

Megan's Law

# Local Official Confidentiality Requirements



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If an elected official receives an inquiry about the occurrence of a Tier III notification he can only advise the individual that he is not entitled to receive such information and that the individual should contact the Megan's Law Unit of the local County Prosecutor's Office to obtain more information.

Chapter 7 of the New Jersey Criminal Code, commonly known as "Megan's Law," recognizes the danger of recidivism posed by sex offenders living in our communities. Therefore, an important provision of Megan's Law is the creation and implementation of a system that permits law enforcement officials to identify and alert the public of the presence of certain sex offenders who are required to register under Megan's Law. Certain notification procedures promulgated under Megan's Law, however, may create difficulties for elected municipal officials due to the confidential nature of the notification procedures. This article examines these confidential notification procedures and the potential difficulties they create for municipal officials.

The registration system created under Megan's Law is based on an evaluative process whereby each registrant is classified as either Tier I, Tier II, or Tier III based on the risk that the registrant will reoffend. At one end of the registration spectrum, Tier I registrants are considered low risk while, on the other end of the spectrum, Tier III registrants are considered high risk with a high potential to reoffend. The evaluative process to determine the registrant's risk for reoffending and subsequent tier classification is conducted by the County Prosecutor's Office before a judge of the Superior Court of New Jersey. The registrant's tier classification, as determined by the prosecutor, judge, and counsel for the registrant, then determines the scope of public notification.

All of the notification procedures, whether Tier I, Tier II, or Tier III, are governed by the *Attorney General Guidelines for Law Enforcement for the Implementation of Sex Offender Registration and Community Notification Laws*. Among other forms of notification, Tier III notification is comprised of police officers going door-to-door to notify individuals of the presence of Tier III registrants in the surrounding community. This type of notification is limited



geographically to individuals who are likely to encounter the registrant. This includes, but is not limited to, individuals living within a certain geographic area of the registrant's residence, and schools and institutions within a certain distance of the registrant's residence and work. Specifically, individuals who are notified receive a notification flyer, which includes specific information about the registrant, the *Megan's Law Rules of Conduct*, and the *Megan's Law Receipt Form*.

Together, the notification flyer, *Megan's Law Rules of Conduct*, and *Megan's Law Receipt Form* inform the recipient that the information contained within the notification flyer is

being implemented in their municipality. Individuals outside of the geographic area may hear that there is a notification occurring and, as a result, contact their elected officials to find out. Local elected officials would be unaware that a notification is occurring, unless they happen to live within the geographic area that is subject to the notification. Even if an elected official does live within the notification area, however, he would be bound by the *Megan's Law Rules of Conduct* and unable to confirm that a Tier III notification was occurring. Moreover, the elected official would not be able to confirm that a notification was occurring by contacting the police department,

information regarding Megan's Law, including the sex offender internet registry. In this way, the elected official can provide the individual with additional information about the notification process and direct them to the proper law enforcement officials without compromising the confidentiality of the notification procedure. ▲

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confidential and cannot be disseminated to any individual outside of the immediate household. Additionally, the police officers performing the door-to-door notification are subject to the *Law Enforcement Guidelines for Community Notification* and are instructed that, if asked about the notification activities, they may not confirm or deny that there is a notification in progress or that one has been conducted in any location. Rather, police officers are instructed to direct any inquiries to the Megan's Law Unit of the local County Prosecutor's Office. As a result, this notification procedure is highly confidential and narrowly tailored to only notify individuals within the certain geographic area.

In some instances, this level of confidentiality has created problems for elected officials who are unaware that there is a Tier III notification

because law enforcement officials are bound by the *Law Enforcement Guidelines for Community Notification* and are prohibited from confirming or denying that a notification is occurring. This leaves the elected official with the inability to answer the individual's concerns and questions because, under Megan's Law, elected officials are not entitled to be specifically advised if a Tier III notification is occurring.

Therefore, if an elected official receives an inquiry about the occurrence of a Tier III notification he can only advise the individual that he is not entitled to receive such information and that the individual should contact the Megan's Law Unit of the local County Prosecutor's Office to obtain more information. Individuals may also be directed to the New Jersey State Police website, [www.NJSP.org](http://www.NJSP.org), which contains a large amount of

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