

IMPLEMENTATION

OF

MEGAN'S LAW

Administrative Office of the Courts
Criminal Practice Division
December 2020

TABLE OF CONTENTS

	<u>Page</u>
I. Introduction.....	1
II. Megan’s Law - Overview.....	2
III. Megan’s Law - Process.....	3
A. Registration.....	3
B. Demographic Data	5
C. Assignment of Tier	7
D. Notification to Registrant	11
E. Case Disposition Hearings Generally	12
F. Sex Offender Internet Registry	16
G. Descriptive Data	18
1. Juvenile Cases	19
2. Adult Cases.....	21
3. Cases Where Registrant Defaulted.....	21
a. Tiering and Scoring.....	21
b. Prosecutors’ Notification Decision.....	22
4. Cases Proceeding to a Conference or Hearing.....	23
a. Tiering and Scoring.....	23
b. Prosecutors’ Notification Decision.....	23
c. Objections	24
i. Scoring of Factors	24
ii. Scope of Notification.....	26
d. Expert Testimony.....	26
5. Cases Including the Sex Offender Internet Registry	26

I. INTRODUCTION

Megan's Law enacted on October 31, 1994 requires certain convicted sex offenders to register with law enforcement authorities and provides for varying levels of community notification based upon the degree of risk posed to the offender's community. The Internet Registry Act, enacted on July 23, 2001, requires inclusion of certain sex offenders on the Sex Offender Internet Registry. Megan's Law is codified at N.J.S.A. 2C:7-1 to -19. The Sex Offender Internet Registry is included on the State Police website at <https://www.state.nj.us/lps/njsp/>.

II. MEGAN’S LAW - OVERVIEW

REGISTRATION 	<p>Offenders convicted of certain sex offense(s) are required to register with law enforcement authorities.</p>
RISK OF RE-OFFENSE DETERMINED AND TIER ASSIGNED 	<p>Prosecutor determines risk of re-offense based on the Risk Assessment Scale and assigns registrant to a “tier.”</p>
REGISTRANT NOTIFIED 	<p>Registrant given notice of prosecutor’s tier assignment, proposed groups and individuals, if any, to be notified and inclusion on the Sex Offender Internet Registry.</p> <p>Registrant required to object to tier assignment, scope of notification and inclusion on the Sex Offender Internet Registry within 14 days.</p>
HEARING HELD 	<p>Judge reviews prosecutor’s tier assignment, proposed scope of notification, and inclusion on the Sex Offender Internet Registry, and hears arguments from the prosecutor, registrant or the registrant’s attorney.</p> <p>Judge determines final tier assignment, scope of notification, and inclusion on the Sex Offender Internet Registry and enters appropriate order.</p>
COMMUNITY NOTIFICATION 	<p>Groups or persons are notified by law enforcement authorities.</p>
SEX OFFENDER INTERNET REGISTRY	<p>If ordered by the Judge, the Registrant will be included on the Sex Offender Internet Registry.</p>

III. MEGAN'S LAW - PROCESS

A. Registration

Megan's Law requires registration by sex offenders with local law enforcement authorities or the New Jersey State Police. The registrant must provide certain information, such as their social security number, age, race, sex, date of birth, height, weight, hair and eye color, address of legal residence, address of any current temporary residence, and date and place of employment. Information must also be provided by the registrant as to the crime or crimes that required registration. In addition, the registrant must provide information as to routine access to or use of a computer or any other device with Internet capability. Failure to notify law enforcement of such information or of a change in the person's access to or use of a computer or other device with Internet capability or providing false information concerning such access is a third degree crime. N.J.S.A. 2C:7-2(d)(2). The law also provides that it is a third degree crime if the appropriate law enforcement agency is not notified of a change of address, employment or school enrollment status. N.J.S.A. 2C:7-2(d)(1).

It is a third degree crime for an individual to fail to register as required under the law. See N.J.S.A. 2C:7-2(a)(3). It is also a third degree crime for any person to knowingly provide false information concerning their place of residence or for failure to verify their address with the appropriate law enforcement agency. See N.J.S.A. 2C:7-2(e). As of August 3, 2020, 8,696 individuals had been indicted for failure to register and 6,205

persons had been convicted of that crime.¹

A registrant may apply to the Superior Court to terminate the obligation to register fifteen years from conviction or release. Pursuant to N.J.S.A. 2C:7-2(g), a registered sex offender who has been convicted or acquitted by reason of insanity for more than one sex offense as defined in N.J.S.A. 2C:7-2(b), or who has been convicted or acquitted by reason of insanity for aggravated sexual assault pursuant to N.J.S.A. 2C:14-2(a) or sexual assault pursuant to N.J.S.A. 2C:14-2(c)(1), cannot petition the Superior Court to terminate the registration obligation. See State ex rel. C.K., 233 N.J. 44 (2018), in which the Supreme Court held that N.J.S.A. 2C:7-2(g) is unconstitutional as applied to juveniles adjudicated delinquent as sex offenders. Therefore, a juvenile offender can apply to terminate the registration obligation fifteen years after the juvenile adjudication pursuant to N.J.S.A. 2C:7-2(f). The person must demonstrate “by clear and convincing evidence that he has not reoffended and no longer poses a threat to others and therefore has a right to be relieved of his Megan’s Law obligations and his status as a sex-offender registrant.” C.K., 233 N.J. at 77.

For a juvenile who committed a sexual offense when under the age of fourteen, the Supreme Court in In the Matter of Registrant J.G., 169 N.J. 304 (2001), held that the registration requirement will terminate at age eighteen if, after a hearing, the court determines by clear and convincing evidence that the delinquent is not likely to pose a threat to the safety of others.

¹ This data was extracted from a report produced from the Administrative Office of the Courts Megan’s Law case tracking system using the program developed by the Department of Law and Public Safety, Division of Criminal Justice.

As of August 3, 2020, the New Jersey State Police² report that 16,995 persons have registered. The data shows that, in the last two years, approximately 27 registrants are entered into the State Police registry each month. The State Police are required to maintain the central registry of registrations. See N.J.S.A. 2C:7-4(d).

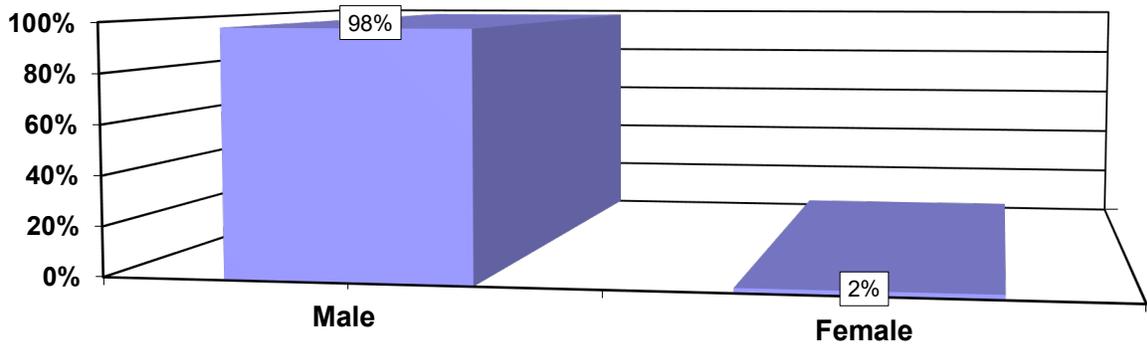
B. Demographic Data

Demographic data was compiled using the Administrative Office of the Courts (AOC) Megan's Law case tracking system. The AOC system is designed to track the movement of Megan's Law cases in the judicial process.

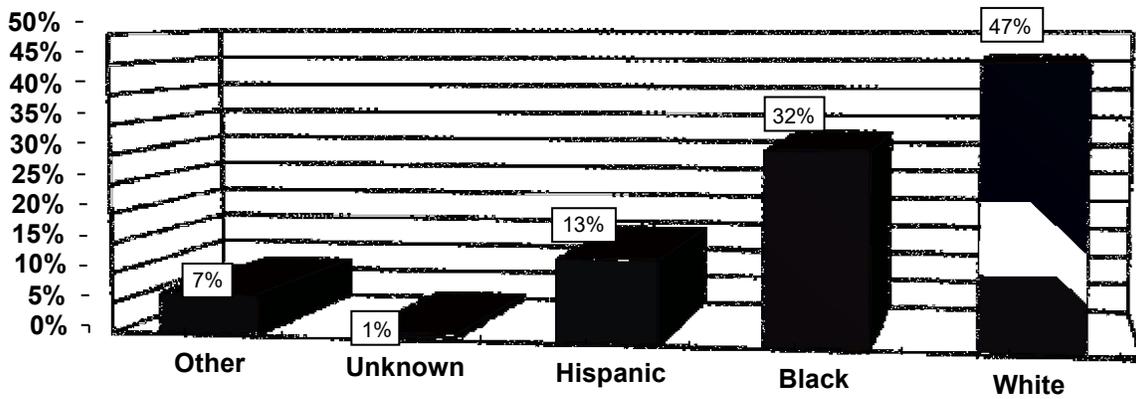
Of the 16,505 registrants in the Megan's Law case tracking system, as of August 3, 2020, 15,602 (98 percent) are male and 7,676 registrants (47 percent) are white. The distribution by age shows that 60 percent of registrants are between 22 and 50 years old, with the highest grouping (22 percent) between 31 and 40 years old.

² Pursuant to N.J.S.A. 2C:7-4(d), the State Police maintain the official central registry of persons required to register pursuant to Megan's Law. The State Police registry includes all registrants living in the state including those that are incarcerated, whereas the report produced from the Megan's Law case tracking system is designed to track the movement of cases.

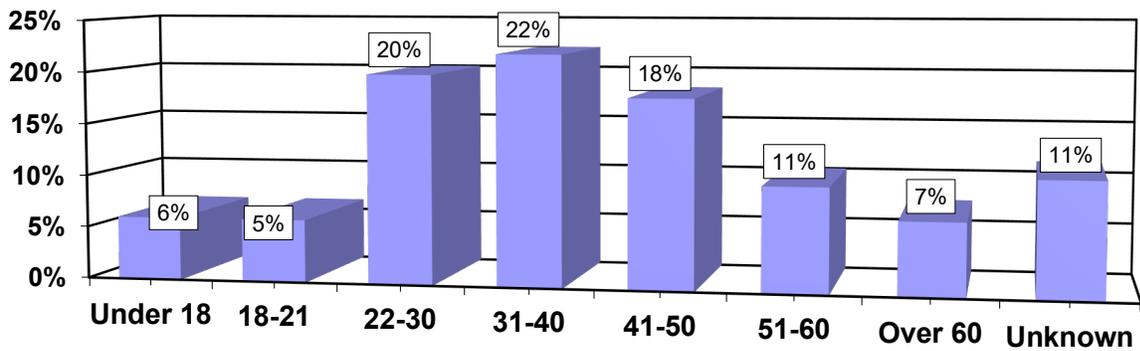
Gender of Registrant



Race of Registrant



Age of Registrant



C. Assignment of Tier³

Each registrant is assigned a tier that determines which groups or individuals in the community will receive notification. The prosecutor in the county in which the registrant resides assigns the registrant a tier using the Registrant Risk Assessment Scale (RRAS) or the Juvenile Risk Assessment Scale (JRAS).

The RRAS was developed by the Division of Criminal Justice after consultation with county prosecutors, members of the Department of Corrections, staff from the Adult Diagnostic and Treatment Center and psychologists. The RRAS is designed to provide a method of determining what risk of re-offense a registrant poses to the community: high, moderate, or low. The RRAS and accompanying manual describing its use was first issued by the Attorney General in 1995, and subsequently revised in June 1998.

The RRAS consists of four categories: the seriousness of the registrant's offense, the registrant's offense history, characteristics of the registrant, and community support available to the registrant. These four categories provide for a total of thirteen separate criteria on: (1) Degree of Force; (2) Degree of Contact; (3) Age of the Victim; (4) Victim Selection; (5) Number of Offenses/Victims; (6) Duration of Offensive Behavior; (7) Length of Time Since Last Offense; (8) History of Antisocial Acts; (9) Response to Treatment; (10) Substance Abuse; (11) Therapeutic Support; (12) Residential Support; and

³ The data on the assignment of tiers was extracted from a report produced by the Administrative Office of the Courts Megan's Law case tracking system dated August 3, 2020. The AOC produced the data by slightly modifying the program developed by the Department of Law and Public Safety for their Megan's Law Statistics Report and excludes the same cases which are as follows: cases where the registrant is deceased, registered in custody, transferred to another county, registered out of state, non-registered offender or non-registered out of state. The program also excludes cases where the obligation to register has been terminated pursuant to N.J.S.A. 2C:7-2(f).

(13) Employment/ Educational Stability. These criteria are evaluated and assigned a point score. The combined points from all criteria determine the final score for tiering purposes. The tier assignment determines which groups or individuals in the community receive notice. Tier 1 is below 37 points and is designated “low risk.” Law enforcement will be notified of the registrant’s presence in the community and provided with certain identifying information about the registrant. Tier 2 is 37-73 points and is designated “moderate risk.” A Tier 2 classification generally requires notification to law enforcement, schools and community organizations. Tier 3 is 74-111 points and is designated “high risk.” A tier 3 classification generally requires notification to law enforcement, schools, community organizations, and members of the public likely to encounter the registrant.

In June 2006, the Attorney General’s Office developed a Juvenile Risk Assessment Scale (JRAS) and accompanying Manual, to address the Supreme Court’s concerns that “the Attorney General’s Guidelines and the Registrant Risk Assessment Scale (RRAS), in their present form, do not adequately distinguish adult and juvenile offenders and specifically do not take into account the issues unique to juveniles below age fourteen.” See In the Matter of Registrant J.G., 169 N.J. 304, 333 (2001).

The JRAS is for juvenile offenders who are 18 years old or under at the time of the tiering process. All other offenders will be tiered using the RRAS. The *Guidelines*, RRAS, JRAS, and Risk Assessment Manuals can be accessed on the Division of Criminal Justice’s website at <https://www.state.nj.us/lps/dcj/megan>.

The JRAS scale consists of three categories: the registrant’s sex offense history; antisocial behavior and environment characteristics. These three categories provide for a

total of fourteen separate criteria on (1) Degree of Force; (2) Degree of Contact; (3) Age of Victim; (4) Victim Selection; (5) Number of Offenses/Victims; (6) Duration of Offensive Behavior; (7) Length of Time Since Last Offense; (8) Victim Gender; (9) History of Anti-Social Acts; (10) Substance Abuse; (11) Response to Sex Offender Treatment; (12) Sex Offender Specific Therapy; (13) Residential Support; and (14) Employment/Educational Stability. These criteria are evaluated and assigned a point score. The combined points from all criteria determine the final score for tiering purposes: Tier 1 (low risk) is below 10 points; Tier 2 (moderate risk) is 10-19 points; and Tier 3 (high risk) is 20-28 points. The scope of notification for each tier level under the JRAS is the same as the RRAS.

The following data provides the number of registrants, by county, who have been assigned tiers by county prosecutors. The data show that as of August 3, 2020, 12,842 persons, or 78% of registrants, have been assigned tiers.⁴

Of the 12,842 persons who have been assigned tiers, 5,056, (or 39%), were tier 1, 7,295, (or 57%), were tier 2 and 491, (or 4%), were tier 3. The following chart represents the data by county.

⁴ The data in some counties shows that there have been more cases notified and/or disposed than assigned tiers 2 or 3. This can occur when the case is administratively closed as a Tier 1 by the prosecutor after the notice has been sent to the registrant. Administratively Closed Tier 1 cases are not included in the notified/disposed data. An Administratively Closed Tier 1 determination occurs when a prosecutor has used the Scale and determined that the registrant is a low risk to re-offend. In those cases, the police are notified of the registrant's presence in the community and the case is closed. These cases never appear before a judge.

REGISTRANTS

<u>County</u>	<u>Tier 1</u>	<u>Tier 2</u>	<u>Tier 3</u>
Atlantic	191	544	42
Bergen	275	617	34
Burlington	142	187	10
Camden	368	831	73
Cape May	115	83	9
Cumberland	388	378	14
Essex	532	1018	170
Gloucester	196	187	12
Hudson	377	813	30
Hunterdon	42	38	2
Mercer	170	414	9
Middlesex	503	385	13
Monmouth	284	334	10
Morris	143	31	2
Ocean	200	425	18
Passaic	473	443	19
Salem	101	97	1
Somerset	147	92	3
Sussex	54	73	3
Union	280	245	16
Warren	75	60	1
STATEWIDE	5,056	7,295	491

<u>Tier</u>	<u># of Registrants</u>	<u>% of Total</u>
Tier 1	5,056	39%
Tier 2	7,295	57%
Tier 3	491	4%

D. Notification to Registrant⁵

After the prosecutor assigns a registrant to a tier, the registrant is notified by the prosecutor's office of their tier classification and the proposed scope of community notification. The registrant has 14 days from the date of the notice to object to the prosecutor's decision as to tier assignment or suggested scope of community notification.⁶

As of August 3, 2020, of the 12,842 registrants assigned tiers, 7,786 registrants (61%) have been tiered 2 or 3. Of the registrants tiered as 2 or 3, 8,513 registrants (100%) have been notified of their tier assignment and opportunity for judicial review.⁷

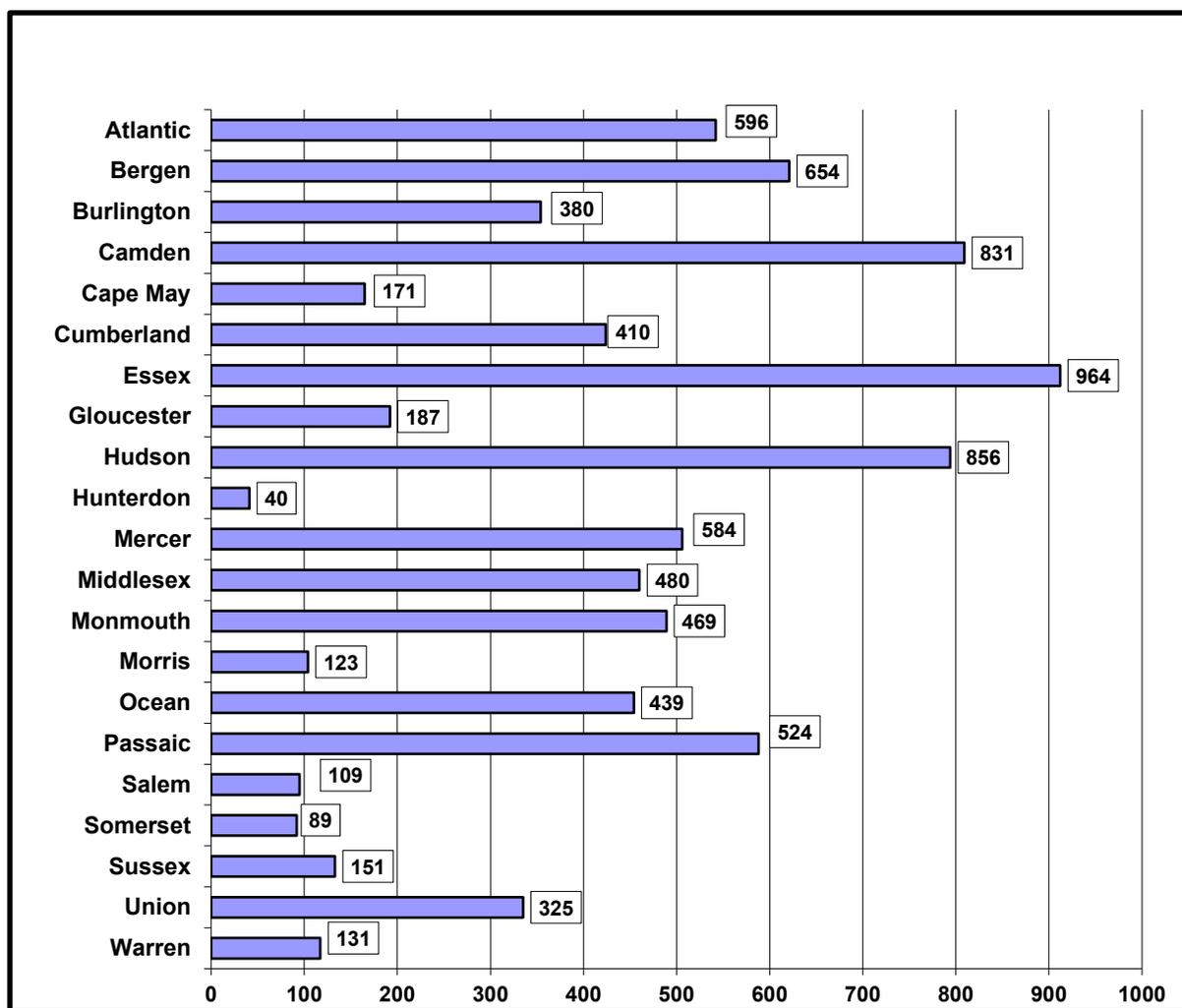
The following chart shows the county breakdown of tier 2 and tier 3 registrants notified of their tier assignment:

⁵ The data on the number of registrants notified was obtained from the Megan's Law case tracking system. This data does not include cases where the registrant is deceased, registered in custody, transferred to another county, registered out of state, non-registered offender, non-registered out of state or registrant's whose obligation to register has been terminated pursuant to N.J.S.A. 2C:7-2(f). See footnote 3.

⁶ The procedures for providing notice to the registrant of tier 2 or tier 3 classification, for hearing objections to tier 2 or tier 3 classification, scope of notification, inclusion on the Sex Offender Internet Registry, and Megan's Law motions are set forth in the New Jersey Supreme Court Order dated March 31, 2009.

⁷ See footnote 4.

County Breakdown of Tier 2 and Tier 3 Registrants Notified of Tier Assignment



E. Case Disposition Hearings Generally⁸

After the prosecutor and registrant have presented their evidence, a court determines the final tier, scope of notification and/or inclusion on the Sex Offender Internet Registry. The Court makes this determination after reviewing the papers filed, and if the registrant

⁸ This information was obtained from the Megan's Law case tracking system.

requests a hearing, listening to evidence during a conference or hearing. The court's findings are based on the clear and convincing standard. See E.B. v. Verniero, 119 F.3d at 1111. A judicial order is required before notification can proceed. See Doe v. Poritz, 142 N.J. at 31. As of August 3, 2020, there were 8,481 registrants whose cases have proceeded to disposition either by default, i.e., where the registrant did not appear or object at the scheduled conference or hearing. One hundred percent of all offenders who have been notified of their tier assignment have had their cases disposed.⁹

Every time a registrant moves within a county or between counties or changes employment, the prosecutor's office must make an application to the court to amend the scope of notification and the court must make another determination regarding community notification.¹⁰ See In the Matter of Registrant H.M., 343 N.J. Super. 219 (App. Div. 2001). However, some of the criteria that contributes to the score, such as those relating to the offense, are static, and would not be re-evaluated unless there was a clear factual error. See In the Matter of R.A., 395 N.J. Super. 565 (App. Div. 2007).

Therefore, it is likely that one registrant can have multiple dispositions over time, depending on the number of times the registrant relocates. The tier will not change unless there has been a change in circumstances. However, the scope of notification may vary if the registrant moves to a geographically different community.

There were 5,316 tier 2 and tier 3 cases (63% of cases disposed) that were resolved after a conference or hearing. In 4,242 cases (80%), the initial tier 2 or 3 designation was

⁹ The chart on page 15 reflects the cases that have been disposed. This chart does not reflect those cases that were disposed by the prosecutor under an Administratively Closed Tier 1 determination.

¹⁰ The procedures for motions are included in the New Jersey Supreme Court Order dated March 31, 2009.

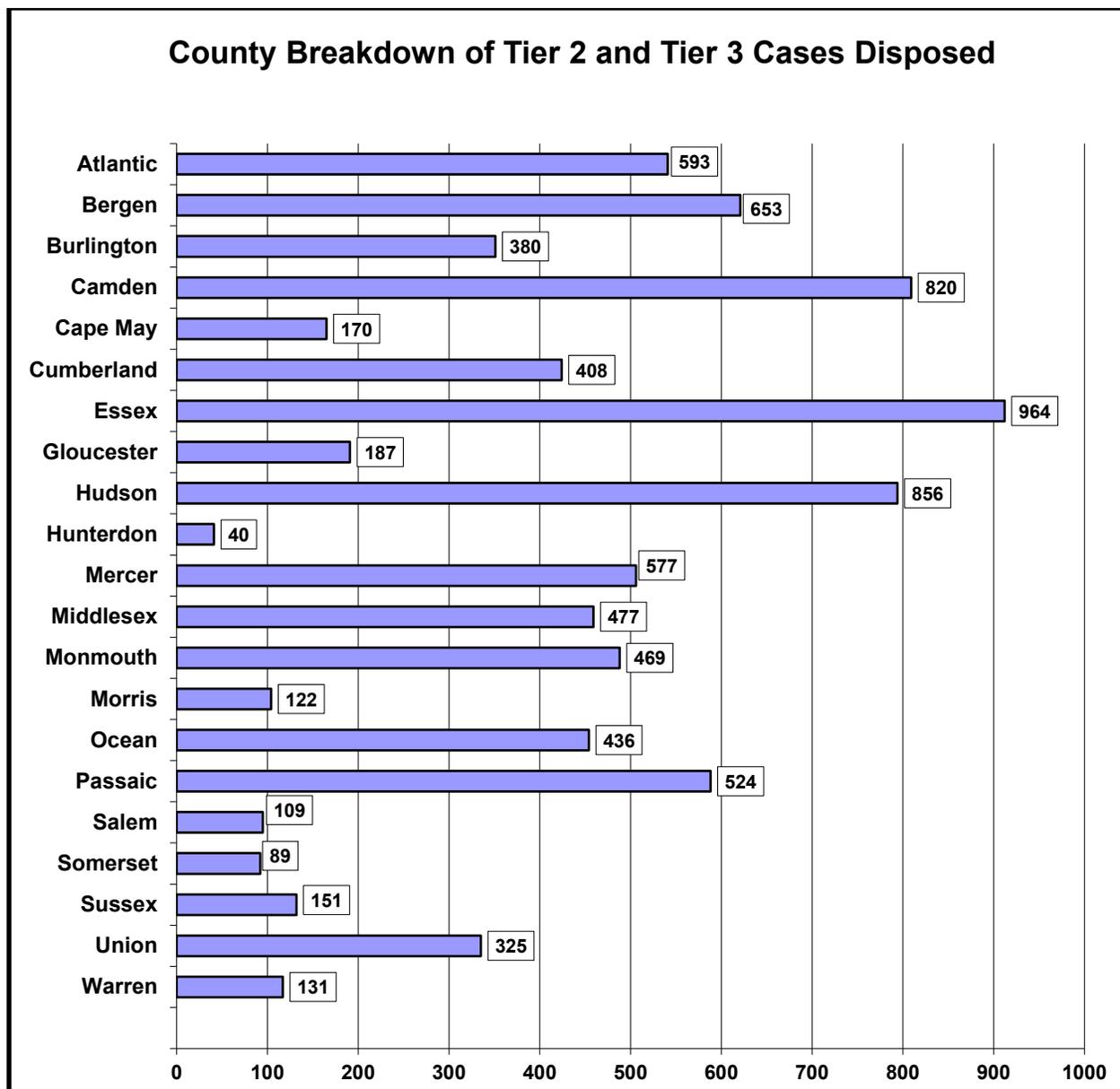
affirmed by the court. In 1,074 cases (20%), the initial tier designation was amended by the court. Of the 4,242 cases in which the initial tier designation was affirmed, 4,000 cases were tier 2 and 242 were tier 3. The 1,074 cases in which the initial tier 2 or tier 3 designation was amended are as follows:

Amended Tier 2 to tier 3	18
Amended Tier 2 to tier 1	902
Amended Tier 3 to tier 2	153
Amended Tier 3 to tier 1	1

There were 3,165 tier 2 or tier 3 cases (37% of cases disposed) that were resolved by default. Of these 3,165 cases, 3,065, or 97%, were tier 2 cases, and 100, or 3%, were tier 3 cases.

The following chart presents data on the total number of statewide dispositions by county.¹¹

¹¹ This chart does not include cases where the registrant is deceased, registered in custody, transferred to another county, registered out of state, non-registered offender, non-registered out of state, or registrants whose obligation to register has been terminated pursuant to N.J.S.A. 2C:7-2(f). See footnote 3.



As of August 3, 2020, there were approximately 33 cases (1% of cases notified) scheduled to be heard statewide.¹² The breakdown of open cases by county is as follows:

¹² This information was taken from a report generated on cases contained in the Megan’s Law case tracking system.

County Breakdown of Open Cases		
<u>County</u>	<u>Tier 2</u>	<u>Tier 3</u>
Atlantic	3	0
Bergen	1	0
Burlington	0	0
Camden	11	0
Cape May	1	0
Cumberland	2	0
Essex	0	0
Gloucester	0	0
Hudson	0	0
Hunterdon	0	0
Mercer	7	0
Middlesex	3	0
Monmouth	0	0
Morris	1	0
Ocean	3	0
Passaic	0	0
Salem	0	0
Somerset	0	0
Sussex	0	0
Union	0	0
Warren	1	0
STATEWIDE	33	0

F. Sex Offender Internet Registry

The Internet Registry Act (L. 2001, c. 167), enacted on July 23, 2001, provides for the establishment of the Sex Offender Internet Registry. The law is codified at N.J.S.A. 2C:7-12 to -19.

The law requires the State Police to maintain the Internet Registry, and also requires the Attorney General to “strive to ensure the information contained in the Internet registry

is accurate, and that the data therein is revised and updated as appropriate in a timely and efficient manner.” N.J.S.A. 2C:7-14.

Tier 1 registrants, or Tier 2 registrants whose scope of notification have been determined to be low risk, will not be included on the Internet Registry. However, N.J.S.A. 2C:7-13(b)(2), effective July 1, 2014, requires low and moderate risk registrants whose conduct was characterized by a pattern of repetitive, compulsive behavior pursuant to N.J.S.A. 2C:47-3 to be included on the Internet Registry.¹³

Tier 2 registrants whose scope of notification has been determined to be moderate are generally included on the Internet Registry, except if the offense that makes the person subject to Megan’s Law falls within one of three exceptions to being included on the Internet Registry. The exceptions are that the sole sex offense was (1) committed while the offender was a juvenile, (2) an incest offense or (3) an offense where the victim consented to the offense but was underage. A “sole sex offense” is defined as a single conviction, adjudication of guilty or acquittal by reason of insanity, as the case may be, for a sex offense which involved no more than one victim, no more than one occurrence or, in the case of an incest offense, members of no more than a single household. N.J.S.A. 2C:7-13(d). However, pursuant to N.J.S.A. 2C:7-13(e), the registrant may still be included on the Internet Registry despite falling within one of the exceptions if the prosecutor establishes by clear and convincing evidence that, given the particular facts and

¹³ Pursuant to the U.S. District Court Order entered on March 16, 2017 in L.A. v. Hoffman, 144 F. Supp 3d 649 (D.N.J. 2015), certain low or moderate risk sex offenders cannot be included on the Internet Registry unless the State can establish by clear and convincing evidence that the offender’s conduct was characterized by a pattern of repetitive and compulsive behavior. The Order is retroactive to July 1, 2014, which is the effective date of the statutory changes.

circumstances of the offense and the characteristics and propensities of the offender, the risk to the general public posed by the offender is substantially similar to that posed by other moderate risk offenders who do not fall under the exceptions. These exceptions from inclusion on the Internet Registry are not applicable to registrants whose conduct was characterized by a pattern of repetitive, compulsive behavior. N.J.S.A. 2C:7-13(e).

N.J.S.A. 2C:7-13(b) provides that all offenders whose risk of re-offense is high or for whom the court has ordered notification in accordance with N.J.S.A. 2C:7-8(c)(3), will be listed on the Internet Registry.

Inclusion on the Sex Offender Internet Registry will not proceed until the registrant has been given notice by the prosecutor's office of the right to object. At the hearing, the judge hears arguments from the prosecutor, registrant, or counsel. The judge then determines whether to include the registrant on the Sex Offender Internet Registry.

As of August 3, 2020, there were 4,690 registrants included on the Sex Offender Internet Registry maintained by the State Police.¹⁴

G. Descriptive Data

The Supreme Court has mandated that the Administrative Office of the Courts prepare and submit an annual *Report on the Implementation of Megan's Law*. See Doe v. Poritz, 142 N.J. at 39. To fulfill this requirement, data from case dispositions are coded and entered into a database. Although 8,481 tier two and tier three cases have been disposed, there were 12,853 case entries contained in the Megan's Law Adult Disposition

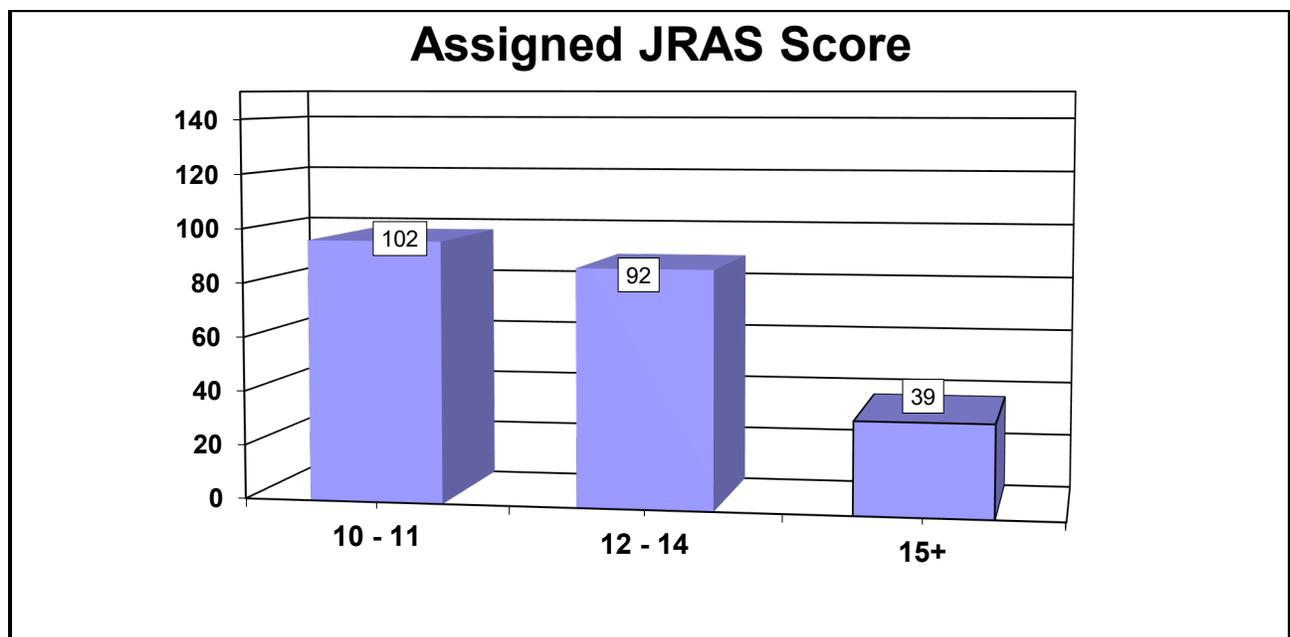
¹⁴ The State Police website for the Sex Offender Internet Registry is at <https://www.state.nj.us/lps/njsp/>.

Database as of August 3, 2020.¹⁵

1. Juvenile Cases

There are an additional 233 cases, wherein the JRAS was used, in the Megan’s Law Juvenile Disposition Database as of August 3, 2020.¹⁶ Of these cases, 231 are tier two cases and 2 are tier three cases. 99 (42%) cases were resolved by default and 134 (58%) cases were resolved after a conference or hearing.

The Juvenile Risk Assessment Scale scores for the 233 cases assigned a tier 2 or tier 3 by prosecutors are as follows:

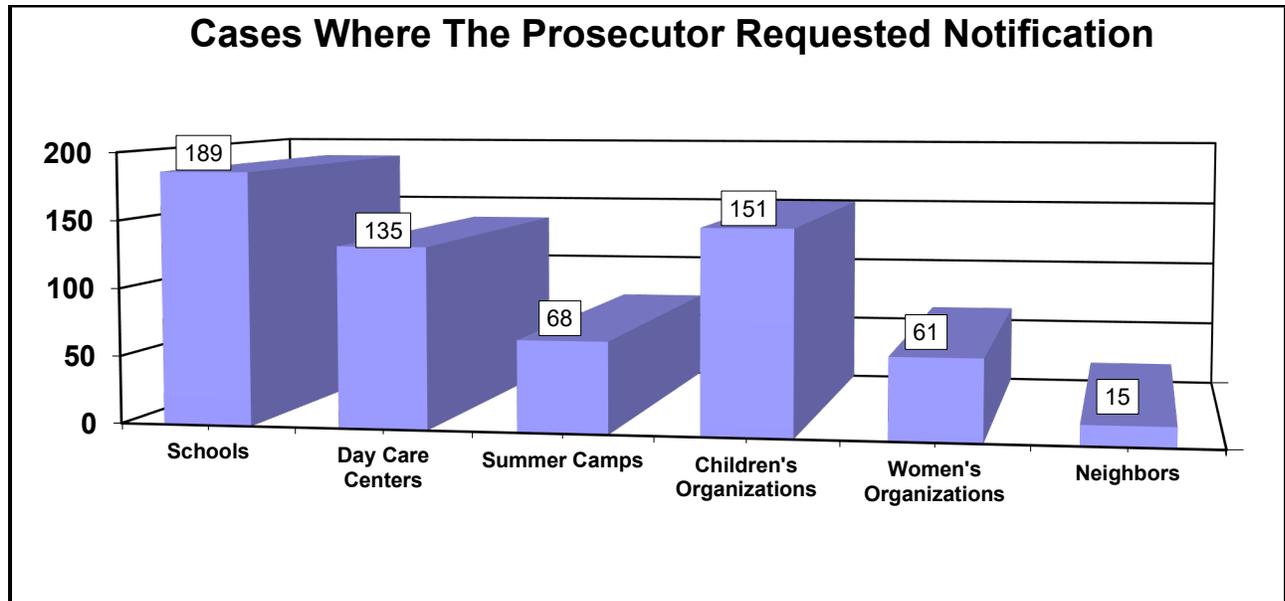


In the 233 cases where notification was requested by the prosecutor, schools (189),

¹⁵ The reason for the difference is that the report produced from the Megan’s Law case tracking system does not include registrants who are deceased or incarcerated. In addition, the Megan’s Law case tracking system report only includes data for the disposition where the registrant is currently located. The data from the old county is superseded by the data for the new county in the Megan’s Law case tracking system report.

¹⁶ See description of JRAS on pages 8-9.

children’s organizations (151), and day care centers (135) were the most requested.



Of the 233 cases, there were 69 (30%) tier changes.¹⁷ The tier changes are reflected below:

Amended Tier 2 to Tier 1	68
Amended Tier 3 to Tier 2	1

In the 233 cases, there were 59 (25%) cases where the registrant objected to the scope of notification. The judges altered the scope of notification in 83 (36%) cases. A change in notification can be requested by the prosecutor before the registrant objects at the conference or hearing as updated information becomes available.

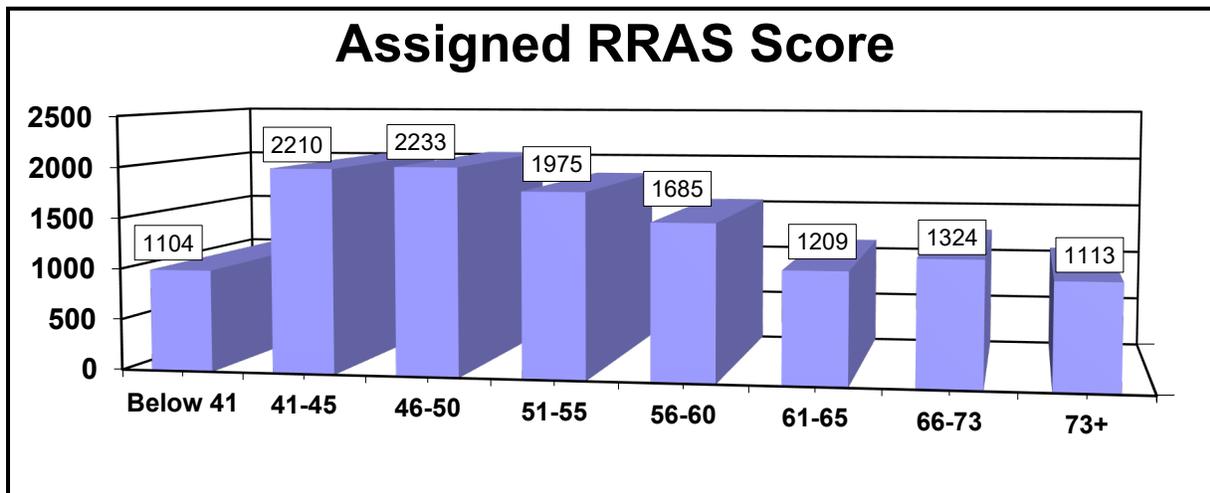
Due to the limited number of cases, this Report does not further distinguish this data.

¹⁷ Note that the data contained in the Megan’s Law case tracking system on all cases disposed shows tier changes in a total of 1,074 cases out of 5,316 registrants whose case has been disposed after a conference or hearing. See footnote 15.

2. Adult Cases

Of the 12,853 cases contained in the Megan’s Law Adult Disposition Database, 48% were resolved by default¹⁸ and 52% were resolved after a conference or hearing.¹⁹ Of the 6,183 default cases, 95% were initially classified by prosecutors as Tier Two and 5% were classified as Tier Three.

The 12,853 Registrant Risk Assessment Scale scores assigned by prosecutors are as follows:



3. Cases Where Registrant Defaulted

a. Tiering and Scoring

There were 6,183 cases in the Megan’s Law Adult Disposition Database where the registrant defaulted. Of those cases, 5,901 (or 95%) were tier 2, and 282 (or 5%), were

¹⁸ The registrant did not appear at the conference or hearing to object to the tier classification or scope of community notification.

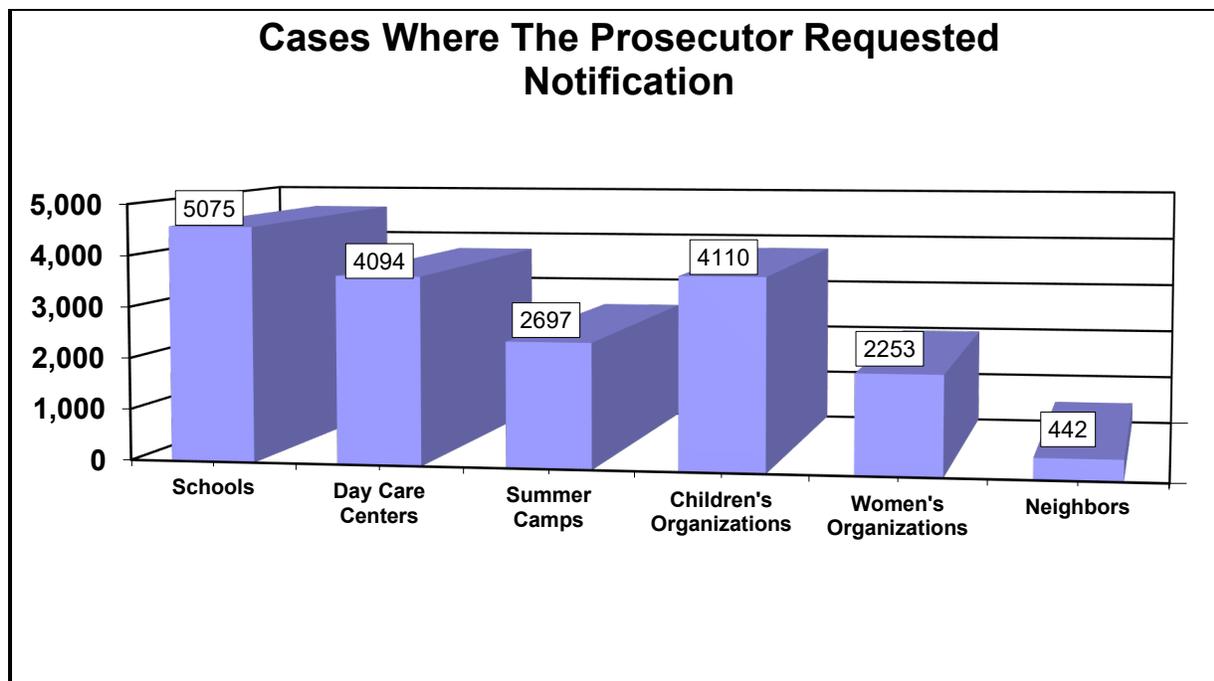
¹⁹ Note that the data contained in the Megan’s Law case tracking system on all cases disposed show that 37% were resolved after default and 63% disposed after a conference or hearing. See Footnote 15.

tier 3.

b. Prosecutors' Notification Decision

The following data depicts the types of notification recommended by prosecutors in cases where the registrant defaulted. Prosecutors requested notification²⁰ to schools in 5,075 cases. Notification to day care centers (4,094) and children's organizations (4,110) were also frequently requested. Notification to summer camps, women's organizations and neighbors were less frequently requested. The *Guidelines* state that if the offender's past victims are all adult women, and there is no documentation in the file that the offender has offended against young children, then elementary schools or organizations that supervise young children may be excluded from the organizations and schools to be notified, because they are not likely to encounter the offender. The critical factor to be considered in determining scope of notification, according to the *Guidelines*, is the geographical proximity of schools, institutions or organizations to the offender's residence, employment and/or schooling, or, if appropriate, places regularly frequented by the offender.

²⁰ In many cases, the prosecutor requested notification of multiple groups. There were also 973 default cases where the prosecutor did not request notification of schools, day care centers, summer camps, community organizations, neighbors or other individuals. Although data on the relationship of the victim is not present generally in cases where there is no notification requested by the prosecutor, the scoring of the Registrant Risk Assessment Scale "Victim Selection Factor" (Factor 4) would seem to indicate that in the majority of these cases the victim was a member of the immediate family or a household member. The *Guidelines* permit "no notification" where the offender's past victims are all members of the immediate family or the same household. It may then be determined by the prosecutor that the offender is not a risk to community organizations or schools, which would otherwise receive notification. Members of the immediate family include, for purposes of this determination, the offender's children, adopted, step and foster children, nieces, nephews, brothers and sisters, to whom the offender has regular access. Members of the same household include the children of any person living in the household in which the offender lives or where the offender has either full or part-time care or legal responsibilities, and may include multi-unit housing and families living in adjacent or adjoining housing. Members of the same household does not require a family relationship.



4. Cases Proceeding to a Conference or Hearing

a. Tiering and Scoring

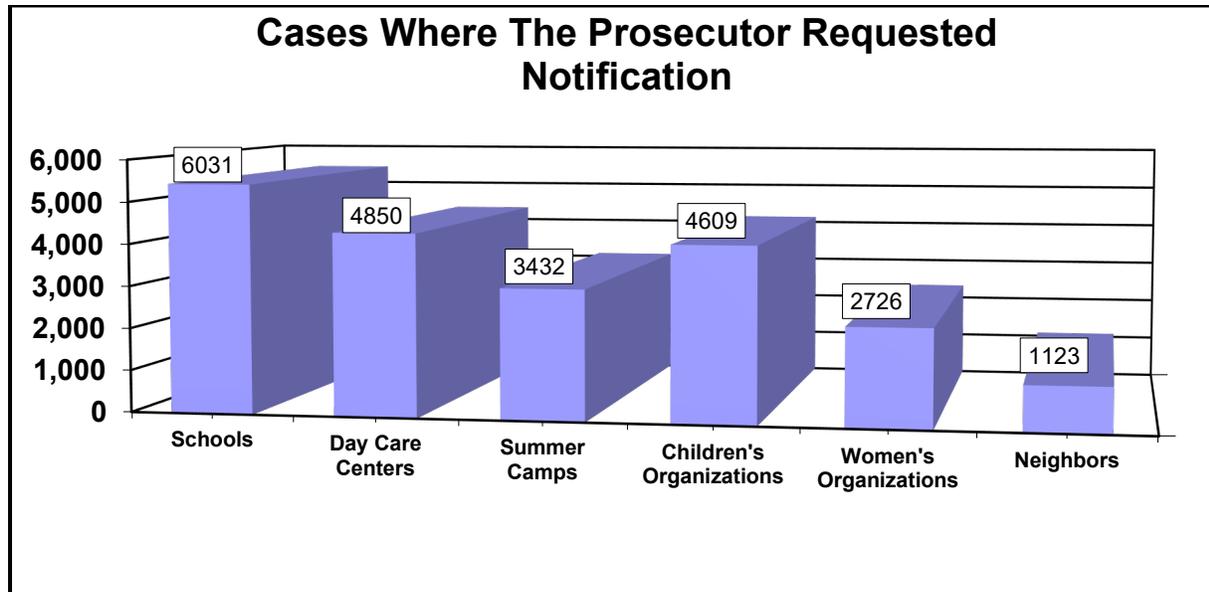
There were 6,670 cases in the database where the registrant requested judicial review of the prosecutor's tiering or community notification decision. Of those cases, 5,786 (87%) were tier 2 and 884 (13%) were tier 3.

b. Prosecutors' Notification Decision

The data below depicts the types of notification recommended by prosecutors in cases where the registrant requested a hearing. As can be seen from the data, prosecutors requested notification to schools in the majority of cases (6,031 cases) where notification was requested.²¹ Notification to day care centers (4,850) and children's organizations (4,609) were also frequently requested. Notification to summer camps, women's

²¹ There were 525 cases where the prosecutor did not request any type of notification to schools, day care centers, summer camps, community organizations, neighbors or other individuals. See footnote 20.

organizations, and neighbors were less frequently requested.



c. Objections

i. Scoring of Factors

Of the 6,670 cases where there was a conference or hearing,²² 4,796 (72 %) involved registrants who objected to the scoring of one or more of the factors contained in the RRAS. For the most part, registrants objected to only one or two factors. Overall, there were 14,050 objections based upon specific factors. The breakdown of objections is as follows:

²² In a number of cases due to certain issues being raised, the initial conference became a hearing, or the judge set a date for a hearing.

	# Cases--This Factor <u>Objected To</u>	# Cases--This Factor <u>Changed</u>
FACTOR 1 (Degree of Force)	747	389 (52%)
FACTOR 2 (Degree of Contact)	497	214 (43%)
FACTOR 3 (Age of Victim)	294	176 (60%)
FACTOR 4 (Victim Selection)	529	311 (59%)
FACTOR 5 (Number of Offenses\Victims)	629	409 (65%)
FACTOR 6 (Duration of Offensive Behavior)	499	347 (70%)
FACTOR 7 (Length of Time Since Last Offense)	1376	1846 ²³
FACTOR 8 (History of Anti- Social Acts)	794	553 (70%)
FACTOR 9 (Response to Treatment)	1422	1317 (93%)
FACTOR 10 (Substance Abuse)	995	932 (94%)
FACTOR 11 (Therapeutic Support)	2140	2161 ²⁴
FACTOR 12 (Residential Support)	1735	1860 ²⁵
FACTOR 13 (Employment\Educational Stability)	2393	2601 ²⁶

²³ This factor is often changed on motion by the prosecutor before the registrant objects because updated information on the registrant becomes available. This change is more frequent in re-determinations because of the passage of time.

²⁴ See footnote 23.

²⁵ See footnote 23.

²⁶ See footnote 23.

Of the 6,670 cases, there were 1,978 (30%) tier changes.²⁷ The tier changes are reflected below:

Amended Tier 2 to Tier 1	1,428
Amended Tier 3 to Tier 2	511
Amended Tier 3 to Tier 1	8
Amended Tier 2 to Tier 3	31

ii. Scope of Notification

In the 6,670 cases where there was a conference or hearing, there were 2,774 (42%) cases where the registrants objected to the scope of notification. The judges altered the scope of notification in 3,395 (51%) cases. The most common change was to the group/individuals to be notified and the scope of notification.²⁸

d. Expert Testimony

The data indicates that expert testimony was presented to the court in 1,744 (26%) of the 6,670 cases where there was a conference or hearing. Expert opinion is often submitted to the court in the form of an expert's psychological report as opposed to live testimony. The judge can then use the report to determine the risk the registrant poses to the community.

5. Cases Including the Sex Offender Internet Registry

Of the 12,853 cases contained in the database as of August 3, 2020, there were 11,027 (86%) cases that included data on the Sex Offender Internet Registry.²⁹ Of those

²⁷ Note that the data contained in the Megan's Law case tracking system on all cases disposed shows tier changes in a total of 1,079 cases out of 5,321 registrants whose case has been disposed after a conference or hearing. See footnote 15.

²⁸ There were a number of cases where the judge agreed to tier 1 notification despite the registrant being classified as tier 2. This most often occurred where the victim was a member of the registrant's household.

²⁹ The prosecutor makes the initial determination whether to include the registrant on the Sex Offender Internet Registry. If the prosecutor decides, after reviewing a case that has already had a tier determination hearing, that the registrant should not be included on the Sex Offender Internet Registry, the case would not appear before the court again unless there was a change in circumstances.

11,027 cases, the prosecutor wanted to include the registrant on the Sex Offender Internet Registry in 8,489 (76%) cases. In those 8,489 cases, there were 1,445 (17%) objections to being included on the Sex Offender Internet Registry. Of those 1,445 objections, there were 552 (38%) objections based upon the three exceptions enumerated in N.J.S.A. 2C:7-13(d).

The prosecutor's determination to include the registrant on the Sex Offender Internet Registry was upheld in 6,850 (81%) cases. The most common reasons for changing the prosecutor's request to include the registrant on the Sex Offender Internet Registry were because the tier or the scope of notification were reduced to a Tier 1. These changes can occur based upon a change in circumstances or expert opinion as to the risk the registrant poses in the community.