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And the Staff of The College Voice

As “Megan’s Law” turns

New Jersey is currently out of compliance named after slain Hamilton girl, Me

WHAT HAPPENED TO MEGAN?

It was a warm afternoon in late July, 1994, when a seven-year-old girl named Megan Kanka was beckoned across the street by her neighbor, a 33-year-old man named Jesse Timmendequas. He asked her if she wanted to see his new puppy. Once she was inside his house, he raped her then slammed her head into a dresser, strangled her to death with a belt, then put two plastic bags over her head to prevent blood from getting on the carpet and raped her again. Finally he shoved her body into a toy box and dumped it next to a portable toilet in Mercer County Park.

The murder-rape of Megan Kanka inspired local and national outrage that ultimately lead to the creation of “Megan’s Law.” The law requires that a database of registered sex offenders be

maintained and that when a dangerous sex offender moves into a community, its residents be informed. In 1996, then President Bill Clinton passed a federal law that required every state to follow New Jersey’s lead.

Fifteen years later, New Jersey, like many states, is out of compliance with its own law. The problems are many: maintaining the sex offender registry and notification system is expensive, trying to find locations for sex offenders to live is increasingly difficult, many psychologists who specialize in sexual behavior believe that many sexual offenders are not able to change, and the premise of the law –that informing people of danger will help them keep safe– has been criticized by legal experts and law enforcement officials alike.



MEGAN KANKA

A seven-year-old girl from Hamilton, NJ who was raped and murdered by her neighbor in 1994. Her parents fought to have a law passed that would inform communities of sex offenders living among them. “Megan’s Law” was passed within months of her murder and was later adopted by numerous other states.

HOW DOES THE LAW WORK?

“Megan’s Law” sorts sex offenders into three different tiers. After psychological evaluation, a judge assigns offenders into a tier. Tier one determines that the sex offender is at low risk to re-offend, tier two determines that they are at moderate risk to society and tier three include those individuals who are assessed as being a high risk to society.

The information available on the registry website (www.state.nj.us/njsp/info/reg_sexoffend.html) includes a photo, the name of the sex offender, any aliases the offender has used, descriptions of marks such as tattoos and scars, description of the vehicle used by the offender and its license plate number, the offender’s current address and the nature of offense including victim’s age at time of offense.

Maureen Kanka, Megan’s mother, in a recent interview with the VOICE stated that the picture is a great element of the registry. “Parents can sit down with their children and show them the picture of who the offender

is, to better help protect their children,” Kanka says.

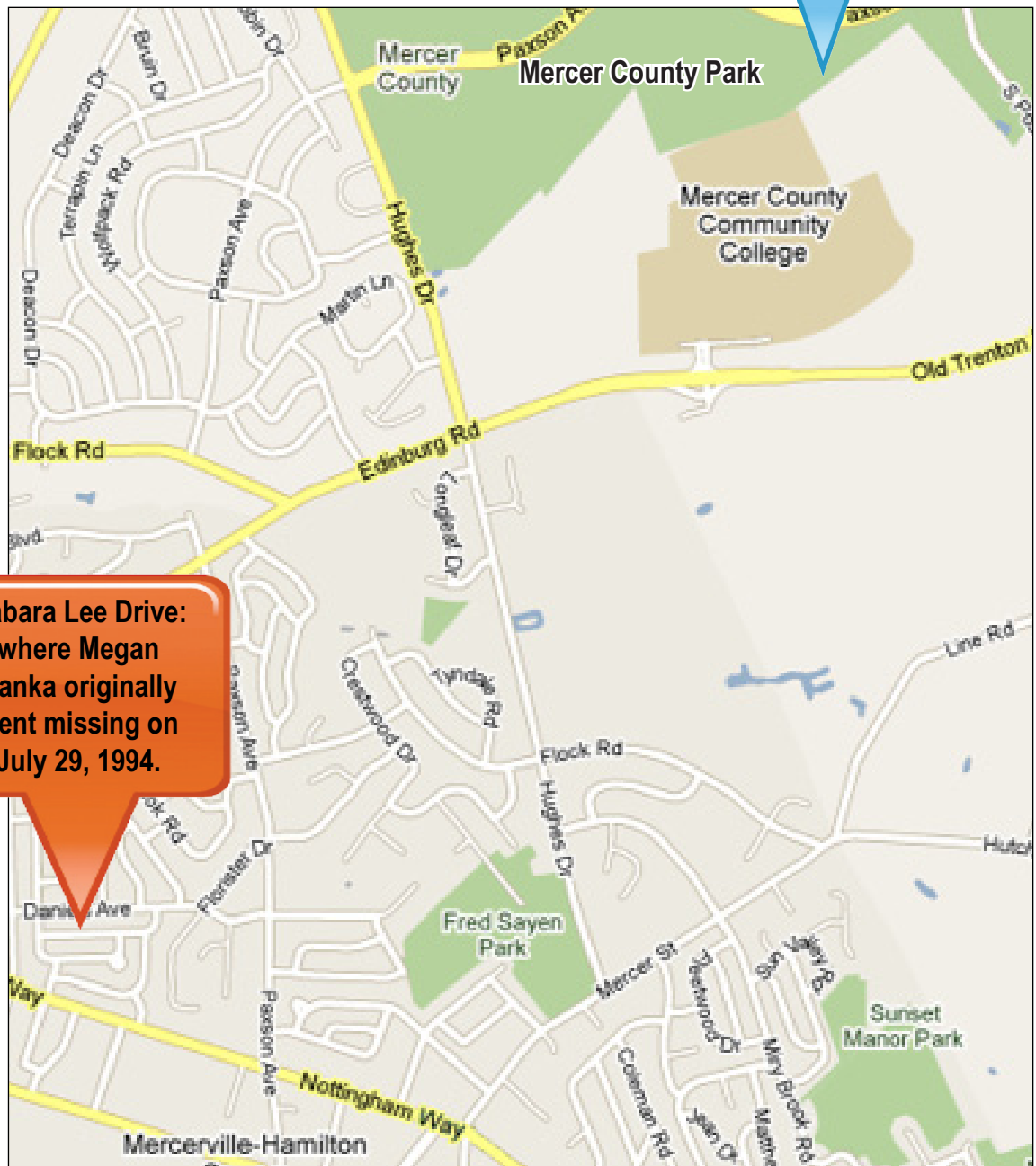
On the New Jersey registry website, however, some are out of date by as much as two years. This can be a problem as sex offenders can lose or gain weight, change their hair style, or otherwise modify their appearance.

The registry lists offenders who have committed a sex related crime against an adult, molested a child or been found not guilty for reason of insanity. However, the registry does not list every person who has ever committed a sexual crime, including some juvenile offenders.

Once individuals are classified, the prosecutor’s office starts the notification process based on the risk assessment. In the case of moderate to high-risk offenders, the prosecutor’s office notifies the public by posting information on the state’s Internet registry. In addition, law enforcement officials go door to door and post flyers to let people know that a sex offender is moving into their area.

IN 1994, THE BODY OF 7-YEAR-OLD MEGAN KANKA WAS DUMPED IN MERCER COUNTY PARK.

Where
Megan’s
body was
found.



CAN THE LAW BE ENFORCED?

Even if Governor Christie was able to find the funds to bring New Jersey back into compliance with “Megan’s Law,” a growing body of evidence suggests it is difficult for the police to ensure total enforcement of the law.

The logistical complications of enacting sex offender notification and registry laws have been highlighted in recent weeks through a series of incidents in California which operates under a variation of “Megan’s Law” known as “Jessica’s Law.” The law is named after a nine-year-old girl from Florida who was raped and then buried alive by her 47-year-old neighbor, John Couey, in 2005.

According to an article by Gerry Shih in the New York Times on March 6, 2010, a California sex offender named James F. Donnelly moved into a house directly across the street from Wildwood Elementary School in Piedmont, directly violating the terms of “Jessica’s Law.”

Parents complained to local law enforcement, but the Police Chief, John Hunt, was informed by the Alameda County district attorney and the California attorney general that there were no provisions in “Jessica’s Law” for removing or punishing Donnelly.

Shih’s article notes that, “For Mr. Donnelly’s housing decision to be considered a violation of state law, ‘there has to be a punishment attached,’ according to Nancy O’Malley, the Alameda County district attorney. She went on to say that “Jessica’s Law never assigned a punishment.”

Shih quotes Police Chief Hunt as saying: “I was amazed. You have this law that was overwhelmingly voted in and determined to be constitutional, and then you find out there’s no bite to it. It’s all bark and no bite.”

In some situations, Donnelly’s actions could amount to a parole violation and land him back in jail, but as the Rutgers University 2008 study points out, “Only 32 per-

cent of [sex] offenders were paroled whereas 68 percent maxed out, leaving the prison with no post-incarceration supervision requirements other than those imposed by Megan’s Law.” When offenders are not on parole they must register and keep their address information up to date, but in many states there is no punishment for offenders who simply move into restricted areas. “Megan’s Law” is primarily concerned with providing information, not punishment.

A recent report conducted by Administrative Offices of the Court shows that as of June 2009 in the state of New Jersey, 5,102 individuals failed to register with local police.

Maureen Kanka says she thinks there needs to be better education of judges and better enforcement of the law. “Too many times I hear that an offender will fail to register, and once they catch him they will slap him on the hand,” Kanka says.

e with its own land mark sex offender law, Megan Kanka. Why did this happen?

IS KNOWING ENOUGH?

"The premise of passing 'Megan's Law' was to bring awareness to families about potential danger living in their community," said Megan's mother, Maureen Kanka, in a recent interview with *The College VOICE*. Mrs. Kanka, still a Hamilton resident, maintains that if she had known that Timmenedequas and two other convicted sex offenders were living right across the street, she would have been able to warn her daughter and protect her from harm. But is knowing enough?

In an article entitled "Would 'Megan's Law' Have Saved Megan?" published in the *New Jersey Law Journal* on July 8, 1996, senior reporter Tim O'Brien writes that "In fact, interviews and a police report make clear that neighbors living within at least eight houses of the Cifelli house [where Timmenedequas lived] were aware that [Joseph Cefelli] was a convicted sex offender. Those interviewed also all knew specifics of the charges against him."

O'Brien goes on to suggest that even the Kankas may have known about Cifelli, if not about Cefelli's housemate, Timmenedequas. O'Brien writes, "four neighbors say they believe that the Kankas --of 32 Barbara Lee Drive [in Hamilton, N.J.]-- also knew that Cifelli, who

lived diagonally across the street from them, was a convicted sex offender."

O'Brien quotes David Rocha, who was an American Civil Liberties Union -NJ staff attorney at that time, saying that "the disclosure that neighbors had some knowledge underscores the 'fallacy of the law, which seems to be premised on two choices, either you drive the offenders out, or you hide your children as prisoners in their own home.'" Rocha goes on to say that "In reality, after a time people will go about living their lives, and will behave or respond in a variety of ways. But laws should be structured to set a social policy or solve a societal problem. Laws can't solve individual problems, and policies shouldn't be based on anecdote."

Maureen Kanka insists that O'Brien got it wrong and she is certain that "Megan's Law" has saved lives. She says, "I have received e-mails over the years from people whose children have been affiliated with sex offenders and before the legislation was passed they had no idea there was a problem with them."

Mrs. Kanka's view that having access to information may change the way citizens behave is supported by substantial evidence. Victoria Beck, Ph.D. led a group of researchers who published a

series of articles in *The Journal of Psychiatry & Law* that showed when a community is notified of a sexual offender's presence in their neighborhood, their fear of victimization increases as does their likelihood of taking some self-protective measures, such as buying a dog or firearm or installing alarm system. But the same research indicates these behaviors have no impact on whether or not offenders reoffend.

A research study in Washington state that examined the behavior of sexual offenders released prior to the enactment of registry and notification laws, and those released after the laws went into effect also showed no difference in recidivism rates, but did find that new offenses were detected more quickly once they had been committed.

Sgt. William P. Bastedo who is currently in charge of the "Megan's Law" unit of the West Windsor Township police, says that the law is valuable to law enforcers, because "We know who the offenders are and where they are located." Knowing who to talk to when a child goes missing or is found dead, however, does not appear to be the original intent of "Megan's Law" and may not be what community members expect it to offer.

WILL SEX OFFENDERS DO IT AGAIN?

The Rutgers University and New Jersey Department of Corrections study published in 2008 revealed that "Megan's Law" did nothing to reduce rates of recidivism among sex offenders, but the report notes that "New Jersey, as a whole, has experienced a consistent downward trend of sexual offense rates."

The average sentence served by sex offenders is five years. Forty-six percent of those released are re-arrested (9 percent are re-arrested for a sex crime) and the average length of time to re-arrest is two years.

Louis B. Schlesinger, a professor of psychology at John Jay College of Criminal Justice in New York City, told *The College Voice* in a recent phone interview that, "Treatment will not change an offender's sexual arousal pattern," but that it may help some offenders "gain control"

over their behavior.

In his 2003 book "Sexual Murder: Catathymic and Compulsive Homicides" Schlesinger seeks to differentiate the various types of sexual murders, pointing out that not all murders that appear sexually motivated are and vice versa.

A survey of Mercer students shows that while few are aware of "Megan's Law," 40 percent believe that treatment is ineffective for sexual offenders. Research suggests this may be true for sociopathic offenders and killers like Ted Bundy and Jeffrey Dahmer, but is not necessarily the case for all sexual offenders, including the 54 percent who do not re-offend as described in the Rutgers report.

Of those sexual offenders who do recidivate, however, data suggests that sexual registry and notification laws may make them even more likely to seek contact with children simply as a result of being ostracized by the adult community.

According to Richard Tewksbury in his 2005 article "Collateral Consequences of Sex Offender Registration" from the *Journal of Contemporary Criminal Justice*, a significant minority of registered sexual offenders, no matter what their likelihood for recidivism, suffer from social stigmatization, loss of relationships, and verbal and physical assaults.

Tewksbury also found that a majority of sex offenders reported negative consequences, such as exclusion from residences, threats and harassment, emotional harm to their family members, social exclusion by neighbors, and loss of employment.

"The less stable someone is, it is more likely that they will commit an offense and not qualify to come off of Megan's list" says local public defense attorney Christopher Duffy.

WHAT ARE THE COSTS?

Beyond questions of whether "Megan's Law" protects citizens or not, there is no doubt that it is expensive to carry out. Furthermore, the costs of compliance far outweigh the penalties for being out of compliance.

According to JusticePolicy.org and a recent press release by David T. Schlendorf Law offices, "New Jersey's first-year outlay of \$14,088,206 would vastly exceed the \$516,071 it stands to lose [in federal funds] if it fails to implement" current sex offender registry and notification laws."

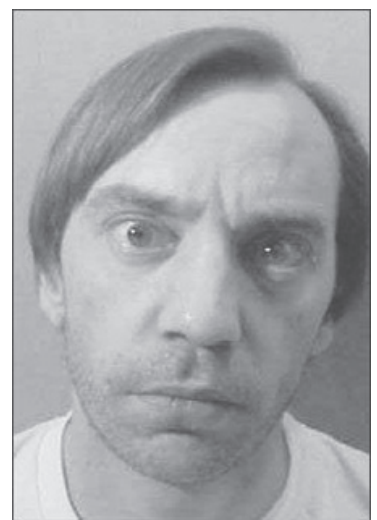
A 2008 study conducted by Rutgers University and The New Jersey Department of Corrections, through a grant from the National Institute of Justice, found that "The cost for Megan's Law implementation during calendar year 2006 was estimated to be \$1,557,978 [per county], whereas implemen-

tation costs during calendar year 2007 totaled \$3,973,932 for responding counties. This change represents a 155 percent increase in ongoing expenses from calendar year 2006 to calendar year 2007." The report concluded that the sudden increase was likely linked to the new use of Global Positioning Satellites for the most dangerous offenders and the increased costs of surveillance.

Currently New Jersey is facing an \$11 billion deficit on a \$33 billion budget and Governor Christie is making up the difference without increasing taxes, a position he campaigned on. The result has been a long list of budget cuts. College tuition assistance has been slashed, while prescription drug fees for seniors has been doubled. In such an economic climate, it is perhaps not surprising that the state would choose to remain out of compliance with costly sex offender laws.

JESSE TIMMENDEQUAS

was sentenced to death in for the 1994 murder and rape of seven-year-old Megan Kanka. In 2007 New Jersey abolished the death penalty. Timmenedequas is now in prison for life without the possibility of parole. He has not given an interview in 15 years and denied an interview request from The Voice.



CAN THEY GET OFF THE LIST?

The fact that "Megan's Law" turns 15 this year is particularly significant because one of the provisions of the law allows offenders to petition to have their name removed after 15 years on the list.

Local Public Defense Attorney Michael Buncher said in an interview with *The College Voice* that so far he has worked with ten registered sex offenders who have sought to have their names removed from the registry. Three of his clients have been denied, but six have been successful. One of Buncher's cases is still pending.

Only certain people qualify to have their names removed from the registry. "Convictions such as sexual assault, aggravated sexual assault and offense to more than one victim or more than one offense, automatically qualifies an offender for be-

ing on the list for a lifetime, regardless of the tier they were placed on," says Buncher.

Public defense attorney Duffy states that the group most successful in having their names removed are those who committed their offense as juveniles. Yet even for low risk offenders, he adds, "It is possible that someone on tier one may not qualify for name removal."

Human Rights Watch released a statement saying that "Megan's Law" is too broad and that the duration of time spent on the registry is too long. They note that juveniles who are registered under "Megan's Law" may pose little or no risk of recidivism and the scrutiny of the law may leave them less stable and less able to function within the community.

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