enforcement agencies should be cognizant that the determination as to which tier is appropriate in any given case will be an ongoing process. Change of address or information which provides evidence of a change in circumstances or in the relevant factors may trigger a re-evaluation. N.J.S.A. 2C:7-7.

In the event that a Tier Two or Tier Three community notification is to be conducted across county lines, then the County Prosecutor who has the order signed by the court should notify the county in which part of the community notification shall be conducted and shall coordinate the activities of law enforcement in that jurisdiction with the assistance of and cooperation of the second county. The order signed by a superior court judge in the first county should be afforded full faith and credit in the other counties.

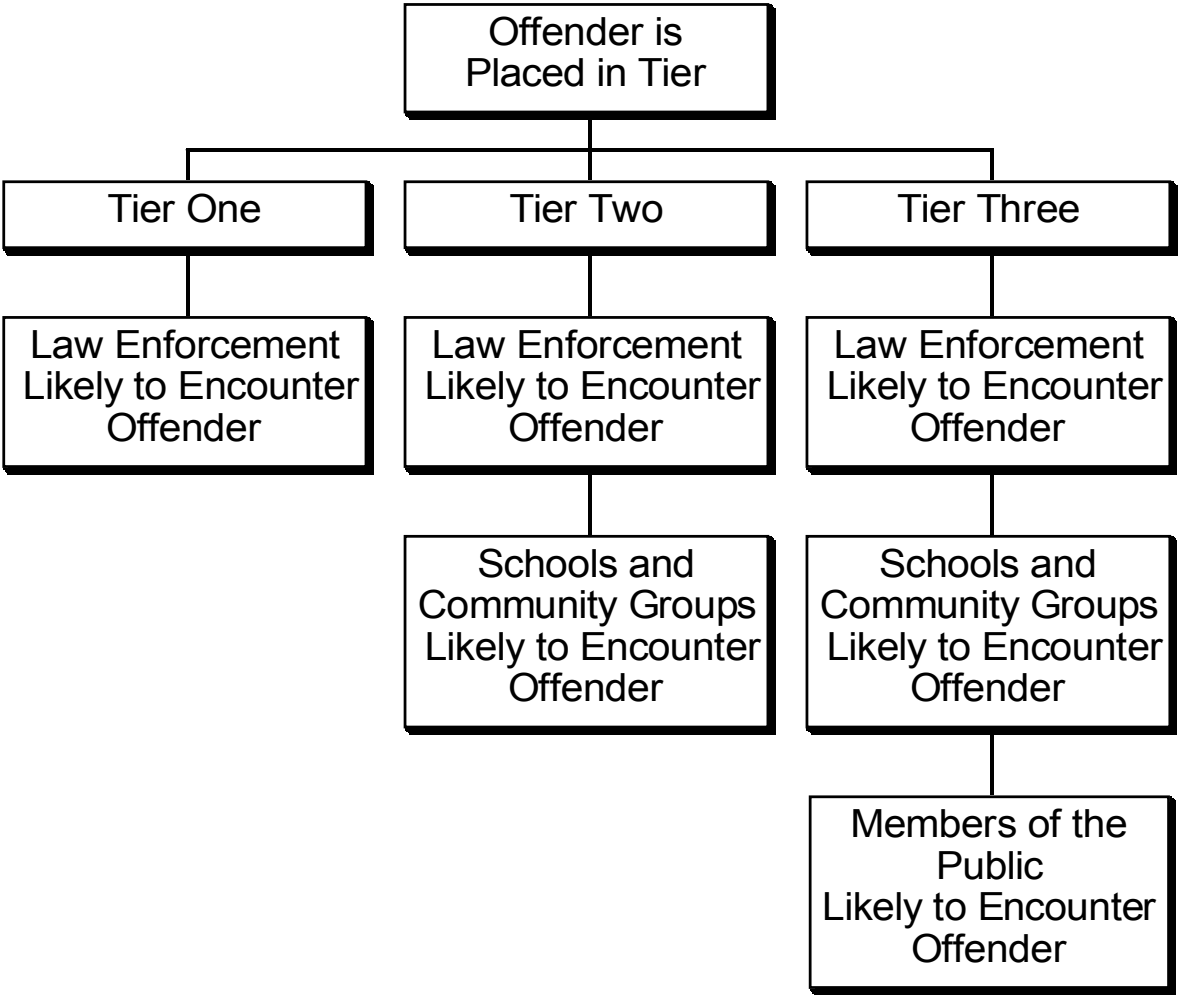
XVI. TRAINING

Community leaders and educational institutions should be made aware that any information which may be pertinent to the Prosecutor's determination should at any time be brought to the attention of the local law enforcement agency and, ultimately, to the Prosecutor's Office.

On-going assistance in the implementation of the registration and community notification statutes will be provided through the auspices of the Attorney General to assist the Prosecutors' Offices, which will in turn provide assistance and training to local law enforcement, and community organizations as well as schools to facilitate the community notification process and to provide law enforcement and the public with an understanding of the underpinnings of the Legislature's intent and purpose in creating this law.

EXHIBIT A

Overview of Community Notification by Tier



Overview of Community Notification

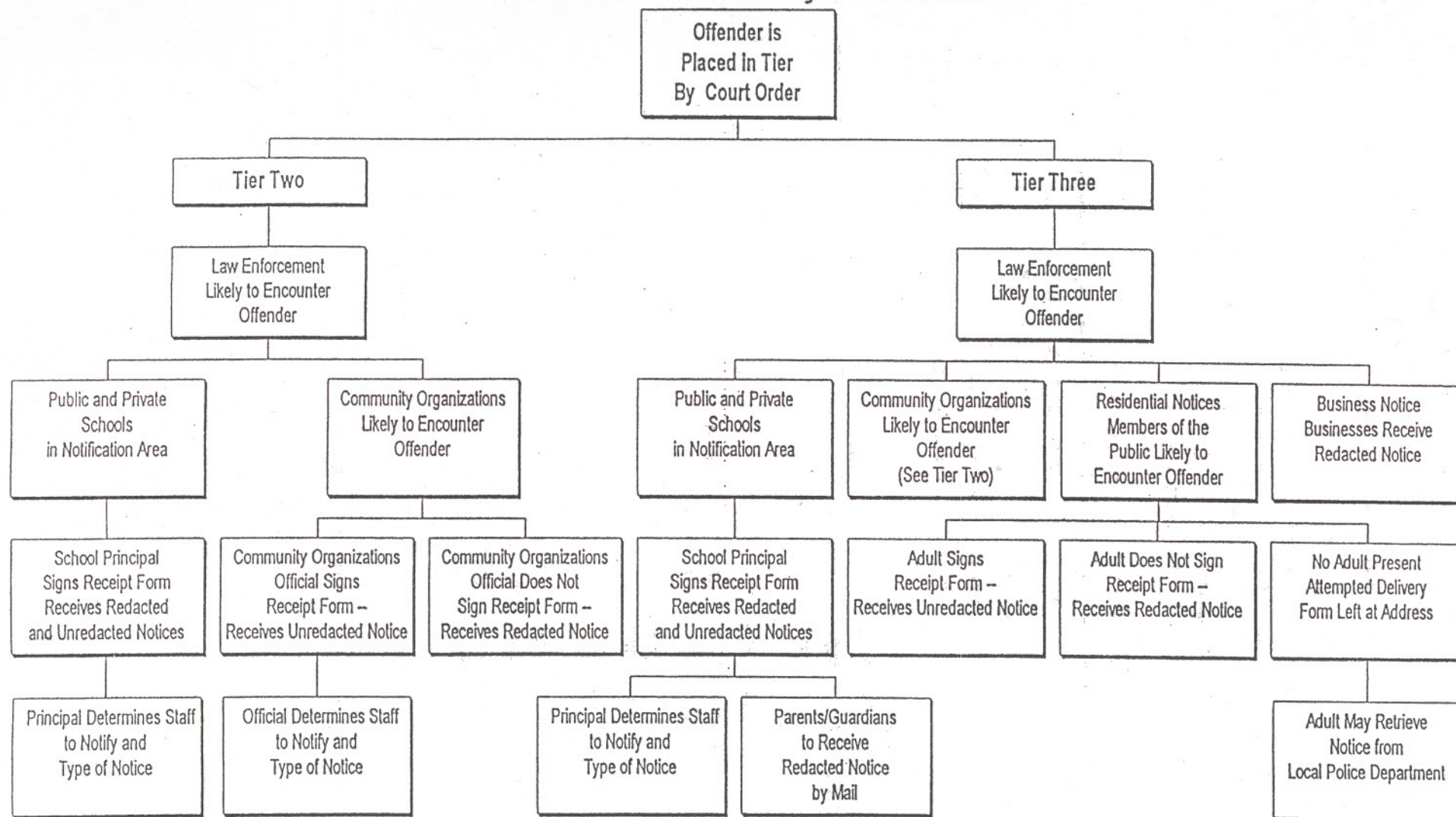


EXHIBIT C

Uniform Language for Tier 2

On October 31, 1994, Governor Whitman signed into law legislation commonly known as "Megan's Law." This law requires law enforcement to notify the community that a known sex offender, who meets certain criteria has moved into a neighborhood. Pursuant to that law, this notice is to inform you of the following individual living/working in your community.

The purpose of this notice is to permit you to take necessary steps to protect the children or women in your care from potential harm. Your local law enforcement agency is aware of this offender's location and activities. He is not wanted by the police at this time. However, if you feel this individual or any individual is a threat to the children or women in your care, contact your local police department immediately.

In accordance with an Order of the Superior Court of New Jersey, the information contained in this Notice is for you and your staff's information only. It may not be released to any member of the public, to the children in your care or their parents, to the women in your care, to the Press, or posted anywhere. You should refer to the Attorney General's Guidelines for the Implementation of Community Notification Law in Schools for further guidance. In the event you disclose this information in a manner contrary to the Order of the Superior Court, you may be cited for contempt of Court or any other discipline permitted by law.

Moreover, any action taken by you against this individual, including vandalism of property, verbal or written threats of harm, or physical assault against this person or his family or employer will result in your arrest and prosecution for criminal acts.

If you have any questions about this notice, please contact the Police Department at _____, or the _____ County Prosecutor's Office, Megan's Law Unit at _____.

EXHIBIT D

Uniform Language for Tier 3

On October 31, 1994, Governor Whitman signed into law legislation commonly known as "Megan's Law." This law requires law enforcement to notify the community that a known sex offender, who meets certain criteria has moved into a neighborhood. Pursuant to that law, this notice is to inform you of the following individual living/working in your community.

The purpose of this notice is to permit you to take necessary steps to protect your children from potential harm. Your local law enforcement agency is aware of this offender's location and activities. He is not wanted by the police at this time. However, if you feel this individual or any individual is a threat to your children, contact your local police department immediately.

In accordance with an Order of the Superior Court of New Jersey, the information contained in this Notice is for your information only and is not to be released beyond your immediate household. It may not be released to any member of the public, to the Press, or posted anywhere. In the event you disclose this information in a manner contrary to the Order of the Superior Court, you may be cited for contempt of Court and/or any other sanction permitted by law.

Moreover, any action taken by you against this individual, including vandalism of property, verbal or written threats of harm, or physical assault against this person or his family or employer will result in your arrest and prosecution for criminal acts.

If you have any questions about this notice, please contact the Police Department at _____, or the _____ County Prosecutor's Office, Megan's Law Unit at _____.

REGISTRANT
RISK ASSESSMENT SCALE
MANUAL

This manual is to assist in the implementation of the Registrant Risk Assessment Scale (RRAS). The purpose of the scale and this accompanying manual is to provide Prosecutors with an objective standard on which to base the community notification decision mandated by statute and to insure that the notification law is applied in a uniform manner throughout the State. The Risk Assessment Scale was rationally derived by a panel of mental health and legal experts by the following process: 1) the selection of risk assessment criteria that have empirical support; 2) the weighting of these pertinent risk assessment criteria and 3) the use of sample cases to assist in the setting of numerical cut-off points for low, moderate and high risk scores.

The purpose of this assessment is to provide a method of notification to the public so as to address the concerns of the community regarding the location of convicted sex offenders who may be a risk of committing further offenses. The assessment process required by the statute is not intended to determine the actual probability of any one registrant reoffending. Rather, as the Court's opinion in Doe v. Poritz makes clear, the Legislature has already concluded that the nature of the offense, i.e., a sex offense, warrants notification at some level. "Therefore the probability of reoffense on the part of moderate- or high-risk offenders is not the issue before the court, but rather the relatively greater risk of reoffense compared either to the low-risk offender class or the moderate-risk offender class." Doe v. Poritz, 142 N.J. 1, 34 (1995). Instead, using well recognized criteria, the panel has formulated a method of objectively placing registrants in tiers designed to provide the public with notice of the whereabouts of convicted sex offenders, such that the community will be better informed and prepared.

The procedure set forth here will result in a numerical value, based upon the application of the chart to the available, relevant information. That numerical value will translate into a risk assessment which correlates to a tier. Prosecutors do not have the discretion to modify a tier determination derived from this procedure except in two instances: 1) If an offender has indicated that he will reoffend if released into the community and the available record reveals credible evidence to support this finding, then the offender will be deemed to be a high risk of reoffense regardless of the outcome of the weighting procedure; and 2) if the offender demonstrates a physical condition that minimizes the risk of reoffense, including but not limited to advanced age or debilitating illness, then the offender will be deemed to be a low risk of reoffense regardless of the outcome of the weighting procedure.

In In the Matter of Registrant G.B., 147 N.J. 62 (1996), the Supreme Court of New Jersey considered the use of expert testimony in relation to a registrant's Scale score. Generally, a court will accord a binding effect to the tier determination resulting from a registrant's Scale score, unless the registrant presents subjective criteria that would support a departure from reliance on that classification. In G.B., the Court held that, in addition to allowing evidence disputing the factual accuracy of the information used to calculate the registrant's Scale score, a court may consider expert testimony concerning the registrant's psychological state in assessing the accuracy of a registrant's tier classification. The trial court has the ultimate authority to determine the admissibility, form and weight of such expert testimony. A registrant may use such evidence to argue that the Scale calculations do not properly reflect the registrant's relative risk of reoffense and, in a case which falls outside the "heartland" of cases, the court may consider such testimony to override the Scale score. It should be noted that, in such cases, the court may use such psychological evidence to justify a departure from the Scale score to order either a higher or lower tier designation.

1. Selection of Risk Assessment Criteria

In selecting the criteria to be incorporated into the scale, the statutory requirements set forth in N.J.S.A. 2C:7-6 have been subsumed in the criteria. For example, Criteria 1 - 7 will capture repetitive and compulsive offenders, as well as those who have been released following service of an entire sentence of incarceration. Also, for example, the factor of "recent threats against persons or expressions of intent to commit additional crimes" is captured by the inclusion of the override criteria set forth above.

Assessing the potential risk of reoffense of a sex offender has two components:

1.1. The seriousness of the offense should the offender recidivate

If, for example, one is dealing with a compulsive exhibitionist, although there may be a high likelihood of recidivism, the offense itself is considered a nuisance offense. Hence, the offender's risk to the community would be judged low, consistent with the low legal penalties associated with such offenses. Conversely, with a violent offender who has a history of substantial victim harm, even a relatively low likelihood of recidivism may result in a moderate or high potential risk to the community given the seriousness of a reoffense. This is consistent with the caution exercised by the State Parole Board in releasing such violent offenders or in the similar caution exercised in releasing Not Guilty by Reason of Insanity defendants who have committed violent offenses.

Some risk assessment criteria were specifically selected to reflect the seriousness of the offense. These criteria include degree of force, degree of victim contact, and age of victim. All of these criteria are reflected in the increase by degree of statutory severity based on the presence of each of the criteria.

1.2. The likelihood that the offender will recidivate

The expert panel reviewed existing risk assessment scales commonly used with sex offenders.² In addition, the panel reviewed considerable research regarding predicting sex offender recidivism. These reviews of existing instruments and empirical literature led the panel to select risk assessment criteria that have demonstrated empirical support and

²e.g., Steen & Monnette, *Adolescent Sex Offenders in the Community* (1989) and Wenet, *Workshop at Massachusetts Criminal Justice Training Council* (1981).

common usage by sex offender experts.³ Other criteria which lacked such well-recognized empirical support were not included. These criteria can be divided into a few broad areas:

1.2.1. Intensity, duration, and frequency of illegal sexual behavior: Victim selection, number of offenses/victims, duration of offensive behavior, and length of time since last offense fall into this category.

1.2.2. Antisocial lifestyle: History of antisocial acts (other than sex offenses), substance abuse, and employment/educational stability fall into this category.

1.2.3. Involvement in treatment: Response to treatment and therapeutic support fall into this category.

1.2.4. Social support: Residential support falls into this category.

For ease of use, on the scale itself, these criteria were grouped as follows:

1. Seriousness of Offense
2. Offense History
3. Characteristics of Offender
4. Community Support

The latter three groups of criteria relate to the likelihood that the offender will recidivate. The first group are criteria that relate to the consequences to the community should the offender recidivate.

2. Weighting of the risk assessment criteria

The criteria listed in the "seriousness of offense" category have been given the most weight, to be multiplied by five. The panel's reasoning is twofold. First, it is intended that the violent, predatory offender be rated higher than those who have not committed such offenses. Giving the highest weighting score to the "seriousness of offense" characteristics accomplishes this goal. Second, the panel wishes to have those with lower level offenses, in particular, lewdness crimes, such as exhibitionism, rated as lower risk even though the registrant might be quite compulsive, so as to reflect the lower risk of harm to the community. This goal, too, is accomplished by the heavy weighting of these criteria. These goals mirror both the relative severity of statutory penalties as well as the intent of the notification statute itself.

³e.g., Maletsky, Factors Associated with Success and Failure in the Behavioral and Cognitive Treatment of Sexual Offenders, 6 Annals of Sex Research 241 (1993); Furr, Prediction of Sexual or Violent Recidivism Among Sexual Offenders; A Comparison of Prediction Scales, 6 Annals of Sex Research 271 (1993); McGrath, Sex Offender Risk Assessment and Disposition Planning: A Review of Empirical and Clinical Findings, 35 Journal of Offender Therapy and Comparative Criminology 328 (1991); Tracy, Morgenbesser & McDonald, Program Evaluation--Recidivism Research Involving Sex Offenders in Greer and Stuart, The Sexual Aggressor (1983); Serin, Malcolm, Khanna & Barbaree, Psychopathy and Deviant Sexual Arousal in Incarcerated Sexual Offenders, 9 Journal of Interpersonal Violence 3 (1994); Marshall, Jones, Ward, Johnston & Barbaree, Treatment Outcome with Sex Offenders, 11 Clinical Psychology Review 465 (1991); Quinsey, Lalumiere, Rice & Harris, Predicting Sexual Offenses in Campbell, Assessing Dangerousness (1995); Harris, Rice & Cormier, Psychopathy and Violent Recidivism, 15 Law and Human Behavior 625 (1991); Serin, Psychopathy and Violence in Criminals, 6 Journal of Interpersonal Violence 423 (1991); Prentky, Knight & Lee, Development and Validation of a Risk Assessment Scale for Extrafamilial Child Molesters, unpublished manuscript, (1995).

The literature on risk assessment indicates that most predictions of future offenses fail due to not taking into account the base rate of occurrence of offenses within the given population. This failing can be remedied by anchoring the risk assessment in the historical factors that define the risk of the population as a whole, and then using current, dynamic factors to modify the assessed risk.⁴ Moreover, the historical factors--particularly those related to extensiveness of prior sexual offending and extensiveness of antisocial behavior--tend to be the most powerful predictors of future offenses.⁵ Consequently, the expert panel has weighted the scores of the three likelihood criteria groups to account for their strength of prediction. Offense history items are multiplied by three, characteristics of the offender items are multiplied by two, and community support items are multiplied by one. If any factor is not supported by the available information, then n/a should be placed in the Comment Section.

Additionally, the expert panel weighted the low, moderate, and high risk components of each item as 0, 1, and 3 respectively. The panel concluded that a score of high risk on any given item should be given prominence in the final calculation of risk. Consequently, the panel gave high risk scores on an item a score of three, as opposed to a score of two, which would be expected if equal increments were used. However, once the total risk score for the scale is calculated, overall risk levels--that is, low, moderate, and high--are of equal weight.

**The ranges are: low risk--0 to 36;
 moderate risk--37 to 73;
 high risk--74 or higher.**

3. Use of Sample Cases

Once the above scoring mechanisms were agreed upon, the panel used sample cases of agreed upon risk to insure that risk assessments using the scale conformed to panel judgments.

4. Utilizing the Criteria

In utilizing the following criteria, the assessing individual should look to the most serious instance of each as it appears on the record. For example, where the record reveals that a registrant has committed a sex offense against a 13-year old but no weapon or other violence was used, but a different sex offense was also committed against a 20-year old using a weapon or violence, then Criterion 1 should reflect the use of violence and Criterion 3 should reflect that a crime was committed against a 13-year old.

This weighting process may take into account any information available and encompasses all credible evidence. Thus, a determination of the number of victims or offenses may be based upon documentation other than a criminal conviction. Such documentation may include, but is not limited to, criminal complaints not the subject of a conviction but which are supported by credible evidence, victim statements, admissions by the registrant, police reports, medical, psychological or psychiatric reports, pre-sentencing reports, and Department of Corrections discharge summaries.

The following is a list of the criteria in the Registrant Risk Assessment Scale, along with an explanation of how each is used. "Low risk", "moderate risk" and "high risk"

⁴Quinsey, Lalumiere, Rice & Harris, supra.

⁵Quinsey, Rice & Harris, supra; Quinsey, Lalumiere, Rice & Harris, supra; Romero & Williams, Recidivism among Convicted Sex Offenders, 49 Federal Probation 58 (1985); Prentky, et al., supra.

examples are also provided by way of illustration. These examples are in no way intended to be exclusive.

1. **Degree of force** is related to the seriousness of the potential harm to the community if reoffense occurs.

Low risk example: intra- or extra-familial child sexual abuse in which the offender obtains or attempts to obtain sexual gratification through use of candy, pets or other nonviolent methods; offender exposes self to child; offender fondles adult victim without use of force.

Moderate risk example: offender threatens physical harm or offender applies physical force that coerces but does no physical harm, for example, by holding the victim down; the offender uses verbal coercion against a child victim, for example, by telling a child victim that he will get "in trouble" or "won't be loved" if he tells anyone of the abuse.

High risk example: offender causes lasting or substantial physical damage to victim, or offender uses or is armed with a weapon.

2. **Degree of contact** is related to the seriousness of the potential harm to the community if reoffense occurs.

Low risk example: fondles child victim over clothes; approaches adult victim on street and presses body against buttocks over clothing; exhibitionism or showing pornography to a child.

Moderate risk example: fondles under clothing.

High risk example: penetrates orifice with object, tongue, finger, or penis.

3. **Age of victim** is related to seriousness of the potential offense. This criterion mirrors statutory age levels. The youngest victim for any offense known is scored. Offense need not have led to conviction if credible evidence exists in the records. For juveniles, a four year age difference between the offender and the victim is needed to score this criterion.

4. **Victim selection** is related to likelihood of reoffense (with intrafamilial offenders having the lowest base rate of reoffense) as well as risk to the community at large.

Low risk example: sexually abuses younger sibling, household member, biological child, stepchild, or common law spouse's child; offender sexually abuses family member who does not live in the household.

Moderate risk example: "acquaintance" implies a degree of social/business interaction beyond that of a single contact and includes an offender who sexually abuses a neighbor's child, a child for whom he or she is babysitting, or a child for whom he or she is coach or teacher; offender performs coercive sexual acts with date ("date rape").

High risk example: sexually abuses child or adult stranger accosted on street, in park, or in schoolyard; offender lures stranger (either adult or child) into coercive sexual activity; offender meets victim in bar and later assaults. Use of the word "stranger" does not automatically preclude fact situations in which the victim knows the identity of the offender, for example, the offender and victim may have had an exchange of words in a bar or other social setting.

5. **Number of offenses/victims** is related to the likelihood of reoffense. A conviction

is not necessary if the rater finds credible evidence of multiple sexual offenses/victims. Multiple incidents with a given victim are addressed in criterion six, rather than in this criterion.

Low risk example: intrafamilial sexual abuse of one child (even if multiple incidents with the one child); sexual assault of one adult stranger

Moderate risk example: two separate victims (even if only one incident with each victim or one incident involving both victims)

High risk example: three separate victims

6. **Duration of offensive behavior** is related to both the likelihood of reoffense as well as the seriousness of the behavior itself. A conviction is not necessary if the rater finds credible evidence to support a specific duration of offensive behavior.

7. **Length of time since last offense (while at risk)** is related to likelihood of reoffense. The time counted in this criterion is only time at risk--that is, when the offender is in a situation in which he or she has ready, unsupervised access to potential victims. Time incarcerated or civilly committed does not count, given that most offenders do not commit offenses under those circumstances. If, however, evidence exists (such as documented institutional disciplinary charge) that the offender did commit a sexual offense while incarcerated, then this offense should be included in the time calculation. For juveniles, time spent in residential placement without furloughs should be treated similarly to incarceration for adults.

Low risk example: five or more years at risk since last offense

Moderate risk example: between one and five years at risk since last offense

High risk example: one year or less at risk since last offense

8. **History of antisocial acts** is a good predictor of future antisocial acts, sexual and otherwise. The more extensive the antisocial history, the worse the prognosis for the offender. Antisocial acts include crimes against persons, crimes against property, and status offenses (for juveniles). Acts which are not the subject of criminal charges but that are credibly represented in the available records may be counted. For example, sexual deviancy not the subject of criminal prosecution may be counted in this category as long as it has not already been included in Factor 5 above. In this way, any "double-counting" will be avoided. Available documentation which can be considered may include evidence of truancy, behavioral problems in school or in a work situation, school suspensions, work suspensions, prior diagnoses of conduct disorder or oppositional defiant disorder. Acts perpetrated while incarcerated or committed may be included.

Low risk example: no history of antisocial acts other than the charged sex offense

Moderate risk example: three or fewer documented occurrences of prior antisocial behavior, which may be demonstrated by consequences such as prior arrests, loss of job, or school suspensions, or other disciplinary actions.

High risk example: more than three documented occurrences of prior antisocial behavior; history of antisocial behavior that led to more than three prior arrests, school suspensions, job losses; prior diagnosis of oppositional defiant disorder or conduct disorder may qualify an offender automatically for high risk.

9. **Response to treatment** is related to likelihood of reoffense. All else equal, a good response to treatment indicates less risk of reoffense. A therapist's report is necessary to rate this criterion.

Low risk example: therapist indicates good progress in sex offender specific treatment; no offenses during treatment

Moderate risk example: therapist indicates some progress but significant treatment difficulties; no offenses during treatment

High risk example: therapist indicates no current progress; one or more offenses committed while in treatment

10. **Substance abuse** can act as a disinhibitor of impulses, causing an offender to act on urges he or she might otherwise be able to control. Additionally, substance abuse can be an indicator of either a broader antisocial lifestyle or a low level of social competence. Finally, substance abuse can act as a disorganizing factor in an otherwise socially competent individual. This category should be treated separately from "History of Anti-Social Acts." If substance abuse, or the lack of such a problem, is weighted here, it should not also be included as an "Anti-Social Act" for purpose of category #8. In this way, any "double-counting" will be avoided.

Low risk example: no history of substance use that impaired social or occupational functioning. Historical occasional use that did not impair functioning acceptable.

Moderate risk example: historical substance abuse, but presently in remission; present functioning not impaired; current episodic use.

High risk example: current substance dependence; present functioning impaired.

11. **Therapeutic support** provides both a means of monitoring and treating the offender, both of which reduce the likelihood of offenses. The extreme categories of "current/continued involvement" and "no involvement" are self-evident. Intermittent can be scored if the individual is currently in treatment but has had a gap between prior and current treatment or attends treatment inconsistently. The offender should be scored as low risk if there is documented, bona fide effort to obtain treatment, for example, being on a waiting list.

12. **Residential support** is a measure of social stability and competence, both of which reduce the likelihood of relapse. The elements in rating this criterion are the appropriateness of the residence (does not place offender in situation similar to that in which prior offense occurred, such as unsupervised contact with children or ready access to potential victims) and level of support and supervision (such as family or friends). The rater can also consider supervision provided by probation or parole.

Low risk example: living with family or non-deviant friends in location that does not provide ready access to victims; living in half-way house; for juveniles, living in foster home with skilled foster parents and no access to potential victims; reports regularly to parole or probation officer.

Moderate risk example: living in setting with no access to potential victims, but little or no social support, such as living by self in apartment complex or rooming house, or living with family or friends who provide no support or may enable deviant behavior. Reports only intermittently to parole or probation officer.

High risk example: living alone across the street from a school; homeless; frequent relocation as part of transient lifestyle; fails to report on regular basis to parole or probation officer.

13. **Employment/educational stability** is a measure of both social competence and social (particularly economic) support. For juveniles, educational stability is scored based on lack of academic or school-related discipline problems. For adults, the analogous measure is length of time employed at current job, lack of period of unemployment, or job changes but with rising compensation or improving work conditions. Additionally, the form of employment should not involve ready, unsupervised access to potential victims, such as employment as a school bus driver.

Low risk example: employed steadily in job that does not present access to victims; attends school regularly without disciplinary problems. May be disabled physically or developmentally and therefore not employed or in school.

Moderate risk example: employed in job that does not present access to victims, but period(s) of unemployment or numerous job changes; inconsistent school attendance (truancy, suspensions, etc.).

High risk example: currently unemployed or employed in setting that allows ready access to potential victims; school drop-out.

#

EXHIBIT F

REGISTRANT RISK ASSESSMENT SCALE

Criteria	Low Risk	0	Moderate Risk	1	High Risk	3	Comments	Total
Seriousness of Offense x5								
1. Degree of Force	no physical force; no threats		threats; minor physical force		violent; use of weapon; significant victim harm			
2. Degree of Contact	no contact; fondling over clothing		fondling under clothing		penetration			
3. Age of Victim	18 or over		13 - 17		under 13			
Subtotal:								
Offense History x3								
4. Victim Selection	household/family member		acquaintance		stranger			
5. Number of Offenses/ Victims	first known offense/victim		two known offenses/victims		three or more offenses/victims			
6. Duration of Offensive Behavior	less than 1 year		1 to 2 years		over 2 years			
7. Length of Time Since Last Offense	5 or more years		more than 1 but less than 5 years		1 year or less			
8. History of Anti-Social Acts	no history		limited history		extensive history			
Subtotal:								
Characteristics of Offender x2								
9. Response to Treatment	good progress		limited progress		prior unsuccessful treatment or no progress in current treatment			
10. Substance Abuse	no history of abuse		in remission		not in remission			
Subtotal:								
Community Support x1								
11. Therapeutic Support	current/ continued involvement in therapy		intermittent		no involvement			
12. Residential Support	supportive/ supervised setting; appropriate location		stable and appropriate location but no external support system		problematic location and/or unstable; isolated			
13. Employment/ Educational Stability	stable and appropriate		intermittent but appropriate		inappropriate or none			
Subtotal:								
Total:								

Scoring:

Highest possible total score = 111

Low Range: 0 - 36

Moderate Range: 37 - 73

High Range: 74 - 111

EXHIBIT G

Dear Resident:

On _____, while you were not at home, a representative of the _____ Police Department/ County Prosecutor's Office/State Police Barracks, came to your residence to give you important information. This is not an arrest and you are not being investigated for any crime. We need to provide valuable information to you and your family.

Please contact the _____ County Prosecutor's Office at _____ or your local Police Department at _____ to make arrangements to receive this information. You will need to provide a form of picture identification and proof of your address to receive the material. Also, please keep this letter and present it to the law enforcement agency.

Alternatively, this information is publicly available by means of the Internet at the following site: **www.njsp.org**. Click onto the NJ Sex Offender Registry icon.

Thank you for your cooperation.

SCHOOL PERSONNEL RULES OF CONDUCT

You have been shown a Notification Form that there is a convicted sex offender in the neighborhood where your SCHOOL is located. You must comply with the following rules:

You may do the following:

1. You should use the information you have received to exercise appropriate caution to protect the children and/or women in your care or under your supervision, based upon the information provided.
2. You should remain alert for the presence of this individual in the vicinity of those children or women over whom you exercise supervision or for whom you care.
3. If you believe that you have seen this individual in the vicinity and have a reasonable belief that the offender represents a threat to you or the children and/or women for whom you care, you should contact your local law enforcement agency.

Doing the following is inappropriate and may result in court action or prosecution being taken against you:

1. Do not share the information in this Notification flyer, or the flyer itself, with anyone.
2. Do not share the information in this notification flyer, or the flyer itself, with the media.
3. Do not post the flyer in a public location, or display it in a place where it is visible to anyone.
4. Do not attempt to harm the offender or his/her property. Do not attempt to harass the offender or make unsolicited, unwanted contact. If you believe the individual is a physical threat to you or children in your care, please contact your local police.
5. Do not take any action against the offender's family, household members or employer that may in any way harm or harass a person or property.

This flyer is provided to you for the sole purpose of giving you information that can assist you in exercising your supervisory obligations. This information may be publicly available and updated by means of the Internet at the following site: www.njsp.org. Click onto the NJ Sex Offender Registry icon. Law enforcement will notify all appropriate community members, schools, organizations, residences and businesses. If you are not certain whether sharing the notification flier with a particular individual or disclosing the notification information would be appropriate under particular circumstances, you should contact the Megan's Law Unit in the County Prosecutor's Office, at _____ for specific direction.

EXHIBIT I

COMMUNITY ORGANIZATION RULES OF CONDUCT

You have been shown a Notification Form that there is a convicted sex offender in the neighborhood where your organization is located. You must comply with the following rules:

You may do the following:

1. You should use the information you have received to exercise appropriate caution to protect the children and/or women in your care or under your supervision, based upon the information provided.
2. You should remain alert for the presence of this individual in the vicinity of those children or women over whom you exercise supervision or for whom you care.
3. If you believe that you have seen this individual in the vicinity and have a reasonable belief that the offender represents a threat to you or the children and/or women for whom you care, you should contact your local law enforcement agency.

Doing the following is inappropriate and may result in court action or prosecution being taken against you:

1. Do not share the information in this Notification flyer, or the flyer itself, with anyone.
2. Do not share the information in this notification flyer, or the flyer itself, with the media.
3. Do not post the flyer in a public location, or display it in a place where it is visible to anyone.
4. Do not attempt to harm the offender or his/her property. Do not attempt to harass the offender or make unsolicited, unwanted contact. If you believe the individual is a physical threat to you or children in your care, please contact your local police.
5. Do not take any action against the offender's family, household members or employer that may in any way harm or harass a person or property.

*This flyer is provided to you for the sole purpose of giving you information that can assist you in exercising your supervisory obligations. This information may be publicly available and updated by means of the Internet at the following site: www.njsp.org. Click onto the NJ Sex Offender Registry icon. Law enforcement will notify all appropriate community members, schools, organizations, residences and businesses. If you are not certain whether sharing the notification flier with a particular individual or disclosing the notification information would be appropriate under particular circumstances, you should contact the Megan's Law Unit in the County Prosecutor's Office, at
for specific direction.*

MEGAN'S LAW RULES OF CONDUCT

You have received a notification flyer from law enforcement that there is a convicted sex offender in this neighborhood. You must comply with the following rules:

You may do the following:

1. Do show and discuss the information you have received with immediate household members.
2. Do show the information you have received with anyone caring for your children at your residence in your absence.
3. Do take appropriate precautions to protect your children, based on the information provided.
4. Do discuss with your children how to act and what to do when dealing with strangers.

Doing the following is inappropriate and may result in court action or prosecution being taken against you:

1. Do not share the information in this notification flyer, or the flyer itself, with anyone who is outside of your immediate household.
2. Do not share the information in this notification flyer, or the flyer itself, with the media.
3. Do not post the flyer in a public location, or display it in a place where it is visible to persons who are not members of your household.
4. Do not attempt to harm the offender or his/her property. Do not attempt to harass the offender or make unsolicited, unwanted contact. If you believe the individual is a physical threat to you or children in your care, please contact your local police.
5. Do not take any action against the offender's family, household members or employer that may in any way harm or harass a person or property.

This flyer is provided to you for the sole purpose of giving you information that can assist you in protecting your family. This information may be publicly available and may be updated by means of the Internet at the following site: www.njsp.org. Click onto the NJ Sex Offender Registry icon. Law enforcement will notify all appropriate community members, schools, organizations, residences and businesses. If you are not certain whether sharing the notification flier with a particular individual or disclosing the notification information would be appropriate under particular circumstances, you should contact the Megan's Law Unit in the County Prosecutor's Office, at _____ for specific direction.

BUSINESS RULES OF CONDUCT

You have received a notification flyer from law enforcement that there is a convicted sex offender living in this neighborhood. You must comply with the following rules:

You may do the following:

1. Do show and discuss the information you have received with your full-time employees.
2. Do show the Notification Flyer with your security officers who are employed by your business at this location.
3. Do keep the copy of the Notification Flyer you have received in a secure location which is not accessible to the public.
4. You should remain alert for the presence of this individual in the vicinity.
5. If you believe that you have seen this individual in the vicinity and have a reasonable belief that the offender represents a threat to those under your care or supervision, you should contact your local law enforcement agency.

Doing the following is inappropriate and may result in court action or prosecution being taken against you:

1. Do not share the information in this notification flyer, or the flyer itself, with anyone who is who is not a regular employee of your business.
2. Do not share the information in this notification flyer, or the flyer itself, with the media.
3. Do not post the flyer in a public location, or display it in a place where it is visible to persons who are not employees of your business.
4. Do not attempt to harm the offender or his/her property. Do not attempt to harass the offender or make unsolicited, unwanted contact. If you believe the individual is a physical threat to you or children in your care, please contact your local police.
5. Do not take any action against the offender's family, household members or employer that may in any way harm or harass a person or property.

This flyer is provided to you for the sole purpose of giving you information that can assist you in protecting your family. This information may be publicly available and updated by means of the Internet at the following site: www.njsp.org. Click onto the NJ Sex Offender Registry icon . Law enforcement will notify all appropriate community members, schools, organizations, residences and businesses. If you are not certain whether sharing the notification flier with a particular individual or disclosing the notification information would be appropriate under particular circumstances, you should contact the Megan's Law Unit in the County Prosecutor's Office, at _____ for specific direction.

LAW ENFORCEMENT GUIDELINES FOR COMMUNITY NOTIFICATIONS

This is intended to assist law enforcement agencies charged with conducting a Tier Three notification pursuant to the Registration and Community Notification Laws. For detailed procedures, you should refer to the Attorney General Guidelines for Community Notification.

1. The information you have to disseminate should under no circumstances be released to or shared with the media or posted in a public location.
2. You may not confirm or deny that there is a notification in progress or that one has been conducted in any location. If asked what you are doing while in the course of disseminating the Notification Forms, please answer “confidential police work.”
3. Any inquiries from the media, members of the public, local officials or any other person not specifically designated to receive notification by the court order should be referred to the County Prosecutor’s Office Megan’s Law Unit.
4. When conducting a door-to-door Tier Three Notification you should check:
 - A. to see that you have been provided with Notification Forms.
 - B. to see that you have been provided with Megan’s Law Rules of Conduct Forms.
 - C. to see that you have been provided with Megan’s Law Receipt Forms for residents to sign.
5. You must hand-deliver the Notification Form to an adult member of each household and to a full-time adult supervisory employee or owner of every business located in the Scope of Notification area defined by the court order.
 - A. Do not leave a Notification Form with anyone under the age of 18 unless the person is an emancipated head of household.
 - B. Before leaving a Notification Form with the resident, you must obtain a signed Megan’s Law Receipt Form. Retain the Megan’s Law Receipt Form for the County Prosecutor’s Office Megan’s Law Unit.
 - C. If the resident refuses to sign the Megan’s Law Receipt Form, you should not leave the Notification Form.
 - D. In all circumstances, you must provide a copy of the Megan’s Law Rules of Conduct and review the information included in the Rules with the resident receiving the Notification Form.
6. If no one is at home:
 - A. Do not leave the Notification Form.
 - B. Leave a copy of the Attempted Delivery Form under the door or in the mailbox of the residence. A door hanger may be substituted by the County Prosecutor’s Office for you to use.

(continued)

7. When delivering to a place of business:

- A. Identify the owner, manager or supervisor who is in charge on a full-time basis.**
- B. Provide a copy of the Notification Form and the Rules of Conduct for Businesses Form.**
- C. Inform the individual that the Notification Form cannot be posted in any location. Inform the individual that the Notification Form cannot be shared with customers or any employees not assigned to the location or regularly employed at that location. The owner/manager should be advised to maintain the Notification Form in a secure location available to regular, full-time employees. The Notification Form should also be shown to any security officers employed at that location.**

INFORMATION REFERENCE SHEET FOR SCHOOL PRINCIPALS

This procedure shall apply to all public and private schools located in an area where the students are likely to encounter the offender. It is intended to provide the school principal or director with information to assist you in notifying the appropriate personnel in your school who should receive a copy of the Notification Form you have received:

- 1. You have received a Notification Form pertaining to the offender. You should make the determination as to which staff in your school should be informed of the notification and which should have access to the Notification Form.**
- 2. The Notification Form should never be posted in a location where it can be viewed by the public, by students or by staff who are not to have access to it.**
- 3. You should show the Notification Form with any person who in the course of the duties of his or her employment or assignment is regularly in a position to observe unauthorized persons on or near the property of the notified school. To determine which staff members should be given access to the Notification Form, you should refer to the Attorney General Law Enforcement Guidelines which have been provided to you. If you do not have a copy of the Guidelines, please contact your County Prosecutor's Office.**
- 4. In order to receive the Notification Form for your use, you must sign the School Principal Receipt Form indicating that you understand that the information is to be treated as confidential and may be shared only with appropriate staff members. The Receipt Form also states that you are bound by the School Personnel Rules of Conduct.**
- 5. When you show a copy of the Notification Form to one of your staff, you must provide a copy of the School Personnel Rules of Conduct.**
- 6. When you show a copy of the Notification Form to one of your staff, you must also obtain a signed Megan's Law Receipt Form from that person and send the Receipt Form to your County Prosecutor's Office. If a staff person refuses to sign the Receipt Form, he or she should not receive a Notification Form.**

EXHIBIT N

COMMUNITY ORGANIZATION INFORMATION REFERENCE SHEET FOR OFFICIAL SUPERVISORS

This procedure shall apply to all community organizations, day care centers, and summer camps. It is intended to provide the official supervisor of the organization, day care center or summer camp with information to assist you in notifying the appropriate personnel in your organization who should receive a copy of the Notification Form you have received:

- 1. You have received a Notification Form pertaining to the offender. You should make the determination as to which staff in your school should be informed of the notification and which should have access to the Notification Form.**
- 2. You should show a copy of the Notification Form to any staff member who is charged with the direct supervision or care of children or women.**
- 3. In order to receive the Notification Form for your use, you must sign the Community Organization Designated Official Receipt Form indicating that you understand that the information is to be treated as confidential and may be shared only with appropriate staff members. The Receipt Form also states that you are bound by the Community Organization Rules of Conduct. The Receipt Form also indicates that you agree to abide by the provisions of these guidelines.**
- 4. When you show a copy of the Notification Form to one of your staff, you must provide a copy of the Community Organization Rules of Conduct.**
- 5. When you show a copy of the Notification Form to one of your staff, you must obtain a signed Megan's Law Receipt Form from that person and send the Receipt Form to your County Prosecutor's Office. If a staff person declines to sign the Receipt Form, he or she should not receive a Notification Form.**

MEGAN'S LAW SCHOOL PRINCIPAL RECEIPT FORM

I acknowledge the receipt of the information contained in the sex offender notification provided to me and agree to comply with the following:

1. I understand that the information in the notification form is to be treated as confidential and may be shown only with appropriate persons as set forth in the Memorandum of Understanding between the Attorney General of New Jersey and the Commissioner of the Department of Education for the purpose of taking precautions to protect those at risk.
2. I agree to be bound by the School Personnel Rules of Conduct.

SIGNATURE OF PRINCIPAL:

NAME OF PRINCIPAL (PRINT):

SCHOOL:

DATE RECEIVED:

NAME OF SERVER:

MEGAN'S LAW COMMUNITY ORGANIZATION DESIGNATED OFFICIAL RECEIPT FORM

I acknowledge the receipt of the information contained in the sex offender notification provided to me and agree to comply with the following:

1. I understand that the information in the notification form is to be treated as confidential and may be shown only with appropriate staff members as set forth in the Information Reference Sheet provided to me, for the purpose of taking precautions to protect those at risk.
2. I agree to be bound by the Community Organization Rules of Conduct.

SIGNATURE OF DESIGNATED OFFICIAL:

NAME OF DESIGNATED OFFICIAL (PRINT):

ORGANIZATION:

DATE RECEIVED:

NAME OF SERVER:

MEGAN'S LAW RECEIPT FORM

I acknowledge the receipt of the information contained in the sex offender notification provided to me and agree to comply with the following:

1. I will comply with the Order of the Court which allows me to receive the sex offender information provided to me;
2. I understand that the information in the notification form is to be treated as confidential.
3. I agree to be bound by the Megan's Law Rules of Conduct.

SIGNATURE OF PERSON RECEIVING:

NAME OF PERSON RECEIVING (PRINT):

ADDRESS OF PERSON RECEIVING:

DATE RECEIVED:

NAME OF SERVER:

DEPARTMENT OR AGENCY OF SERVER:

RESIDENT STUDENTS AND WORKERS

ADDITIONAL REGISTRATION REQUIREMENTS			
SEX OFFENDERS WHO:			
1.	Are required to register in New Jersey at their home address	AND °	Are enrolled in any public or private educational institution in New Jersey, including any secondary school, trade, or professional institution, institution of higher education or other post-secondary school on a full-time or part-time basis.
2.	Are required to register in New Jersey at their home address	AND °	Are employed or carry on a vocation in any public or private educational institution in New Jersey, including any secondary school, trade, or professional institution, institution of higher education or other post-secondary school on a full-time or part-time basis, with or without compensation, for more than 14 consecutive days or for an aggregate period exceeding 30 days in a calendar year.

NONRESIDENT STUDENTS AND WORKERS

ADDITIONAL REGISTRATION REQUIREMENTS			
SEX OFFENDERS WHO:			
1.	Are required to register in another jurisdiction	AND °	Are enrolled in any public or private educational institution in New Jersey, including any secondary school, trade, or professional institution, institution of higher education or other post-secondary school on a full-time or part-time basis.
2.	Are required to register in another jurisdiction	AND °	Are employed or carry on a vocation in New Jersey on a full-time or part-time basis, with or without compensation, for more than 14 consecutive days or for an aggregate period exceeding 30 days in a calendar year.

EXHIBIT S

[Prosecutor Letterhead]

Offender's Name

Address

[Personal Service or Send Return Receipt Requested]

NOTICE OF ADDITIONAL REGISTRATION REQUIREMENTS

This is to inform you that, due to amendments to the New Jersey Megan's Law statutes, you, as a registrant, must add information about any anticipated or current school enrollment at or employment by any institution of higher education to your registration form at the time you next register or verify your address, if the following circumstances apply to you:

(1) you enroll in any public or private educational institution in this State, including any secondary school, trade or professional institution, institution of higher education or other post-secondary school on a full-time or part-time basis, or

(2) you are employed or carry on a vocation in any public or private educational institution in this State, including any secondary school, trade or professional institution, institution of higher education or other post-secondary school in this State on either a full-time or a part-time basis, with or without compensation, for more than 14 consecutive days or for an aggregated period exceeding 30 days in a calendar year.

Upon a change of school enrollment or employment status, you must notify the law enforcement agencies with which you are registered no later than 5 days after any such change.

In addition to any other registration requirements, you must also register within 10 days of commencing such attendance, employment, or vocation with the law enforcement unit of the educational institution, if any. A law enforcement unit is defined as a campus police department or other form of state recognized law enforcement agency, not a campus security department. If there is no law enforcement unit, you must register with the local law enforcement agency having primary jurisdiction for the campus.

Also, please be advised that if you are employed, carrying on a vocation, or are a student in another state, then you must register in that State in accordance with that State's procedures.

c: Assistant Prosecutor