

THE PRESIDENT HAS SEEN
7/31/95

end of May. NFI Administrator Elaine McReynolds said it was the most successful conference ever. James Lee credits FEMA's success to knowledge of his people that they have "support and sincere encouragement" from you.

Mack note on privatization of U.S. Enrichment Corporation. Strongly urges that Vice President be included in any final decision on privatization inasmuch as this decision is directly related to both the Gore-Chernomyrdin commission and our reinventing government efforts.

Phoenix Gazette poll. From Doug. Your job rating is up for second quarter in a row: 30% say "excellent" or "good;" 35% say "fair;" 32% have unfavorable opinion -- lowest level since fall 1994. Statewide poll in July of 707 adults.

Waco poll by CNN/USA TODAY. From Rahm. 57% think the FBI deserves at least a moderate amount of blame, versus 33% in 1993; 87% assign such blame to Koresh; 34% to you. 50% think actions of federal agents were responsible, 43% think irresponsible.

Letter on leatherback turtles forwarded by Erskine. Environmental Prof. James Spotila of Drexel University writes to inform you that the law creating a permanent park for these turtles and saving them from extinction was signed in Costa Rica July 18. He says passage of the law is a direct result of your support. Spotila sends a second letter about another endangered sea turtle off of Texas and Louisiana and argues that helping them would be good 1996 politics. I have forwarded these letters to Katie.

I need you to Spotila
probably through Hank
for Costa Rica President!

THE WHITE HOUSE
WASHINGTON

July 26, 1995

Mr. President:

I strongly suggest that the Vice President be included in any final decision regarding privatization of U.S. Enrichment Corporation.

This decision is directly related to the Gore Chernomyrdin Commission and our re-inventing Government efforts. And of course, the Vice President is directly involved in both.

Mack

cc: Leon Panetta

U.S. Goals at Odds In a Plan to Sell Off Nuclear Operation

By PETER PASSELL

A plan by the Federal Government to sell the operations that produce fuel for the nation's nuclear power plants — the largest privatization ever attempted by Washington — has long been counted on to demonstrate commitment to leaner government. But with the White House ready to announce details of the sale this week, a debate is raging over whether such a sale would do more harm than good.

The central question is one familiar whenever a government sells off a chunk of itself: would a private owner's financial interests be at odds with the national interest?

In this case, critics of the plan are worried about what will happen to America's agreement to buy the uranium from 20,000 Russian bombs, which was to be diluted to make fuel for American nuclear power plants.

Eager to increase profits, the newly privatized business will have strong incentives to drive hard bargains with the Russians, even to the point of risking collapse of the deal, which is intended to keep the uranium from falling into the wrong hands, critics say. The privatization effort is a case study, they suggest,

Continued on Page D4, Column 3

NEWS SUMMARY

A2

Arts	C13-20
Business Day	D1-20
Editorial, Op-Ed	A14-15
International	A2-7
Metro	B1-5
National	A8-11
Science Times	C1-12
Sports Tuesday	B6-12

Environment	C4	Obituaries	A13
Fashion	A12	TV Listings	C19
Medical Science	C3	Weather	C12
Classified	B12	Auto Exchange	B10

DAILY UPDATES ON MIDDLE EAST NEGOTIATIONS: 1-800-727-1981 or 718-976-7702. -- ADVT.

This
With
cans
the

caused its stock market
trading. Its shares ended trading at \$36.125, up 37.5 cents in Big Board trading.

caused its stock market
trading. Its shares ended trading at \$36.125, up 37.5 cents in Big Board trading.

in the
with a loss of
a year earlier. In the
recent quarter, charges for litigation
and write-downs in properties and a
coal company reduced earnings by
\$2 million. Revenue rose 25 percent,
to \$6.39 billion from \$5.13 billion.

ter, to \$410 million.
share, in the quarter a year
The 1994 quarter included a gain of
\$270 million for a tax dispute settle-
ment and a charge of \$256 million for
restructuring. Chemical profit from
operations rose to \$246 million from
\$139 million.

U.S. Goals at Odds in Plan to Sell a Nuclear Unit

Continued From Page A1

of the difficulties of mixing high diplomacy with a bottom-line mentality.

"We could end up with the worst of possible worlds," said Thomas L. Neff, a nuclear weapons specialist at the Massachusetts Institute of Technology who first proposed the swords-to-plowshares idea but is a critic of how it would be carried out.

Natural uranium metal cannot be used to power reactors or to make bombs until it is enriched, increasing the proportion of the lighter uranium isotope, U-235, to the far more common U-238. To that end, the Government has operated two giant plants in Kentucky and Ohio since the 1950's that manufacture virtually all the fuel for America's commercial nuclear reactors.

But the Department of Energy, which runs the plants, has been widely criticized for sloppy management and the enrichment operation was singled out for privatization by the Bush Administration. In 1992, Congress created an independent Government entity, the United States Enrichment Corporation, which was ordered to cut costs, improve marketing and prepare a plan for selling shares to the public by July 1995.

"We've transformed a Govern-



Portsmouth Gaseous Diffusion Plant

A plan to privatize the United States Enrichment Corporation, which produces fuel for nuclear plants, has brought on a debate. In particular, critics are worried how the plan may affect an agreement to buy 500 tons of Russia's weapons-grade uranium. The first shipment arrived at the Government corporation's plant in Portsmouth, Ohio, on June 23.

500 tons of Russia's weapons-grade uranium.

In 1992, the Bush Administration agreed to buy roughly 40 percent of Russia's stockpile over the next 20 years to keep it from terrorists or rogue states. The deal will generate badly needed cash for Russia — roughly \$12 billion at current market prices. And it will provide employment for nuclear engineers who might otherwise be tempted to pur-

1992, since the company was part of the Government and was experienced in the handling and marketing of uranium fuel. A first small shipment from Russia arrived at the company's Portsmouth, Ohio, plant on June 23.

But Richard A. Falkenrath, a researcher at Harvard University, believes the exclusive designation is a disaster waiting to happen since the relationship between a privatized en-

buying the Russian weapons-grade uranium. They worry that it would be hard to identify the culprit if negotiations break down, and that the White House would be under substantial political pressure to defend the enrichment company.

If specialists in arrangements to prevent the spread of nuclear weapons are concerned that a privatized enrichment company will undermine the deal with the Russians, for-profit players in the nuclear industry are equally worried about the prospect that the enrichment company will pull it off.

Nicholas M. Nikazmerad, the president of Nukem, a division of the German conglomerate RWE, says "the intention of U.S.E.C. is to dominate the commercial nuclear market." He is especially critical of leaving it to the Russians to "blend down" the weapons-grade uranium into reactor fuel because Nukem runs a blending plant in Virginia in partnership with the Babcock & Wilcox Company.

Mr. Falkenrath would like to start afresh. In the best of plausible worlds, he says, a privatized enrichment company would become just another bidder for Russian enriched uranium. That is not likely to happen. It would require renegotiation of the agreement with Minatom, which in the past has been eager to deal with a single Government-backed American buyer. What's more, the loss of the right to act as

July 1995

"We've transformed a Government bureaucracy into a corporate culture," said William H. Timbers Jr., a former investment banker who has been running the company since 1993. Many analysts agree.

The company, based in Bethesda, Md., has renegotiated its contract with the Lockheed-Martin Corporation for technical operation of the two plants, linking payments to productivity and safety. And, on schedule, Mr. Timbers's team produced a privatization plan to sell stock through a public offering or to merge the agency with an existing corporation. By the letter of the 1992 law, all that is needed to go forward is approval from the White House.

But privatization is far from a done deal. One hurdle requiring legislation involves the accounting of the \$2 billion sales price for the purposes of deficit reduction. Under a 1985 law to prohibit gimmickry in budget-making, one-time sales of Government assets cannot offset spending. But both Republicans and Democrats are eager to make an exception for the enrichment corporation in order to support budget outlays.

Other barriers to privatization will not be so easily breached. The company wants to take with it not just the two plants but all the uranium controlled by the Department of Energy. And commercial rivals — uranium mining companies, traders and processors — are crying foul. James Graham, the president of Verdyn, a company that converts uranium to gaseous form for enrichment, puts it bluntly. "We can't come with someone who gets the materials for free," he said.

Congressional sources suggest a compromise is possible. Besides, those opposed to privatization of the enrichment company's terms are a far bigger fish to fry: the company's unique role in the sale of

ment for nuclear engineers who might otherwise be tempted to pursue their careers in Iran. But apparently neither the Bush nor the Clinton Administrations fully understood the legal and economic consequences.

Russia was already exporting substantial quantities of unenriched uranium, depressing prices in a glutted global market. Indeed, in 1991, the Department of Energy supported a suit against the states of the former Soviet Union that ended in agreements sharply restricting uranium exports to America.

The enriched portion of the Russian weapons-grade uranium has since been exempted from laws involving the dumping at unfair prices. But the exemption does not apply to the natural uranium component, which represents roughly a third of the value.

An American buyer of Russian enriched uranium could comply with the law by stockpiling an equivalent amount of domestic unenriched uranium. But this stockpiled uranium could not be resold until 2003 under the trade agreement, and the Russians are demanding payment on delivery.

Senator Pete V. Domenici, Republican of New Mexico, a longtime supporter of nuclear research, would compromise by permitting the Russians to sell the natural uranium component now for delivery in 2003. But with the delay in delivery, the price would not be as high. The Clinton Administration wants to go a step further, giving the President authority to exempt the natural uranium from trade restrictions if there is no other way to get full value for the Russians.

Another issue is the designation of the enrichment corporation as the "executive agent" — as America's exclusive negotiator and buyer of Russian enriched uranium. This assignment seemed undisputable in

disaster waiting to happen since the relationship between a privatized enrichment company and Minatom, its Russian counterpart, is "inherently adversarial."

Under the agreement, the American enrichment company and Minatom must renegotiate a price each year for the following year's delivery. But the American company has little reason to be generous, he says: the less it pays, the more profit it will make when it resells the fuel to nuclear utilities and the less capital Minatom will have to sustain itself as a competitor in the global market for enrichment services.

Indeed, Mr. Falkenrath argues that the American company has every reason to play tough, even at the risk of stalemate: the less Russian enriched uranium that reaches the market, the higher the market price of the enriched material that the American company produces. Moreover, he says, the company has no financial motivation to buy Russian enrichment services for more than its own cost — which is roughly one-third less than the current world price.

Mr. Timbers, the enrichment company executive, makes no secret of his exasperation with these unflattering predictions of how his company will behave. He says a breakdown in the negotiations will lead the Government to name another executive agent. "We can be yanked on 30 days' notice," he said.

What is more, he said, collapse of the agreement would give competitors of his company a chance to buy the Russian enriched uranium. "The sale to U.S.E.C. will happen," Mr. Timbers insisted. "I have a strong incentive to be in the middle of the deal — not on the outside looking in."

But this argument does not persuade Mr. Falkenrath, or a number of Administration officials who have pressed to modify the mechanics of

deal with a single, Government-backed American buyer. What's more, the loss of the right to act as executive agent would make shares of the enrichment company less valuable, depriving Washington of revenue and offending the members of Congress who represent thousands of union workers at the company's enrichment plants.

To be workable in political terms, any alternative arrangement must satisfy both President Clinton and Senator Domenici. The White House argues that the Government already has sufficient leverage to force the enrichment corporation to buy the Russian uranium at a fair price.

However, Senator Domenici will not easily go along with suspension of import restrictions that protect the feeble domestic uranium industry. Nor would he permit the enrichment company the luxury of weighing its own interests against national security in bargaining with the Russians. He wants to require the White House to open sales to other bidders if the company balks at buying the uranium on schedule.

If revenue from the sale of the enrichment corporation is to be counted in the next budget, a compromise must be reached by late September. Secretary of Energy Hazel R. O'Leary, who has championed the privatization effort as well as the Russian uranium deal, thinks it can — indeed, that it must. "We're serious about both commitments," she said. "I'm prepared to see it to the wire."

THE HOME ADVANTAGE:

Daily home delivery of The New York Times.
Call 1-800-NYTIMES (1-800-698-4637).

The New York Times

THE PRESIDENT HAS SEEN

7/31/95

95 JUL 28 12:33

Do a letter from our
Pres → may I can call
Pres but need
can release
WTO cc: Congress

Jim Dorskind
Please coordinate
the reply.

THE WHITE HOUSE
WASHINGTON

July 27, 1995

RECOMMENDED TELEPHONE CALL

TO: Maureen Kanka and Richard, parents of Megan Kanka
They can be reached through their Attorney, Jeffrey Berman
212/510-7000.

DATE: July 29, 1995

RECOMMENDED BY: Rahm Emanuel

PURPOSE: To express your gratification that "Megan's Law" was upheld by
the New Jersey Supreme Court.

BACKGROUND: 7-year-old Megan Kanka's rape and murder by a twice-convicted
child molester who was living in her neighborhood spurred the
passage of a New Jersey notification law known as "Megan's
Law." The law, which requires community notification of serious
sexual offenders, was upheld by the New Jersey Supreme Court
as being constitutional just four days before the one year
anniversary of Megan Kanka's death on July 29, 1994.

TALKING POINTS: Congratulate them on the NJ Supreme Court's decision to uphold
the law.

Thank them for turning her situation into something positive for
communities across the country. They should be proud to have
been part of the effort that takes preventative steps to protecting
children.

As you may know, your Justice Department filed an amicus brief
on behalf of the family in the case.

CONTACT PERSON:

DATE OF SUBMISSION:

ACTION:

Mention
this

ATTORNEY GENERAL'S STATEMENT ON "MEGAN'S LAW"

February 9, 1995

I want to advise you that the Justice Department intends to back the State of New Jersey in defending its "Megan's Law" against constitutional challenge. As you know, "Megan's Law" requires that convicted child molesters and violent sex offenders register with law enforcement agencies in the communities where they intend to reside after release from prison and provides for community notification of their presence. Congress enacted the Jacob Wetterling Act last year as part of the 1994 Crime Law to encourage states to enact registration and community notification requirements with respect to convicted ex-offenders. The President and I strongly supported this provision. The federal government has a major interest in seeing to it that the constitutionality of such efforts is sustained in the courts. The public deserves to be protected against the significant risks that convicted child molesters and violent sex offenders pose. For example, child molesters have a recidivism rate as high as 40-75%, according to some studies. We want to make sure that states have the legal flexibility to enact statutes that they believe will provide, as New Jersey has done in passing "Megan's Law," effective protection for their citizenry.

QUESTIONS AND ANSWERS RE: DIAZ V. WHITMAN
THE MEGAN'S LAW CASE

Q: Is the Department of Justice currently a party in Diaz?

A: No. The Department will participate as amicus curiae in support of the State of New Jersey in defending Megan's Law against constitutional challenge.

Q: Why has the Department of Justice decided to become involved?

A: Statistics on the recidivism rate of convicted child molesters and violent sex offenders make clear the national interest in having community notification laws to protect our communities. For example, convicted child molesters have a recidivism rate as high as 40-75% according to some studies. We want to make sure that states have the legal flexibility they need to enact statutes that they believe will provide, as New Jersey has done in passing Megan's Law, effective protection for their citizenry.

Q: Do community notification provisions mean that after an offender has been convicted and served his sentence that the punishment continues?

A: The purpose of community notification provisions is to ensure public safety. This purpose is evident in the Congressional debate on the Jacob Wetterling provisions. Moreover, most state courts reviewing challenges to their own community notification provisions have also concluded that the provisions are meant to protect their state's citizenry.

Q: In which New Jersey federal proceedings will the Department become involved?

A: We are currently reviewing that question and how we might best protect the federal interest. We have the option of filing an amicus brief in the district court with the parties' cross-summary judgment motions or in the Third Circuit in support of the state's appeal of the preliminary injunction granted by the district court. It is also possible to wait to file an amicus brief in the Third Circuit on appeal from the district court's final judgment.

Q: What is the Jacob Wetterling Act?

A: The Act encourages states to adopt registration and community notification programs for convicted sexual offenders and child molesters released from prison.

Q: Have there been any challenges to the Jacob Wetterling Act, the provision in the 1994 Crime Law encouraging states to adopt registration and community notification provisions like "Megan's Law?"

A: No, not that I am aware.

Q: How would a finding by the New Jersey District Court or by the Third Circuit that "Megan's Law" is unconstitutional affect the implementation of the Jacob Wetterling Act?

A: The Diaz case does not directly threaten or address the constitutionality of the Jacob Wetterling Act. The case involves only a challenge to New Jersey's Megan's Law.

Still, the New Jersey federal court would be the first federal court to address the constitutional challenges to a community notification provision such as "Megan's Law." While a federal court ruling in New Jersey would not be binding in other jurisdictions, court rulings that a community notification provision like "Megan's Law" present an ex post facto problem would pose a serious threat to the present effectiveness of community notification provisions. Only those child molesters or sex offenders who committed their crimes **after** the provisions were enacted would be subject to community notification.

The federal government has a major interest in seeing to it that the constitutionality of community notification laws is sustained in the courts. The public deserves to be protected against the significant risks that convicted child molesters and violent sex offenders pose.

Q: Are there challenges to community notification provisions in other states?

A: Yes, but mostly in state court. (NOTE: The only other case in federal court is also in New Jersey and a challenge to Megan's Law.) The state cases raise the same constitutional challenges as Diaz. The Department is currently investigating how many of these suits exist, where, and their nature.

Q: Will the Department become involved in all of these cases?
Will the Department become involved in other challenges to Megan's Law?

A: The Department is committed to implementing the Jacob Wetterling Act and protecting the national interest in helping communities prevent sex crimes, through such processes as registration and notification. Where it is necessary for the Department to become involved to protect our federal interest, we will do so. We are currently working with United States Attorneys to identify the existing cases and to coordinate our efforts in response.

Q: Does this suit mean that there will be a need to amend the Jacob Wetterling Act?

A: Absolutely not. The Diaz case does not directly threaten or address the constitutionality of the Jacob Wetterling Act. The case involves only a challenge to New Jersey's Megan's Law. The Jacob Wetterling Act as drafted, particularly the community notification provision, has the strong support of President Clinton and the Congress and we are committed to its implementation.

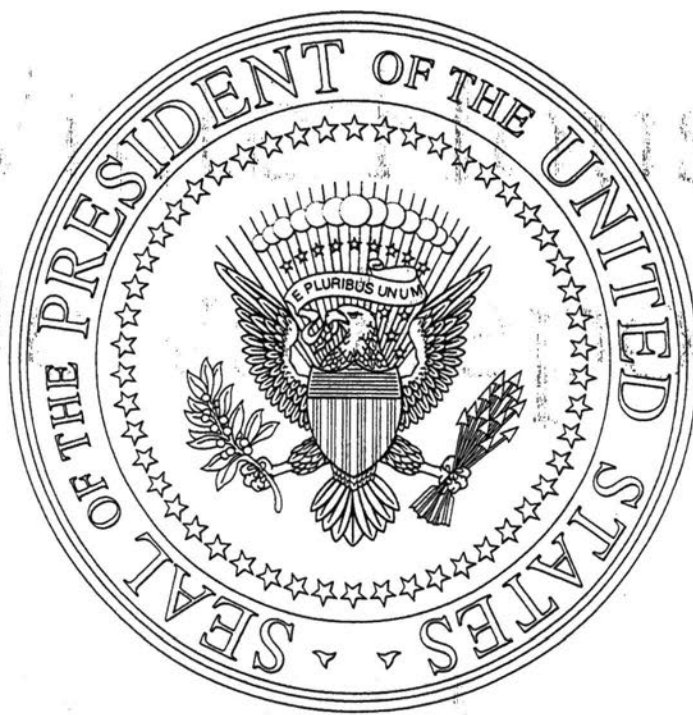
Q: Does Diaz implicate sex offender registration provisions?

A: No. Because sex offender registration provisions involve the dissemination of information to law enforcement only, courts have considered the provisions regulatory measures clearly related to public safety and well within constitutional bounds.

Q: Is Jacob Wetterling an unfunded mandate?

A: No. The Act does not create a federal requirement on the states. Rather, it encourages states through the carrot of federal funding to adopt registration and community notification programs for convicted sex offenders upon their release from prison.

White House News Report



MEGAN'S LAW

July 27, 1995

Produced by the Office of News Analysis
Room 161 OEOP (Ext. 6-5694)

The White House News Report is prepared by the White House Office to bring news items of interest to the attention of key personnel for the use in their official capacities. It is not intended to substitute for newspapers and periodicals as a means of keeping informed about the meaning and impact of news developments. Use of these articles does not reflect official endorsement. Further reproduction for private use or gain is subject to original copyright restrictions.



PRINTED ON RECYCLED PAPER

N.J. Supreme Court upholds Megan's Law

By FRANCES ANN BURNS=

TRENTON, N.J., July 25 (UPI) The New Jersey Supreme Court upheld the controversial Megan's Law on Tuesday, ruling that notifying a community of the presence of convicted sex offenders is a reasonable means of protecting citizens.

The high court voted 6-1 to uphold the law named after 7-year-old Megan Kanka, who was raped and killed last year, allegedly by a twice-convicted child molester who lived in her suburban Trenton neighborhood.

"The essence of our decision is that the Constitution does not prevent society from attempting to protect itself from convicted sex offenders, so long as the means of protection are reasonably designed for that purpose and only for that purpose," said Chief Justice Robert Wilentz, writing for the majority.

But the court restricted notification to organizations and individuals likely to encounter the offenders and set up a procedure allowing sex offenders to appeal their classification. The court also suggested the state Legislature make it a criminal offense to disclose inappropriate information about sex offenders.

The law has been challenged by several men who were convicted and sentenced long before the law was passed. The high court ruled in a case brought by a Burlington County man identified as John Doe, who argued that community notification is an unconstitutional additional punishment and a violation of his right to privacy.

Lawyers for the plaintiff said they plan to appeal the decision to the U.S. Supreme Court. A federal judge in another case has found the law unconstitutional.

Rick Kanka, Megan's father, said he hopes the law will protect other children, that if Megan had known the history of her alleged killer, Jesse Timmendquas, she would still be alive.

Attorney General Deborah Poritz said the state will begin enforcing community notification but that classifying offenders will take about a month. Around 5,000 offenders have registered with police since the law took effect on Jan. 1.

The New Jersey decision came just a few hours before New York Gov. George Pataki signed into law his state's version of the law.

"We are providing parents, communities, and law enforcement with a powerful new tool that will help protect children," Pataki said.

New York Attorney General Dennis Vacco said his office is prepared to defend the law against likely legal challenges. New York's law takes effect in 180 days.

Both states' laws require anyone convicted of serious sex offenses to register with police and provide details such as their place of residence and employment and the license plate numbers of their vehicles. Prosecutors must classify offenders into three levels of dangerous.

Neighbors are to be notified only of the presence of Level 3 offenders those deemed most likely to commit new crimes. Certain community organizations will be notified for Level 2 offenders, and only law enforcement agencies will be notified for Level 1 offenders.

The New Jersey Supreme Court restricted the organizations entitled to notification to schools, day-care centers and others caring for children. The court also said that each court jurisdiction must name a judge to hear appeals of classifications.

Justice Gary S. Stein, the sole dissenter, disagreed with the finding that the law is constitutional.

In Washington, White House spokesman Mike McCurry said President Clinton was pleased the New Jersey Supreme Court upheld the law. McCurry, in a statement, pointed out Clinton's anti-crime package, approved by Congress last year, included a provision modeled after Megan's Law.

"Today, communities will breathe a sigh of relief knowing that their security and safety are a top priority for law enforcement. This decision will enhance the ability of every community to fight crime," McCurry said.

White House praises action on Megan's Law

WASHINGTON, July 25 (UPI) The White House says President Clinton is pleased the New Jersey Supreme Court (Tuesday) upheld Megan's Law, which requires convicted sex offenders to register with police. The law was named for a 7-year-old girl raped and killed last year, allegedly by a twice-convicted child molester living in her neighborhood.

NJ Supreme Court Upholds Megan's Law, Notifications To Resume Soon

By RALPH SIEGEL=
Associated Press Writer=

TRENTON, N.J. (AP) Community notifications about convicted sex offenders could resume before summer's end after the state Supreme Court ruled it is constitutional to notify a neighborhood of their presence.

New Jersey's highest court issued a 6-1 decision in upholding Megan's Law Tuesday. Gov. Christie Whitman said notifications would resume in four to six weeks, but legal experts questioned whether authorities could so quickly meet new requirements the court set.

Some form of notification occurred in about three dozen cases around the state in January and February, until the practice was halted by lower-court rulings.

Whitman, Attorney General Deborah Poritz and Maureen Kanka, mother of the girl whose death prompted the law, Tuesday hailed the Supreme Court's decision as a triumph that should encourage other states to enact similar laws.

"I was thrilled. I was crying," Kanka said. "It was a long night last night. I was a nervous wreck."

"With the state Supreme Court's decision today, I think this is going to open a lot of doors in other states. This is like a new wave across the country," said Kanka, who attended ceremonies in Albany on Tuesday where Gov. George Pataki signed New York's version of the sex-offender registration law.

The Supreme Court made some changes to the Megan's Law scenario established last year by the New Jersey Legislature, most significantly by stripping county prosecutors of the sole authority to decide which convicted sex offenders pose a risk to the public and when to issue warnings.

The court ordered that judges in the state's 15 court jurisdictions conduct hearings lasting no more than several days to decide whether an individual sex offender should be subject to community notification and to what extent residents should be warned.

At a Newark news conference, lawyers who have challenged Megan's Law in court claimed at least a partial victory because of the requirement for judicial hearings.

Before any of the special, closed hearings can take place, rules must be written, judicial guidelines issued and judges assigned. In addition, the offenders can demand a court-appointed lawyer and must have two weeks to examine the prosecutor's documents related to each case.

"There's a lot we can claim victory on," said Ronald Chen, lawyer for a sex offender, Carlos Diaz, who filed a federal lawsuit. "This, at least from our point view, means the cup is half-full."

"We don't anticipate any notification taking place for a long time" as the hearings are set up, said Marsha Wenk of the state American Civil Liberties Union chapter.

Tuesday's ruling ends for the moment the drama that began when 7-year-old Megan Kanka was killed on July 29, 1994, in Hamilton Township, Mercer County.

Jesse Timmendequas, a former sex offender who lived across the street from the Kanka household, has been charged with the girl's rape and murder. The crime provoked outrage in the community. Neighbors claimed they did not know the man charged in Megan's killing was a convicted sex offender.

The outcry prompted lawmakers to introduce community notification legislation. In October, Whitman signed Megan's Law, which requires offenders to register with police and provides for warnings to the community.

"We remain convinced the statute is constitutional. To rule otherwise is to find society is unable to protect itself from sexual predators by adopting the simple remedy of informing the public of their presence," Chief Justice Robert Wilentz wrote in the majority opinion. "We sail on truly uncharted waters, for no other state has adopted such a far-reaching statute."

The case that led to Tuesday's decision, Doe vs. Poritz, was filed by a Burlington County sex offender identified only as John Doe, who feared that community exposure about his past crimes would cost him his job and ruin his life.

Doe's lawyer, John Furlong, said he remains convinced Megan's Law is unconstitutional because it punishes one group.

"He assured me he would carry the fight to the Supreme Court," Furlong said.

But Furlong said he was pleased that Doe will have a chance to contest any community notifications before they proceed.

"The bottom line is this: John Doe got the relief he sought. There will be no community notifications without a prior due-process hearing," he said.

In addition to the state case decided Tuesday, Megan's Law also has been challenged in federal court in the Diaz case and in the Alexander A. Artway case, which on Feb. 28 prompted U.S. District Judge Nicholas Politan to find that Megan's Law was unconstitutional.

NJ Supreme Court Upholds Megan's Law

By RALPH SIEGEL=
Associated Press Writer=

TRENTON, N.J. (AP) It is constitutional to notify residents when a sex offender moves into a neighborhood, although judges must decide when notification is made, the state Supreme Court ruled Tuesday.

The 6-1 ruling upholding New Jersey's so-called Megan's Law was hailed by Gov. Christie Whitman, President Clinton and others, including the mother of its namesake, 7-year-old murder victim Megan Kanka.

Notification, which had been put on hold after state courts suspended the law, should resume in four to six weeks, Whitman said.

"With the state Supreme Court's decision today, I think this is going to open a lot of doors in other states. This is like a new wave across the country," said Maureen Kanka, who attended ceremonies Tuesday where New York Gov. George Pataki signed a similar law.

The lawyer for the convicted sex offender who sued to challenge Megan's Law said he would appeal.

Similar notification rules have been rejected by judges in Alaska, Arizona, California, Illinois, Louisiana and New Hampshire, according to the American Civil Liberties Union.

A federal judge has also ruled that it is unconstitutional to apply Megan's Law to sex offenders who committed their offenses before the law took effect. That ruling is being appealed.

"We remain convinced the statute is constitutional," Chief Justice Robert Wilentz wrote in the state Supreme Court's majority opinion. "To rule otherwise is to find society is unable to protect itself from sexual predators by adopting the simple remedy of informing the public of their presence."

But the court stripped local prosecutors of the authority to decide which convicted sex offenders communities should know about. Judges in the state's 15 court jurisdictions must conduct hearings to determine that, the justices said.

The case that led to Tuesday's decision was filed by a Burlington County sex offender identified only as John Doe, who feared that community exposure about his past would cost him his job and ruin his life.

His lawyer, John Furlong, said he remains convinced Megan's Law is unconstitutional because it punishes one group. "He assured me he would carry the fight to the (U.S.) Supreme Court," Furlong said of Doe.

The law was passed after Megan Kanka was raped and strangled in July 1994. A convicted sex offender who had moved into a house across the street has been charged with the slaying.

White House press secretary Mike McCurry said Clinton was pleased with the added safety Tuesday's ruling brings to communities.

"Today communities will breathe a sigh of relief knowing that their security and safety are a top priority for law enforcement," McCurry said. "This decision will enhance the ability of every community to fight crime."

Predators' neighbors to be told

By THOMAS ZOLPER
PRESS STATEHOUSE BUREAU

A

TRENTON — Almost a year after Megan Kanka was lured off her bicycle and strangled, the state Supreme Court yesterday sanctioned a pioneering state law that bears her name and allows police to tell neighbors when a dangerous sex offender lives in their midst.

The court's 6-to-1 decision permits state authorities to begin notifying communities — in perhaps in less than two months — about the whereabouts of convicted rapists and molesters. The process had begun last fall, but stalled for months when the enabling legislation, called "Megan's Law," was challenged in court.

But many of the estimated 4,000 men in the state with criminal records of sexual deviance could effectively escape the state's mass notification campaign by appealing in federal court, experts predicted. Two U.S. District Court judges already have

declared some parts of New Jersey's law unconstitutional, and yesterday's verdict will be appealed to the U.S. Supreme Court by an unidentified convict who challenged the law, his attorney said.

Megan's Law is the toughest measure of its kind in the nation, the court said. The public furor ignited in New Jersey by the death of Kanka and two other young girls from the Shore area in similar cases quickly spread to other states where identical laws have been proposed.

Maureen Kanka, who has crusaded relentlessly since her daughter's death, was in Albany yesterday

From page A1.

where New York Gov. George Pataki signed a New York version of Megan's Law.

"It's like a personal triumph for us, that this really means something so good after something so bad happened to my daughter," Maureen Kanka said in a statement.

In a ruling that surprised many state officials, the New Jersey Supreme Court said society has a right to protect itself against sexual predators by identifying them publicly. That right, the justices stressed repeatedly, is more important than the chance that the law could be abused to embarrass past offenders.

"The court does not perceive in this case a society seeking vengeance, demanding the names of previously-convicted sex offenders in order to further punish them, but rather families concerned about their children who want information only in order to protect them," wrote Justice Chief Justice Robert N. Wilentz, for the majority.

Critics contend that the law is nothing more than modern branding of a criminal who already paid his debt to society. Justice Gary S. Stein agreed, as the lone dissenter on the court.

But Richard Kanka, the father of 7-year-old Megan Kanka, kissed Gov. Whitman on the cheek at a Trenton news conference yesterday and told a throng of media his daughter would be alive today if he had known about the history of a neighbor, Jesse Timmen-dequas, 34, who is awaiting trial.

"My wife and I were very happy with the decision," Kanka said. "In the back of our mind we were expecting it, because we knew it was the right thing."

Neighbors will be told directly only about sex offenders with a history of compulsive behavior, a small portion of the state's sex criminals. But in some cases, community groups could also be informed about offenders who present somewhat less risk. Local police departments will be told about all offenders coming out of prison or known to live in New Jersey.

Despite the justices' general support for the law's constitutionality in their 162-page ruling, the court rejected the state's method for classifying the potential danger of offenders. The law gave county nonresidents final classification. The criminal would have to prove he was not a risk to the community, but lawyers representing some of the offenders said yesterday they were pleased with the judicial review provision.

The justices also ordered the state to refine exactly how offenders will be classified. Only residents who are "likely to encounter" a dangerous offender should be told directly, the court ruled. The court also ordered the state to select a three-judge panel to review how all counties do their

classifications to make sure methods are uniform.

"When Megan's Law is implemented, it will not be in the cavalier fashion allowed under the original legislation," said Ronald K. Chen, the Rutgers-Newark Law School professor who served as court-appointed counsel to convicted rapist Carlos Diaz. "This at least makes the cup half-full."

In addition to legal obstacles, Megan's Law still faces several significant hurdles.

Only about 2,000 sex offenders have registered their addresses with

In Monmouth County, 45 registered criminals are considered dangerous enough to announce their presence to neighbors, said Prosecutor John Kaye. About 180 have registered, and at least 15 should have but have not, he added. That is far better than the statewide average.

In Ocean County, another 180 men have registered with authorities, but the county prosecutor's office has not classified them by risk, said Lt. Michael Murray. Only a few criminals have not registered, he said.

In Middlesex County, 223 men have registered. Again, officials have not decided how many are dangerous enough for direct door-to-door notification.

The notification process also is expected to be slowed considerably by the court's insistence that each criminal be able to appeal his classification.

But Gov. Whitman and Sen. Peter A. Inverso, R-Mercer, sponsor of the law, said the court decision vindicated their belief that Megan's Law was fair.

"In spite of the skepticism in which some hold the legislative process in this state and the way we go at it, we were very confident what the law

President Clinton also praised the ruling, saying it would "enhance the ability of every community to fight crime."

Megan Kanka's murder was among several highly publicized killings of young girls in New Jersey in which suspects had histories of sexual deviance. Occurring over the course of a year, the cases enflamed public sentiment.

Amanda Wengert, 6, of Manalapan Township, was allegedly sexually molested and murdered by a neighbor in March 1994.

"I'm extremely pleased on the judges' ruling that they upheld Megan's Law," said Karen Wengert, Amanda's mother. "It's time that we're able to protect the children and innocent people and not the offenders."

Wengert also said her daughter's death could have been prevented if the neighborhood knew of the history of one who lived among them — Kevin Aquino.

"I would have known he was a convicted sex offender. My children would have known Amanda would



● A ribbon on Richard Kanka's lapel is a reminder of his daughter.

Please see High court, page A11

NJ Supreme Court Upholds Megan's Law, Notifications To Resume Soon

By RALPH SIEGEL=
Associated Press Writer=

TRENTON, N.J. (AP) The state Supreme Court Tuesday upheld Megan's Law, ruling in a 6-1 decision that it was constitutional to notify a neighborhood when a convicted sex offender lives there or moves in.

Gov. Christie Whitman said notifications about convicted sex offenders would resume in four to six weeks.

Some form of notification had occurred in about three dozen cases around the state in January and February, but the practice was halted by lower-court rulings.

Whitman, Attorney General Deborah Poritz and Maureen Kanka, mother of the girl whose death prompted the law, Tuesday hailed the Supreme Court's decision as a triumph that should encourage other states to enact similar laws.

"I was thrilled. I was crying," Kanka said. "It was a long night last night. I was a nervous wreck.

"With the state Supreme Court's decision today, I think this is going to open a lot of doors in other states. This is like a new wave across the country," said Kanka, who attended ceremonies in Albany on Tuesday where Gov. George Pataki signed New York's version of the sex-offender registration law.

The Supreme Court did make some changes to the Megan's Law scenario established last year by the New Jersey Legislature most significantly by stripping county prosecutors of the sole authority to decide which convicted sex offenders pose a risk to the public and when to issue warnings.

The court ordered that judges in the state's 15 court jurisdictions conduct hearings lasting no more than several days to decide whether an individual sex offender should be subject to community notification and to what extent residents should be warned.

Tuesday's ruling ends for the moment the drama that began when 7-year-old Megan Kanka was killed on July 29, 1994, in Hamilton Township.

Jesse Timmendequas, a former sex offender who lived across the street from the Kanka household, has been charged with the girl's rape and murder.

The crime provoked outrage in the community. Neighbors claimed they did not know the man charged in Megan's killing was a sex offender who had recently been released from a state institution.

The outcry prompted lawmakers to introduce community notification legislation. In October, Whitman signed Megan's Law, which requires offenders to register with police and provides for warnings to the community.

"We remain convinced the statute is constitutional. To rule otherwise is to find society is unable to protect itself from sexual predators by adopting the simple remedy of informing the public of their presence," Chief Justice Robert Wilentz wrote in the majority opinion. "We sail on truly uncharted waters, for no other state has adopted such a far-reaching statute."

The case that led to Tuesday's decision, Doe vs. Poritz, was filed by a Burlington County sex offender identified only as John Doe, who feared that community exposure about his past crimes would cost him his job and ruin his life.

Doe's lawyer, John Furlong, said he remains convinced Megan's Law is unconstitutional because it punishes one group. "He assured me he would carry the fight to the Supreme Court," Furlong said.

But Furlong said he was pleased that Doe will have a chance to contest any community notifications before they proceed. "The bottom line is this: John Doe got the relief he sought. There will be no community notifications without a prior due-process hearing," he said.

"Each side has something to crow about," said Edward Martone, executive director of the state chapter of the American Civil Liberties Union, which joined with Doe in bringing the case to the state Supreme Court.

In addition to the state case decided Tuesday, Megan's Law also has been challenged in federal court, including the Alexander A. Artway case, which on Feb. 28 prompted U.S.

District Judge Nicholas Politan to find that Megan's Law was unconstitutional as applied in that case. It and other federal cases are on appeal.

Pataki Signs Community Notification Bill As New Jersey Upholds Law

By NEKESA MUMBI MOODY= Associated Press Writer=

ALBANY, N.Y. (AP) New York became the latest state to adopt a "Megan's Law" Tuesday as Gov. George Pataki signed a bill that gives communities access to records of convicted sex offenders.

Pataki's action came shortly after the New Jersey Supreme Court upheld the law in that state named after 7-year-old Megan Kanka, who was raped and killed last July in her Hamilton Township, N.J., neighborhood. A convicted sex offender has been charged in that crime.

"It's like a personal triumph for us, that this really means something so good after something so bad happened to my daughter," said Maureen Kanka, Megan's mother, who was at the state Capitol to witness the bill-signing ceremony.

Following her daughter's death, Mrs. Kanka pushed New Jersey to pass a law that gives communities access to convicted sex offenders' records, and then brought her campaign to states that did not already have similar legislation.

The bill created in New York would set up a statewide registry for convicted sex offenders, and would also give people access to their records through a 900-number.

New York becomes the 47th state with some form of a Megan's Law, according to state Attorney General Dennis Vacco's office.

Creation of a law appeared uncertain this year until state Assembly Speaker Sheldon Silver said he would bring it to the floor of his house for a vote near the end of the 1995 legislative session. Silver said he was doing so even though he had doubts about the bill's legality.

Republicans brought pressure on Silver by holding an emotional news conference with Megan's mother, the father of California murder victim Polly Klaas and the father of suspected abduction-and-slay victim Sara Anne Wood.

The legislation passed the Assembly with only nine "no" votes. It earlier passed the Senate with only one dissenting vote.

All of the parents were present again as Pataki signed the measure into law.

"I really wish that he had the power to bring my little girl back," a teary-eyed Robert Wood, of Frankfort, N.Y., said as Pataki prepared to sign the bill.

One of the few Assembly members to vote against the bill last month continued to criticize the measure on Tuesday.

"I find it frightening that we're setting up a precedent for 900-numbers, where you can call up and find this information," said Manhattan Democrat Scott Stringer. "Where does it stop?"

Stringer said he voted against the bill because he feared it was constitutional, and believes it will be struck down by New York's top court.

"I'll be satisfied when the Court of Appeals of New York renders a decision," he said.

However, supporters of the law were buoyed by the 6-1 New Jersey Supreme Court decision Tuesday that upheld the constitutionality of a similar law there.

"I think that it's a great sign for the survival of our own law here," Vacco said.

"I'm just thrilled, we worked very hard for this," said Mrs. Kanka. "This type of legislation, what it does is that it gives a little bit of enlightenment and control to the parent."

Marc Klaas acknowledged concerns that some convicted sex offenders would simply drop from sight and leave the state for places where such laws were not in place. But he added that might encourage all states to adopt similar legislation.

"I would hate to be the last state (to have Megan's Law)," he said.

The legislation will go into effect in New York late next January.

7/26/95

Megan's Law legal, says top N.J. court

Sex offender program to resume in 4-6 weeks

BY PEGGY WRIGHT
AND MICHAEL VALKYS
Daily Record

A1

It is constitutional to notify residents when a sex offender moves into a neighborhood, although judges must decide when notification is made, the state Supreme Court ruled yesterday.

In a 6-1 decision upholding New Jersey's so-called Megan's Law, the court ruled that a law requiring certain convicted sex offenders to register with their local police department is constitutional.

A law providing for the community to be notified when a high-risk paroled sex offender moves into the neighborhood also was generally upheld, but the court imposed limits. It stripped county prosecutors of the sole authority to decide which offenders pose a risk and when to issue warnings.

Yesterday's ruling was hailed by Gov. Christie Whitman, President Clinton and others, including the mother of the law's namesake, 7-year-old murder victim Megan Kanka.

"With the state Supreme Court's decision today, I think this is going to open a lot of doors in other states. This is like a new wave across the country," said Maureen Kanka, who

attended ceremonies yesterday where New York Gov. George Pataki signed a similar law.

Notification, which had been put on hold after state courts suspended the law, should resume in four to six weeks, Whitman said.

In Morris County, where 102 released sex offenders have registered under the law's provisions, Assistant County Prosecutor Karin Kelly-Weisert said: "I applaud the Supreme Court. It's important in our day and age to have registration and notification about sex offenders so we can have protections in place for our children."

Kelly-Weisert is chief of the county's sex crimes/child abuse unit.

Morris County Prosecutor W. Michael Murphy Jr. did not return calls seeking comment.

The registration and community notification statutes were challenged by a convicted sex offender from Burlington County on the grounds he was being subjected to cruel and unusual punishment for a crime he'd already paid for in prison. His lawyer said he would appeal.

The bills, and subsequent guidelines to be used in community notification, were sparked by the slayings of Megan Kanka in Hamilton and 6-year-old Amanda Wengert in Manalapan, both allegedly by sex offenders.

The court found the laws do not violate provisions of the U.S. and state constitutions against double jeopardy, cruel and unusual punishment, and other protections. It said sex offenders would not be deprived of equal protection and privacy rights.

"We remain convinced the statute is constitutional," Chief Justice Robert Wilentz wrote in the court's

See RULING / A12

the club

New York became the latest state to adopt a "Megan's Law" yesterday shortly after the New Jersey Supreme Court upheld the Jersey version of the law. A12

Chronology

The events that led to yesterday's ruling by the state's top court. A12

INSIDE
Joining

1/2

Ruling

Continued from A1

majority opinion. "To rule otherwise is to find society is unable to protect itself from sexual predators by adopting the simple remedy of informing the public of their presence."

Challengers could still appeal to higher federal courts.

A federal judge has ruled that it is unconstitutional to apply Megan's Law to sex offenders who committed their offenses before the law took effect. That ruling is being appealed.

The court fully upheld registration of sex offenders. On the community notification issue, however, it decided certain safeguards were needed.

Kentil resident Edward J. Samanick Jr., who served 10 years in state prison for aggravated sexual assault on three girls in Warren County, believes he was unfairly labeled a risk of being a repeat offender.

Under the ruling, Samanick, 47, released two days before Christmas, would get the chance to convince a judge he's no longer a risk and reduce the number of people to be told he's their neighbor.

"Yes, there would be a law, but to what extent?" Samanick said yesterday. "I have no objection to having anyone know that I'm home, but the way they want about it is all wrong. Do some research before you classify someone."

Guidelines for notification established a three-tier process that classifies sex offenders on the risk they pose to a community.

Tier One requires the victim and law enforcement agencies to be notified of an offender's release

and address.

Tier Two requires notification to law enforcement agencies, schools and community groups.

Tier Three, for offenders considered at high risk of repeating a sex crime, requires notification of residents of the neighborhood a parolee is moving into, as well as schools, police agencies, and community and religious groups.

Under the ruling, any person classified by the county prosecutor in Tier One or Two would be notified of the designation first and given the chance to appeal to a judge in a closed hearing. The offender bears the burden of persuading the judge he would not commit another offense.

Notification guidelines also must be revised by the state Attorney General's Office because they exceed their statutory authority.

Tier Three notifications must be confined to those members of the public likely to encounter the offender. To that extent, notifications through community meetings, speeches in schools and religious congregations are not permitted, the court ruled.

Attorney General Deborah Portz said her staff is now trying to determine how soon such notifications can resume.

"We are looking at the orders and what we have gotten from the federal courts... to make certain that there is no bar to us going forward," Portz said. "The government suggested a month and I think we can do that."

Whitman acknowledged the state had some work to do before the notifications can resume.

"Because of the nature of the requirements that are embodied in this decision, it will still take some time before we're able to go out with full notification," she said.

ASSOCIATED PRESS reports were incorporated in this story.

Supreme Court Equates Megan's Law With Right To Keep Community Safe

An AP News Analysis By RALPH SIEGEL= Associated Press Writer=

TRENTON, N.J. (AP) Can a neighborhood take steps to protect itself from dangerous people, especially those who suffer from sexual pathologies that prompt them to attack children?

Supreme Court Chief Justice Robert Wilentz boiled Megan's Law down to that simple equation in a 163-page opinion issued Tuesday.

Finding community notification about sex offenders to be constitutional, Wilentz said, "To rule otherwise is to find society is unable to protect itself from sexual predators by adopting the simple remedy of informing the public of their presence."

Children have been attacked before, but the savage killing of 7-year-old Megan Kanka last July just a few miles from the seat of state government triggered the most stern response yet in state law.

If authorities are to be believed, Megan was lured into the house of Jesse Timmendquas, a neighbor whose face was familiar and who had promised to let her play with a puppy she had noticed earlier in the week.

Unknown to any of the parents on Barbara Lee Drive in Hamilton Township was the fact that Timmendquas had been convicted of a violent sexual attack against a little girl, and had shared his home with two other convicted sex offenders. All of them had been diagnosed as the type of sex offenders who were compelled to commit their crimes, and so were likely to repeat them.

At a news conference Tuesday, Megan's father, Richard Kanka, his face bearing the weight of this week's tragic anniversary, told a phalanx of TV cameras that sex-offender notification along Barbara Lee Drive would have saved his daughter's life.

"If there was a face on the danger, we would have (known)," Kanka said. "Megan would have knew."

Wilentz saw that same point.

"The registration and notification laws are not retributive laws, but laws designed to give people a chance to protect themselves and their children," he wrote.

"The essence of our decision is that the constitution does not prevent society from attempting to protect itself from convicted sex offenders, no matter when convicted, so long as the means of protection are reasonably designed," the opinion said.

But there was a cautionary comment late in the ruling. Wilentz noted the court is "sailing in uncharted waters" because no state has gone as far in community warnings as Megan's Law does.

In the Newark federal courthouse, Judges Nicholas Politan and John Bissell had already agreed. They ruled in separate cases earlier this year that Megan's Law went much too far because community notification amounts to a palpable punishment for sex offenders.

The punishment aspect, the federal judges reasoned, makes Megan's Law a violation of the U.S. Constitution's clause banning ex-post facto laws, literally "after the fact" laws.

Harvey Kornberg, a legal scholar at Rider University, said when state and federal courts are in conflict, federal courts win if the issues at hand are federal issues as is the case in Megan's Law.

"If the federal courts find that the state law is in violation of the federal constitution, it is dead. The federal courts are superior," Kornberg said.

However, Attorney General Deborah Poritz so far has concluded the federal rulings by Bissell and Politan apply only to the two sex offenders who filed those cases.

Rutgers University professor Ronald Chen, who brought

one of the federal cases, said it might require a class-action lawsuit to have court orders apply more broadly and he, for one, has no immediate plan to file one.

Chen also said that while higher appeals are required, Wilentz's ruling was valuable since the chief justice wrote tighter guidelines for Megan's Law.

"It takes awhile to understand this, and sometimes it gets lost in the legalisms, but it was very expansive in the way it afforded protections (to offenders) on procedural grounds," Chen said. "We are very happy. ... The number of notifications is going to become much smaller."

John Furlong, the lawyer who brought the Supreme Court case on behalf of an offender identified only as John Doe, agreed it was a win for his client because he will get his day in court before a judge before any community notification can occur.

State officials said community notifications, active for the first eight weeks of the year, could get under way again in September.

In October, the 3rd Circuit Court of Appeals is scheduled to hear the appeal of Politan's ruling. The lawyer who will likely argue before them in opposition to Megan's Law, John J. Gibbons, is the former chief judge of the 3rd Circuit, now retired.

The Record of Troy on Megan's Law: (July 26)

At what point does public safety take precedence over the constitutional right of the individual?

This is a perplexing question confronting our legal system in the wake of yesterday's signing by Gov. George Pataki of a so-called "Megan's Law" for New York.

The law will require sex offenders released from prison to register with local law enforcement agencies and notify the community they settle in.

The law is based on a New Jersey statute stemming from the sexual assault and murder of seven-year old Megan Kanka last year. She was murdered at the hands of a convicted sex offender who lived across the street but kept his criminal past a secret.

Parents' concern over pedophiles who might be lurking in their neighborhood is understandable. Studies indicate that pedophiles are the least likely to change their behavior over time.

However, the recent proliferation of community right-to-know laws regarding criminals is treading on dangerous constitutional ground.

Similar laws in some other states have been ruled illegal, mostly based on the fact that they levy additional punishment on released criminals who have done their time.

Getting behind laws that protect children from pedophiles is an easy call for most politicians looking to ingratiate themselves in the minds of angry voters. It makes them look tough on crime and provides reams of re-election bumper sticker fodder.

Defending the Constitution, especially when in the area of criminal rights, is a tougher task. Many voters consider anyone who takes such stands as simply being more concerned with coddling criminals than they are with protecting public safety.

The state Supreme Court in New Jersey upheld Megan's Law, ruling it is constitutional to notify a community when a convicted sex offender moves in.

If such laws are upheld, a middle ground needs to be reached on this volatile issue to ensure everyone's rights are protected.

Whitman Said Notification Of Sex Offenders Could Resume In 4-6 Weeks

By BARBARA FITZGERALD=
Associated Press Writer=

TRENTON, N.J. (AP) There's one lingering question now that the state Supreme Court has upheld the constitutionality of community notification about the presence of convicted sex offenders whether it will hold up in federal court.

Following Tuesday's ruling, Gov. Christie Whitman said neighbors, teachers, parents and day care providers may once again be told about convicted sex-offenders in their area in four to six weeks.

Defense attorneys question whether Whitman's time line is realistic, given the new provisions the state Supreme Court set up Tuesday. But prosecutors didn't see any major problems with those requirements.

"I don't know that looking at what the Supreme Court has said is going to add so significantly to our burden," said Mercer County Prosecutor Maryann Bielamowicz. "I think with time this will work and will work well."

Last fall, lawmakers passed one of the most sweeping notification laws in the country, known as Megan's Law. It requires law enforcement officials to tell segments of the public when certain convicted sex-offenders are released into their neighborhoods.

But such community notifications stopped last February, after challenges were filed and court rulings issued on the law.

Megan's Law also has been challenged in federal court. In February, U.S. District Judge Nicholas Politan ruled that Megan's Law was unconstitutional when it was applied to offenders convicted before the law took effect last fall. It and other federal cases are on appeal.

Attorney General Deborah Poritz said her staff is now trying to determine how soon such notifications can resume.

"We are looking at the orders and what we have gotten from the federal courts ... to make certain that there is no bar to us going forward," Poritz said. "The governor suggested a month and I think we can do that."

Whitman acknowledged the state had some work to do before the notifications can resume.

"Because of the nature of the requirements that are embodied in this decision it will still take some time before we're able to go out with full notification," she said.

At a Newark news conference, John Furlong the lawyer for John Doe, who challenged Megan's Law predicted there would be no community notifications for a long time.

The Supreme Court said in its ruling that the state law did not provide convicted sex offenders enough opportunity to argue whether their name should be released to the community.

Prosecutors had that discretion under the state law, but the Supreme Court said that a judicial review of a prosecutor's decision should be given to offenders. Such a hearing would allow an offender to dispute a prosecutors' recommendation whether he or she is a low risk, moderate risk or high risk to the public.

The higher risk an offender is deemed to pose to the community, the larger the circle of people notified.

Before any of the special closed hearings can take place, the state must revise its guidelines for such risk classifications and assign judges. In addition, ex-offenders can request a court-appointed lawyer, and prosecutors must gather all documents related to each case, the court ruled.

One state judge in each of New Jersey's 15 judicial districts would hear the Megan's Law cases, deciding the appropriate level of notification, if warranted, and how the notification was to be done.

Offenders could seek a stay pending appeal to a single three-judge panel if notification was imposed. Both prosecutors and offenders could appeal the hearing judge's decisions.

"We don't anticipate any notification taking place for a long time," said Marsha Wenk, state American Civil Liberties Union legal director.

But the Supreme Court was careful to point out that it did

not intend such reviews to be lengthy court proceedings.

"The procedures we have adopted are intended to assure fairness in implementing the law; they are not to thwart its implementation, and they should not be converted into long drawn-out contests between experts," the court ruled. "We would anticipate that in many of these cases the proceedings would last no more than several days."

The Supreme Court said the Legislature could also "designate or create an appropriate agency to oversee tier classifications and manner of notification, so long as the basic elements of due process, such as notice, an opportunity to be heard and to confront witnesses, are provided.

"Such an agency might better promote uniformity in these matters than would the courts. We do not suggest one is better than the other but simply want to note that our decision does not prevent further legislative action in this area," the court ruled.

State officials said it was too early to decide if they would opt to create such an agency rather than have the review hearings before a judge in court.

County prosecutors said they don't believe the Supreme Court provisions will slow them down much, adding that they have already been working on offender classifications and were just waiting for the go-ahead to start notifications.

"Most of us have been doing the (classification) reviews in our office. We simply haven't been notifying the public," said Hunterdon County Prosecutor Sharon B. Ransavage.

Date: 07/25/95 Time: 13:51

NJ High Court Upholds Law Requiring Convicted Sex Offenders To

TRENTON, N.J. (AP) New Jersey's Supreme Court today upheld the state's Megan's Law, ruling it is constitutional to require that a convicted sex offender notify a community he lives there.

However, the high court agreed with a lower court ruling in February that an impartial review is required before authorities can decide which sex offenders warrant community notification and to what extent residents should be warned about them.

And a federal judge has ruled the law unconstitutional; that ruling is still under appeal.

The law is named for 7-year-old Megan Kanka, who was sexually assaulted and strangled on July 29, and her body left in a park near her home. A former sex offender who had moved into a house across the street from the girl's home was charged.

Gov. Christie Whitman in October signed Megan's Law to require released offenders to register with police and to allow warnings to the community.

State authorities had suspended enforcement of the law pending the Supreme Court ruling issued today. However, it was not yet clear when the law would be put back into effect.

Similar notification rules have been rejected by judges in Alaska, Arizona, California, Illinois, Louisiana and New Hampshire, according to the American Civil Liberties Union.

New York Gov. George Pataki was scheduled to sign a New York version of Megan's Law later today.

Today's 6-1 state Supreme Court ruling came in an appeal filed by a Burlington County sex offender identified only as John Doe, who feared that community exposure of his past crimes would cost him his job and ruin his life.

John Doe's attorney, John Furlong, said he was pleased his client would receive an impartial hearing to determine his level of risk to the community.

But Furlong said sex offenders are still being branded as a separate class by a Supreme Court previously noted for protecting people's rights.

"The balance of the opinion is obviously disappointing to civil libertarians of every political stripe. I am sure they and I will appeal," he said.

About two dozen community notifications had occurred in January and February before Megan's Law was suspended by the state courts.

Also unresolved are several federal court cases, including the Alexander Artway case that on Feb. 28 prompted U.S. District Judge Nicholas Politan to rule that Megan's Law was patently unconstitutional because it amounted to additional punishment after the fact.

U.S. Attorney Faith S. Hochberg, who had gone before the state Supreme Court to argue in favor of the law, hailed today's ruling.

"The decision upholding Megan's Law is a victory for the citizens of New Jersey who deserve the right to protect their children from the dangers of convicted sex offenders," Hochberg said.

APNP-07-25-95 1357EDT

N.J. Supreme Court upholds "Megan's Law"

TRENTON, N.J., July 25 (Reuter) - The New Jersey Supreme Court Tuesday upheld the so-called "Megan's Law," which requires that communities be notified when a convicted sex offender moves in.

The law, named after 7-year-old Megan Kanka who was raped and murdered allegedly by a sex offender who lived in her neighbourhood, is constitutional, the state's highest court ruled.

"The essence of our decision is that the Constitution does not prevent society from attempting to protect itself from convicted sex offenders," the majority opinion said.

One justice dissented, arguing that community notification makes the sex offender's punishment "more burdensome" than the Constitution allows.

The law calling for convicted sex offenders to register with the police departments of their communities took effect Oct. 31, 1994, just two months after Megan's death.

Jesse Timmendequas, 33, a twice-convicted sex offender who lived across the street from the Kanka home, has been charged with the crime. His trial is still pending, although prosecutors say he has confessed.

Community notification under "Megan's Law" was suspended in December when several state and federal lawsuits were filed. Tuesday's ruling settles the state cases but does not mean notification will resume since the federal lawsuits are still pending.

In neighbouring New York State, Gov. George Pataki signed a similar law Tuesday. The New York version is called the "sex offenders notification legislation." It states that communities must be told when a convicted rapist or child molester plans to move into the area.

and murder of a 7-year-old Hamilton Township girl, Megan Kanka. A twice-convicted sex offender who lived across the street but whose past was unknown to the Kankas and other neighbors has been charged with her slaying.

Approximately 2,000 offenders have registered with police since the law took effect Oct. 31, according to figures compiled by the Attorney General's Office. Prosecutors had issued community notices in about 35 cases before that process was suspended by Poritz in March to await Tuesday's decision.

Notifications led to the beating of a Phillipsburg man who was mistaken as a sex offender, and to protests and threats against a Passaic man who sought to move in with his mother. Two Burlington County men left New Jersey after police publicized their identities.

Another Burlington County man, known only as "John Doe," brought the legal challenge that resulted in Tuesday's ruling. Doe pleaded guilty in 1985 to charges of sexually assaulting two teenage boys and was sentenced to a 10-year term at the Adult Diagnostic and Treatment Center in Avenel. At the time, his behavior was found to be repetitive and compulsive. He was paroled in June 1992.

In upholding the law, the court nonetheless urged modifications to the community-notification process to assure that the due-process rights of sex offenders are protected.

As the law now reads, prosecutors are empowered to decide unilaterally whether the risk posed by a sex offender is such that schools or the public should be notified about his presence in the community.

To meet constitutional muster, new guidelines will have to be drafted to give offenders notice of the prosecutor's plans and the right to a closed-door hearing before a judge. Prosecutors will have to present evidence justifying such plans.

The court also narrowed the scope of notification to organizations that care for or supervise women and children, and to persons "likely to encounter" the offender. The guidelines had left open the possibility that notification would be "extended to the entire community," according to the court.

The decision was a clear victory for the Whitman administration. Poritz predicted that Megan's Law would serve as a model for other states.

Opponents of the law, meanwhile, claimed victory on their due-process arguments and vowed to appeal to U.S. Supreme Court.

"The constitutional issues are too significant to the fabric of our society" not to appeal, said Doe's lawyer, John S. Furlong of Trenton.

The battle at the U.S. Supreme Court will likely be fought over the Constitution's ex post facto clause, which prohibits laws that retroactively impose punishment.

U.S. District Judge Nicholas H. Politan ruled in February that the law does mete out additional punishment and thus is unconstitutional. His ruling only applied to sex offenders whose crimes were committed before last Oct. 31, when Megan's Law took effect. An appeal by the state is now pending before the U.S. Third Circuit Court of Appeals.

Anticipating such a challenge, Wilentz devoted nearly one-third of his 163-page opinion to an exhaustive review of federal court decisions on ex post facto challenges.

Wilentz emphasized that the Legislature had not intended Megan's Law to be punitive, but to enable the public to protect itself from offenders who show a high propensity to commit another sex crime.

"We assume that if the legislative purpose was to deter sex offenders, the law would be invalid; and we have no doubt that if the government ordered punishment, the law would be invalid. Neither, however, is the case," Wilentz wrote.

Ultimately, the chief justice said, "we remain convinced the statute is constitutional. To rule otherwise is to find that society is unable to protect itself from sexual predators by adopting the simple remedy of informing the public of their presence."

X X X

(Knight-Ridder reporter Tom Avril contributed to this article.)

MEGANSLAW

By Chris Conway
Knight-Ridder Newspapers

TRENTON, N.J. The New Jersey Supreme Court Tuesday upheld the constitutionality of Megan's Law, but ruled that released sex offenders are entitled to a judicial hearing before prosecutors can notify the community about their presence.

The 6-1 decision is the final word from the state courts on the constitutionality of the controversial law, which requires released sex offenders to register with police and directs prosecutors to alert the public to their presence if the risk is high that they will strike again.

The law's future is still in doubt, however, because challenges are pending in the federal courts, which are the final arbiter of legal questions arising under the U.S. Constitution. Already, one federal judge has found the law unconstitutional as it applies to sex offenders convicted before the law took effect.

Gov. Whitman vowed Tuesday to revise quickly the notification process to conform to the New Jersey court's decision. State Attorney General Deborah Poritz said it was too early to say when notifications would resume.

The New Jersey decision was a sweeping affirmation of society's right "to protect itself" even though sex offenders who have paid their debt to society may face ostracism and vigilante violence as a result of being identified.

Writing for the majority, Chief Justice Robert N. Wilentz said that the "essence of our decision is that the Constitution does not prevent society from attempting to protect itself from convicted sex offenders, no matter when convicted, so long as the means of protection are reasonably designed for that purpose ... and not designed to punish."

Justice Gary Stein, the lone dissent, argued that the law violates the U.S. Constitution's ex post facto clause barring laws that impose punishment retroactively and is therefore unconstitutional. He predicted a "devastating impact" on offenders who fall under the law's community-notice provisions, which he called the most sweeping in the nation.

The law was passed last year after the sexual assault

ORDER NUMBER 950726-155026-LIB002 -001-001

STORY 1

ACCESS 2071129
DATE 950725. TUESDAY
EDITION All Editions.=.3 Star. 2 Star P. 2 Star B. 1 Star Late.
1 Star Early
SECTION NEWS
PAGE a03
TYPE COLUMN
LENGTH 0005.6/0040 INCHES/LINES
COLUMN AROUND THE STATE
SOURCE Wire services
KEY NEW JERSEY. COURT. SEX. CRIME. LAW
HEAD HIGH COURT WILL RULE TODAY ON VALIDITY OF MEGAN'S LAW
BY FROM NEWS SERVICE REPORTS
DATELINE TRENTON

KEYWORD-HIT

The state Supreme Court is expected to rule today on whether it is lawful for the state to keep track of sex offenders and notify neighbors about where they live.

The court's decision on Megan's Law will come just four days before the one-year anniversary of the killing of Megan Kanka, the 7-year-old Hamilton Township girl for whom the law is named.

Court spokesman Richard Pliskin said Monday the opinion in the case, Doe vs. Poritz, had already been made and was scheduled to be released this morning.

Jesse Timmendequas, a convicted sex offender who lived across the street from the Kankas, faces murder and sex assault charges in the crime, which prompted a public outcry demanding community warnings when sex offenders move in.

Megan's Law, signed Oct. 31, triggered community notifications in January for dozens of sex offenders as they were released from prison, but court rulings halted the practice in March.

The case before the high court was brought by a Burlington County sex offender, identified only as John Doe, who sued Attorney General Deborah T. Poritz in order to protect his identity. Doe's lawyer said exposure as a sex offender would cost Doe his job and subject him to harassment in his neighborhood.

END OF STORY REACHED

For 2 bereaved families, law is a measure of comfort

By ART WEISSMAN
PRESS: STATEHOUSE BUREAU

A1 Families

"IF WE KNEW the fate, if there was a face on the danger, we would have known. Megan would have known, and every victim that has suffered the same consequences as my daughter would have known."

To Richard Kanka, that is the hope and the pain of Megan's Law. A hope that other young girls may be someday saved by the law named for his daughter, and the pain that she was never protected by the same type of law from the convicted sex offender living across the street.

It will be a year Saturday since Megan Kanka died, at age 7. To those who knew and loved Megan, the Supreme Court's decision yesterday upholding Megan's Law, and its provisions permitting neighbors to be told about convicted sex offenders living nearby, makes the week a little easier.

"It's a very, very solemn week for us. We're on a very emotional roller coaster at this point. This helps out obviously more than a disappointment would have," Megan's father told a dozen television cameras at a news conference, after the court unveiled its ruling. "We're going to take each day as it comes."

There were tense hours, after the justices made their decision Monday and before the ruling could be announced. Maureen Kanka, who watched Gov. George Pataki sign New York's version of Megan's Law

Please see Families, page A11

From page A1

in Albany yesterday, "was a nervous wreck."

The calls came early, with Mrs. Kanka hearing first. "I was thrilled. I was crying, happy, pleased," she said.

"We were just hoping for the best and we got what we were looking for," said her husband.

For a few hours yesterday, emotions were set aside for legal discussions. There were reviews of the court's 162-page decision and 60-page dissent, and speculation about hearings still to come. Two federal judges in New Jersey have struck down part of the law; the unidentified offender who challenged the law is appealing to the U.S. Supreme Court.

Yet there were still the memories of deaths that prompted Megan's Law.

"I would have known he was a convicted sex offender. My children would have known," said Karen Wengert of Manalapan Township. Amanda, her 6-year-old daughter, was murdered last year, allegedly by a neighbor with a record of two juvenile sex-related offenses.

"Amanda would have known. They would never have been allowed to be near him," she said.

But there were warnings, too, that Megan's Law cannot be a guarantee of safety.

"The worst thing in the world for anyone to do is presume that this legislation, no matter how good it is, or today's decision, no matter how good it was for the state of New Jersey, is going to stop these kinds of crimes," said Gov. Whitman, who signed Megan's Law last fall. "It won't, and parents still need to be extraordinarily vigilant."

"It's not always going to be a repeat offender. Unfortunately, that's not the way the world works," the governor said.

James O'Brien, who started New Jersey's victims' rights association after his daughter was murdered in 1982, cautioned that Megan's Law "is only a tool, it is not a panacea. And the public in the state of New Jersey is definitely smart enough to realize that."

Pine Beach Police Chief Glenn P. Jones yesterday was pleased the law was upheld.

"It puts these people (offenders) on notice that people are going to know they are out and about," Jones said.

The worst thing in the world for anyone to do is presume that this legislation, no matter how good it is, or today's decision, no matter how good it was for the state of New Jersey, is going to stop these kinds of crimes.

Gov. Whitman

Pine Beach was one of the first towns to deal with the then-fledgling Megan's Law last December when Edward Ridgeway, classified as a third-tier offender, moved into his sister's home in a trailer park on Route 9.

Pine Beach police officers went door-to-door passing out information about Ridgeway and were ordered to increase patrols near the home.

Ridgeway moved out of the borough in June, Jones said — to where, he doesn't know.

Jones praised the residents of this small borough for not overreacting when Ridgeway moved in.

"Our residents were very responsible adults," he said.

Borough police had no problems with Ridgeway while he lived in town, Jones said.

Richard Kanka knows that Megan's Law is not a solution. "But darn it," he said, "people just want to know who the person is that's going to harm you."

While Kanka believes the battle in New Jersey is finished, he's ready to fight in other state capitals, far from Trenton. California may be next.

"With the state Supreme Court's decision today, I think this is going to open a lot of doors in other states. This is like a new wave across the country," said Maureen Kanka.

This weekend, though, will be for Megan, with a candlelight vigil at the spot she died in Hamilton Township. And the Kankas hope that potential vigilantes, who might seek vengeance against convicted sex offenders, will heed their plea.

"You can't guarantee anything with anybody. But we're hoping that people will listen to what Maureen and myself are saying," Kanka said. "Please, let the laws take effect and let everybody just try to live and live together."

Press staff writer Thomas Zolper and The Associated Press contributed to this story.

7/26/95

Lawyers hail Megan decision

By JEFF MAY
Courier-News Staff Writer

Central Jersey prosecutors hailed the state Supreme Court ruling Tuesday to uphold Megan's Law with minor changes.

"I'm gratified by the decision," said Hunterdon County Prosecutor Sharon Ransavage. "I think it is a careful balance of the rights of defendants against the rights of the community as a whole, particularly children."

Megan's Law, the informal name for a package of statutes, requires convicted sex offenders to register with local authorities. In cases where the risk of a repeat offense is strong, the law provides for limited community notification.

Although it upheld the law, the Supreme Court ruled that sex offenders

are entitled to judicial review before public notice goes out. The court's decision also clarifies the scope of notification required for each risk category.

"We welcome that, because it's not an easy task to do this kind of assessment," Ransavage said.

Community notification has been suspended since February to allow challenges to the law to be heard, but county prosecutors have continued to register offenders. Hunterdon County, getting the jump on other jurisdictions, has been reviewing the files of 97 people who have registered so far.

Somerset County Prosecutor Nicholas L. Bissell Jr. said a ruling upholding the law wasn't unexpected.

"We had been disappointed with previous decisions that enjoined the use of it," he said. "I think it's a victory really for everybody."

Somerset County has already reg-

istered 72 adult and juvenile offenders.

In most instances, evaluations of offenders will continue as they did before, said Middlesex County Assistant Prosecutor Peter S. Hamerslag, who is in charge of the county's Megan's Law cases.

Because offenders can object to notification before a judge, "the process will be slower and a bit more cumbersome," Hamerslag said.

As of June, Middlesex had 223 offenders registered, Hamerslag said.

The court's decision will also have an impact on Fanwood's municipal ordinance that requires convicted sex offenders to register with police. The ordinance, adopted four months before the state enacted Megan's Law, will likely have most of its provisions pre-empted, said Borough Attorney Dennis Estis.

Megan's Law upheld

Notifications about sex offenders to resume

By CARL A. WINTER
Courier-Post Staff

A1

TRENTON — The state Supreme Court on Tuesday upheld the constitutionality of Megan's Law, ruling authorities can notify a community of a sex offender's presence.

But an attorney for the Burlington County man who challenged the law said he will appeal the decision to the U.S. Supreme Court.

In its 6-1 decision, the state court ruled Megan's Law does not cause additional punishment for sex offenders.

However, the court also set new guidelines, saying judges — not county prosecutors — should make decisions concerning the extent of any community notice. That will allow offenders to have judicial hearings.



PORITZ



KANKA

"The essence of our decision is that the Constitution does not prevent society from attempting to protect itself from convicted sex offenders," Chief Justice Robert N. Wilentz

wrote in the majority opinion.

A federal judge has disagreed with that view, setting the stage for a showdown in U.S. Supreme Court.

Megan's Law requires convicted sex offenders to register with police and empowers authorities to go public with the information.

Notifications about sex offenders are expected to resume in four to six weeks, said Gov. Whitman. The process, previously handled by county prosecutors, had stopped earlier this year after lower-court rulings.

Tuesday's decision came four days before the first anniversary of the rape-murder of Megan Kanka, 7, of Hamilton Township, Mercer County, whose death spurred the

Please see MEGAN, Page 4A

1/2

COURIER-POST

7-26-95

2/2

Megan/N.J. court upholds legality of notification law

Continued from Page 1A

legislation. A neighbor, whose previous convictions for sex offenses were not known to the Kanka family, has been charged in Megan's death.

Richard Kanka said the law could have saved his daughter. "If there was a face on the danger, we would have known. Megan would have known," he said.

The ruling "is going to open a lot of doors in other states," said Kanka's wife, Maureen. She attended ceremonies in Albany Tuesday where Gov. George Pataki signed New York's version of Megan's Law.

In his legal challenge, John Doe had argued that Megan's Law violated his privacy and denied him an opportunity to rebut the prosecutor in a neutral forum.

In February, Burlington County Superior Court Judge Harold B. Wells ruled that Megan's Law was constitutional. But he also held that John Doe was entitled to present his case to an impartial arbiter.

For the most part, the Supreme Court's majority shared that view. But the court reversed Wells' finding that the attorney general had exceeded her powers in issuing guidelines instead of regulations.

That means changes in Megan's Law procedures will not require publication and public comment.

"This was an opinion that split the baby," John Furlong, a Trenton attorney for Doe.

"On the one hand, John Doe was extremely gratified that the Supreme Court granted him his due process rights. On the other, if Doe's protectable interests warrant a hearing, why not full constitutional protection?"

Burlington County Prosecutor Stephen G. Raymond said the court produced "a very positive, well thought-out decision."

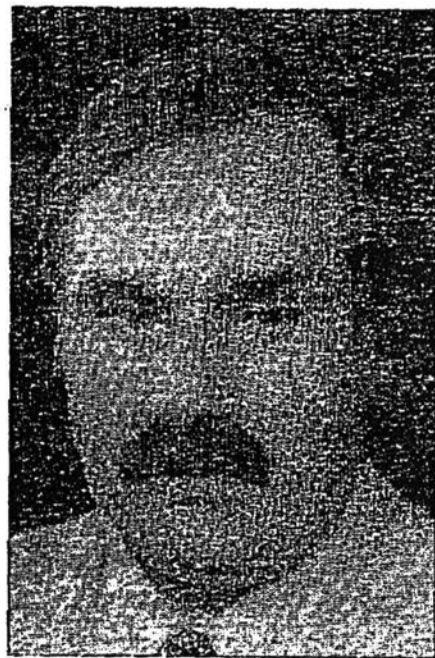
"It goes a long way in protecting the children, while providing a mechanism for the offender to go to court to challenge the classification," he said.

Megan's Law allows three levels of notification. In the lowest, offenders are identified only to local police. The highest level calls for the widest public notice.

County prosecutors now are reviewing files of more than 2,000 offenders who have registered with police. That includes 149 people in Burlington County and 65 in Gloucester County. Figures for Camden County were not available.

As many as 2,000 offenders may not have registered yet, Attorney General Deborah Poritz said at a briefing.

Requiring registration with police has withstood challenges in both state and federal courts. But U.S. District Judge Nicholas Politan ruled in February that



RICHARD KANKA

... law could have saved daughter

public notice violates the Constitution by adding punishment for offenders whose crimes were committed before last Oct. 31, when the law was enacted.

The state has appealed Politan's ruling, which put community notification on hold. A federal appeals court is scheduled to hear the case in October, Poritz said.

In light of the state Supreme Court's "comprehensive opinion," Poritz said, her staff is studying whether the state needs the Third Circuit to lift the federal court orders.

"Right now... it would appear that we can give notice, but I don't want to say that as a final decision. I think we need to examine it further," she said.

Court upholds Megan's Law

7-26-95 AI
Notifications may start in less than 2 months

By THOMAS ZOLPER AI
Home News Statehouse Bureau

TRENTON—Almost a year after Megan Kanka was lured off her bicycle and strangled, the state Supreme Court yesterday sanctioned a pioneering state law that bears her name and allows police to tell neighbors when a dangerous sex offender lives in their midst.

The court's 6-to-1 decision permits state authorities to begin notifying communities — perhaps in

less than two months — about the whereabouts of convicted sex offenders. The process had begun last fall but stalled for months when the enabling legislation, called Megan's Law, was challenged in court.

But many of the estimated 4,000 men in the state with criminal records of sexual deviance could effectively escape the state's notification campaign by appealing in federal court, experts predicted. Two U.S. District Court judges already have declared

some parts of New Jersey's law unconstitutional, and yesterday's verdict will be appealed to the U.S. Supreme Court by an unidentified convict who challenged the law, his attorney said.

■ See UPHELD, page A6

New York Gov. George Pataki signs a "Megan's Law" bill giving communities access to records of convicted sex offenders. PAGE A8

Continued from page A1

Megan's Law is the toughest measure of its kind in the nation, the court said. The public furor ignited in New Jersey by the death of Kanka and two other young girls from the Shore area in similar cases quickly spread to other states where identical laws have been proposed.

Maureen Kanka, who has crusaded relentlessly since her daughter's death, was in Albany yesterday where New York Gov. George Pataki signed a New York version of Megan's Law.

"It's like a personal triumph for us, that this really means something to good after something so bad happened to my daughter," Maureen Kanka said in a statement.

In a ruling that surprised many state officials, the New Jersey Supreme Court said society has a right to protect itself against sexual predators by identifying them publicly. That right, the justices stressed repeatedly, is more important than the chance that the law could be abused to embarrass past offenders.

"The court does not perceive in this case a society seeking vengeance, demanding the names of previously convicted sex offenders in order to further punish them, but rather families concerned about their children who want information only in order to protect them," wrote Justice Chief Justice Robert N. Wilentz, for the majority.

Critics contend that the law is nothing more than modern branding of a criminal who already paid his debt to society. As the lone dissenter on the court, Justice Gary S. Stein agreed.

But Richard Kanka, the father of 7-year-old Megan Kanka, kissed Gov. Christie Whitman on the cheek at a Trenton press conference yesterday and said his daughter would be alive today if he had known about the history of a neighbor, Jesse Timmendquas, 34, who is awaiting trial.

"My wife and I were very happy with the decision," Kanka said. "In the back of our mind we were expecting it, because we knew it was the right thing."

Neighbors will be told directly only about sex offenders with a history of compulsive behavior, a

small portion of the state's sex criminals. But in some cases, community groups could also be informed about offenders who present somewhat less risk. Local police departments will be told about all offenders coming out of prison or known to live in New Jersey.

Despite the justices' general support for the law's constitutionality in their 162-page ruling, the court rejected the state's method for classifying the potential danger of offenders. The law gives county prosecutors final authority to classify criminals in a three-tier system, with only the most dangerous offenders subject to full community notification.

The court ruled each offender must be allowed to appeal the prosecutor's classification. The criminal would have to prove he was not a risk to the community, but lawyers representing some of the offenders said yesterday they were pleased with the judicial-review provision.

The justices also ordered the state to refine exactly how offenders will be classified. Only residents who are "likely to encounter" a dangerous offender should be told directly, the court ruled. The court also ordered the state to select a three-judge panel to review how all counties do their classifications to make sure methods are uniform.

"When Megan's Law is implemented, it will not be in the cavalier fashion allowed under the original legislation," said Ronald K. Chen, the Rutgers-Newark Law School professor who served as court-appointed counsel to convicted rapist Carlos Diaz. "This at least makes the cup half-full."

In addition to legal obstacles, Megan's Law still faces several significant hurdles.

Only about 2,000 sex offenders have registered their addresses with officials, and that is half the number estimated to live in the state, said Attorney General Deborah Poritz. She is the chief architect and court defender of the law.

In Middlesex County, 223 men have registered. Officials have not decided how many are dangerous enough for direct door-to-door notification.

In Monmouth County, 45 registered criminals are considered dangerous enough to announce their presence to neighbors, said

Prosecutor John Kaye. About 180 have registered, and at least 15 should have but have not, he added.

In Ocean County, another 180 men have registered with authorities, but the county prosecutor's office has not classified them by risk, said Lt. Michael Murray. Only a few criminals have not registered, he said.

The notification process also is expected to be slowed considerably by the court's insistence that each criminal be able to appeal his classification.

But Whitman and Sen. Peter A. Inverso, R-Mercer, sponsor of the law, said the court decision vindicates their belief that Megan's Law is fair.

"In spite of the skepticism in which some hold the legislative process in this state and the way we go at it, we were very confident what the outcome would be here," Whitman said. "We took a great deal of time here to ensure that we learned from other states, where there had been problems, where there had been reversals. We learned from that."

President Clinton also praised the ruling, saying it would "enhance the ability of every community to fight crime."

Megan's murder was among several highly publicized killings of young girls in New Jersey in which suspects had histories of sexual deviance. Occurring over the course of a year, the cases enflamed public sentiment.

Amanda Wengert, 6, of Manalapan was allegedly sexually molested and murdered by a neighbor in March 1994.

"I'm extremely pleased on the judges' ruling that they upheld Megan's Law," said Karen Wengert, Amanda's mother. "It's time that we're able to protect the children and innocent people and not the offenders."

Wengert also said her daughter's death could have been prevented if the neighborhood knew of the history of one who lived among them — Kevin Aquino.

"I would have known he was a convicted sex offender. My children would have known. Amanda would have known. My children would never have been allowed near him," Wengert said.

Statehouse Bureau staff writers John Hassell, Art Weissman, Mary Caffrey and Jessica Nesterak contributed to this story.

7-26-95

PROSECUTOR TRACKS OFFENDERS

7-26-95

A1

By TIA SWANSON
Home News Staff Writer

A1

This was not her home, but Megan Kanka's death — and a law named after her — hit a resounding chord in Middlesex County.

There was public grandstanding and outrage. And quickly there was government action.

In August, a few weeks after her murder, Edison became the first municipality in the state to adopt laws requiring sex offenders to register with authorities. Others, including East Brunswick and Old Bridge, soon followed.

In the months since, how-

■ See COUNTY, page A6

■ Continued from page A1

ever, the municipalities' ordinances have been superseded by the state's package of laws. The Middlesex County Prosecutor's Office is now in charge of tracking the county's convicted sex offenders. And, according to Assistant Prosecutor Peter Hammerslag, 223 have registered through the end of June.

Some of those offenders have become more notorious than others.

Jeffrey Joynes, who served four years for sexually assaulting a girl, had his physical description, address and make of car trumpeted through his neighborhood in East

Brunswick in August. Back then, he said he understood residents' fear.

Yesterday, he answered his phone and identified himself but refused to speak to a reporter.

It was not the public but the police who planted fliers about a sex offender in Woodbridge.

Police went through a Port Reading neighborhood in January, warning neighbors that Ronald Kammerer was on his way to live there. The police were early and wrong.

At the time, a spokeswoman for the Department of Corrections said Kammerer wasn't expected to be released until March. When he was released, he did not return to Port Reading. Yesterday, Woodbridge police said they have not yet found out where he's living.

Area sex offenders also were among those who fought back.

Alexander A. Artway of Woodbridge challenged the constitutionality of the law in federal court early this year.

In March, a federal judge ruled he did have to register with the police. But U.S. District Court Judge Nicholas H. Politan said Woodbridge police did not have the right to notify the community of Artway's presence because that constituted additional punishment.

That case is still under appeal in the federal courts.

Three days after Politan's ruling, Miguel Torres, who had lived in Bound Brook, received a similar decision from a Superior Court judge in Somerville.

Wednesday, July 26, 1995

Decision hailed by both sides

By MICHAEL BARBELLA
The Herald & News

A1

Megan Kanka made a lot of people smile yesterday.

Her parents smiled because the state Supreme Court upheld Megan's Law, the controversial statute named after her that provides for registration and community notification of convicted sex offenders.

And attorneys for convicted sex offenders smiled because the state's highest court ruled that a private, impartial review is necessary to determine whether community notification is warranted.

"Each side has something to crow about," said Edward Martone, executive director of the state chapter of the Ameri-

■ See RULING, A4

can Civil Liberties Union in Newark.

There was indeed a lot to crow about yesterday. And Martone joined a few attorneys in Newark to praise the court for establishing a review process to determine whether community notification is warranted.

But the court's decision does not affect challenges pending in state and federal court by Carlos Diaz of Passaic and Alexander Artway of Avenel.

Diaz, 46, challenged the law shortly after it took effect Jan. 1, claiming it was unconstitutional. Diaz was released Jan. 1 from East Jersey State Prison, Rahway, after spending more than a decade behind bars for the 1983 kidnapping and rape of a 20-year-old Garfield woman.

Artway, on the other hand, claimed the law imposes additional punishment on him and violates his constitutional guarantees of privacy and due process. Artway, 49, was released from prison in 1992 after serving part of a 20-year sentence for sodomy.

Although Trenton attorney John S. Furlong is pleased his client can challenge the community notification aspect of Megan's Law, he still insists the statute is unconstitutional because it punishes a specific group. His client, John Doe, originally challenged the law out of fear it would cost him his job and ruin his life.

Furlong yesterday said Doe is prepared to take his challenge of Megan's Law all the way to the U.S. Supreme Court.

"You cannot look at an individual and say statistically, I think you're going to re-offend, therefore I'm going to ruin your life," Furlong said. "You can't predict future dangerousness."

But Furlong tried to predict future community notifications. He claimed community notification would likely never take place because authorities have no way of predicting recidivism among sex offenders.

"I don't think there's ever going to be community notifications," he said.

But Furlong may be in for a big letdown. Gov. Christie Whitman

said community notifications would resume in four to six weeks.

"Courts, parole boards, psychiatrists and psychologists are called upon on a daily basis to predict future behavior," said Assistant Prosecutor Joseph A. Del Russo, head of the Passaic County Prosecutor's Child Abuse-Sex Crimes Unit.

Del Russo said experts can "learn a lot" about a former offender's "predisposition for violence" by studying his past criminal record, his character and demeanor, and examining psychiatric evaluations.

"Is it an exact science? No, but you can make reasonable assumptions about a person's behavior through psychology and past behavior," Del Russo explained.

Since Megan's Law went into effect, 252 sex offenders have registered with Passaic County law enforcement officials, Del Russo said. Another 163 have registered with Bergen County officials, said Lt. Paul Polifrone of the Bergen County Prosecutor's Office.

Polifrone and Del Russo considered yesterday's Supreme Court ruling a victory for the state.

"It is reflective of the public's will," Polifrone said.

"I think it was certainly a resounding validation of the community's right to know about presence of sex offenders in their neighborhoods," Del Russo said. "It also validated the legitimacy of the attorney general's guidelines. And any (defense) attorney who sees the Supreme Court's decision as a victory is looking through rose-colored glasses."

But Guardian Angels founder Curtis Sliwa, who took to the streets to alert Passaic residents about Diaz's release, yesterday warned officials not to be too euphoric.

"I know the authors of the bill and their supporters are euphoric, but I disagree," Sliwa said in a phone interview from New York yesterday. "I think (the court's decision) creates too many hiding spots for the released pedophile."

Megan's Law is upheld by N.J. court

The Supreme Court said the law was constitutional, but offenders should get hearings. The battle isn't over. The U.S. Supreme Court may have to decide.

By Chris Conway
INQUIRER STAFF WRITER

A1

TRENTON — The New Jersey Supreme Court yesterday upheld the constitutionality of Megan's Law, but ruled that released sex offenders are entitled to a judicial hearing before prosecutors can notify the community about their presence.

The 6-1 decision is the final word from the state courts on the constitutionality of the controversial law, which requires released sex offenders to register with police and directs prosecutors to alert the public to their presence if the risk is high that they will strike again.

The law's future is still in doubt, however, because challenges are pending in the federal courts, which

are the final arbiter of legal questions arising under the U.S. Constitution. Already, one federal judge has found the law unconstitutional as it applies to sex offenders convicted before the law took effect.

Gov. Whitman vowed yesterday to revise quickly the notification process to conform to the New Jersey court's decision. State Attorney General Deborah Poritz said it was too early to say when notifications would resume.

The New Jersey decision was a sweeping affirmation of society's

See **MEGAN'S** on A7

Megan Kanka's parents applaud the New Jersey decision. Offenders find reason to cheer, too. **A7.**

N.J. court upholds Megan's Law

MEGAN'S from A1
right "to protect itself" — even though sex offenders who have paid their debt to society may face ostracism and vigilante violence as a result of being identified.

Writing for the majority, Chief Justice Robert N. Wilentz said that the "essence of our decision is that the Constitution does not prevent society from attempting to protect itself from convicted sex offenders, no matter when convicted, so long as the means of protection are reasonably designed for that purpose ... and not designed to punish."

Justice Gary Stein, the lone dissenter, argued that the law violates the U.S. Constitution's ex post facto clause barring laws that impose punishment retroactively and is therefore unconstitutional. He predicted a "devastating impact" on offenders who fall under the law's community-notification provisions, which he called the most sweeping in the nation.

The law was passed last year after the sexual assault and murder of a 7-year-old Hamilton Township girl, Megan Kanka. A twice-convicted sex offender who lived across the street but whose past was unknown to the Kankas and other neighbors has been charged with her slaying.

Approximately 2,000 offenders have registered with police since the law took effect Oct. 31, according to figures compiled by the Attorney General's Office. Prosecutors had issued community notices in about 35 cases before that process was suspended by Poritz in March to await yesterday's decision.

Notifications led to the beating of a Phillipsburg man who was mistaken as a sex offender, and to protests and threats against a Passaic man who

sought to move in with his mother.

A Burlington County man, known only as "John Doe," brought the legal challenge that resulted in yesterday's ruling. Doe pleaded guilty in 1985 to charges of sexually assaulting two teenage boys and was sentenced to a 10-year term at the Adult Diagnostic and Treatment Center in Avenel. At the time, his behavior was found to be repetitive and compulsive. He was paroled in June 1992.

In upholding the law, the court nonetheless urged modifications to the community-notification process to assure that the due-process rights of sex offenders are protected.

As the law now reads, prosecutors are empowered to decide unilaterally whether the risk posed by a sex offender is such that schools or the public should be notified about his presence in the community.

To meet constitutional muster, new guidelines will have to be drafted to give offenders notice of the prosecutor's plans and the right to a closed-door hearing before a judge. Prosecutors will have to present evidence justifying such plans.

The court also narrowed the scope of notification to organizations that care for or supervise women and children, and to persons "likely to encounter" the offender. The guidelines had left open the possibility that notification would be "extended to the entire community," according to the court.

The decision was a clear victory for the Whitman administration. Poritz predicted that Megan's Law would serve as a model for other states.

Opponents of the law, meanwhile, claimed victory on their due-process arguments and vowed to appeal to the U.S. Supreme Court.

"The constitutional issues are too significant to the fabric of our society" not to appeal, said Doe's lawyer, John S. Furlong of Trenton.

The battle at the U.S. Supreme Court will likely be fought over the Constitution's ex post facto clause, which prohibits laws that retroactively impose punishment.

U.S. District Judge Nicholas H. Politan ruled in February that the law does mete out additional punishment and thus is unconstitutional. His ruling only applied to sex offenders whose crimes were committed before last Oct. 31, when Megan's Law took effect. An appeal by the state is now pending before the U.S. Third Circuit Court of Appeals.

Anticipating such a challenge, Wilentz devoted nearly one-third of his 163-page opinion to an exhaustive review of federal court decisions on ex post facto challenges.

Wilentz emphasized that the Legislature had not intended Megan's Law to be punitive, but to enable the public to protect itself from offenders who show a high propensity to commit another sex crime.

"We assume that if the legislative purpose was to deter sex offenders, the law would be invalid; and we have no doubt that if the government ordered punishment, the law would be invalid. Neither, however, is the case," Wilentz wrote.

Ultimately, the chief justice said, "we remain convinced the statute is constitutional. To rule otherwise is to find that society is unable to protect itself from sexual predators by adopting the simple remedy of informing the public of their presence."

Inquirer correspondent Tom Avril contributed to this article.

Ruling also requires hearings, giving both sides reason to cheer

By Tom Avril
INQUIRER CORRESPONDENT

TRENTON — For a non-politician, Richard Kanka appeared rather comfortable underneath the glare of the klieg lights.

He should. He and his wife, Maureen, the parents of the little girl who gave her name to Megan's Law, have become public figures during the past year, devoting a large part of their time to pushing for similar legislation in other states.

Yesterday, they again were in the public eye. Richard Kanka appeared at a news conference with Gov. Whitman after the New Jersey Supreme Court upheld the constitutionality of Megan's Law, but ruled that released sex offenders are entitled to a judicial hearing before prosecutors can notify the community about their presence.

His wife, Maureen Kanka, was in Albany with New York Gov. George Pataki, who signed a similar bill into law for that state.

Both applauded the ruling. "I have two full-time jobs now," Richard Kanka said afterward.

Kanka, whose other job is working for a mechanical contractor in New Brunswick, wore a pink ribbon inscribed with his daughter's name.

He and his wife spend much of their time working for the Megan Nicole Kanka Foundation, a non-profit group that supports the concept of notifying residents when a convicted sex offender is moving into the neighborhood.

If there had been such a law last year, Kanka said, his daughter might be alive today. "If there was a face on the danger, we would've known," he said. "Megan would've known."

A twice-convicted sex offender, Jesse Timmendequas, has been indicted on charges of sexually assaulting and murdering the 7-year-old last year.

Kanka telephoned his wife in Albany after the court's decision.

"She was very, very happy and teary-eyed," he said. "I could tell it in her voice."

Prosecutors joined the Kankas and state officials in praising the decision.

"It's a decision that goes a long way in protecting the public," said Burlington County Prosecutor Stephen G. Raymond.

"Law enforcement obviously is very happy," said Gloucester County Prosecutor Harris Y. Cotton. "Of course, there's one other shoe left to hit the floor."

Cotton was referring to the status a lawsuit in which a federal judge has ruled that community notification constitutes additional punishment. As a result, for those convicted before Megan's Law went into effect in October 1994, such notification would be unconstitutional because it violates the ex post facto clause of the U.S. Constitution.

The state Supreme Court disagreed with those rulings. Prosecutors and defense attorneys say the question may ultimately have to be resolved by the U.S. Supreme Court.

As for "John Doe," the Burlington County sex offender whose legal challenge led to yesterday's decision, his lawyer also claimed victory, saying it meant his client's case would be reviewed by a judge.

"He's very gratified that the Supreme Court upheld his constitutional right to a hearing before a judge behind closed doors, before the state is allowed to destroy his life," said Doe's attorney, John S. Furlong of Trenton.

Doe is not a high-risk case, Furlong said, so his identity would probably remain undisclosed if the case came before a judge. Doe pleaded guilty in 1985 to sexually assaulting two teenage boys. He was paroled in 1992 and has demonstrated that he has been rehabilitated, Furlong has said.

Doe works in a "service industry" and does not routinely come into contact with children, Furlong said. Doe's employer knows his identity and is comfortable having him as an employee. But if that identity were to become public, Doe would likely be fired, Furlong said.

Though the ruling probably won't cause hardship for Doe himself, he plans nonetheless to appeal the court's ruling that community notification does not constitute punishment.

Inquirer correspondent Rebecca Goldsmith contributed to this article.



Richard Kanka:
"Happy."



The Press

OF ATLANTIC CITY

WEDNESDAY
JULY 26, 1995

FINAL
EDITION
Vol. XCIV No. 207

N.J. high court upholds Megan's Law

■ The state Supreme Court rejects the claims of a Burlington County man who said the law imposed unconstitutional punishment after an offender had served his sentence.

By JOHN FROONJIAN
Statehouse Bureau

A

TRENTON — The state Supreme Court on Tuesday upheld the constitutionality of "Megan's Law," which requires that convicted sex offenders register with police and that the community sometimes be notified of their presence.

The court, in its 8-1 ruling, rejected claims of a Burlington County sex offender who challenged the law. He said that its provisions imposed unconstitutional punishment after an offender had completed serving a sentence.

The court found the law did not amount to punishment, so even offenders convicted

ed prior to its Oct. 31, 1994, enactment are covered.

That finding runs counter to a federal judge's ruling in March that the law could apply only to cases after Megan's Law was enacted. But state Attorney General Deborah Poritz claimed the federal case, which is under appeal, affects only the individual who filed the suit.

Gov. Christie Whitman said community notifications of the presence of sex offenders deemed likely to commit more offenses could begin in four to six weeks.

The attorney general will draw up guidelines for classifying ex-offenders according to three levels of likelihood to commit more crimes. Procedures for notifying communities will also be drawn up.

In its ruling, the court said a critical factor in deciding who should be notified is geography and the likelihood of physically encountering the offender.

Tuesday's ruling came four days short of the one-year anniversary of the rape and

murder of 7-year-old Megan Kanka of Mercer County, allegedly by a sex offender living across the street. Her killing and others spurred a public outcry that resulted in passage of the registration and notification laws.

"This is a very, very solemn week for us," Richard Kanka, Megan's father, said in a Statehouse press conference held by Whitman, Poritz and U.S. Attorney Faith Hochberg. Kanka said the court decision provided some solace because he believes the law will save lives by placing "a face on the danger" of potential sexual attacks.

"We sail on truly uncharted waters, for no other state has adopted such a far-reaching statute," Chief Justice Robert Wilentz wrote in the 163-page majority opinion.

□ See Megan, Page A4

Y2

The Record

7-26-95

1995

Continuing the People's Series

High court upholds Megan's Law

Finds sex offender notification valid, with limits

By FREDRICK KUNKLE
Staff Writer

AI

New Jersey's Supreme Court upheld the constitutionality of Megan's Law on Tuesday, ruling that the revolutionary measures designed to protect society from convicted sex offenders did not tread on their rights.

In a 6-1 decision delivered four

days shy of the first anniversary of 7-year-old Megan Kanka's rape and killing, the court ruled that the state could notify a community that a convicted sex offender lives there.

But the court limited the scope of notification, giving sex offenders the chance to object and have their case heard by a judge or quasi-judicial panel.

The decision by one of the nation's

most liberal high courts gave approval to a growing national movement that calls for a rigorous accounting of convicted sex offenders after their release from prison. At least 40 states have passed similar laws, according to the U.S. Justice Department.

Questions remain, however, about how soon New Jersey can resume no-

See MEGAN'S LAW Page A-18

112

MEGAN'S LAW: Court upholds sex offender notification

From Page A 1

tifications, which were halted in March by lower-court rulings after about three dozen cases.

Governor Whitman predicted notifications would resume in four to six weeks, while state Attorney General Deborah T. Poritz said her office would move as "quickly as possible" to draw up new procedures that meet the Supreme Court's guidelines.

But legal challenges to Megan's Law are pending in the federal courts, and Poritz said it would be necessary to determine whether notification would conflict with two federal court rulings earlier this year.

In Passaic County, 252 sex offenders have registered with authorities, the most in the state; about 10 require community notification because of the risk they pose. Bergen County has 168 registered sex offenders, but officials said they weren't sure how many would require notification.

Megan's Law was passed hurriedly in the wake of the outrage that followed the July 28, 1994, rape and killing of Megan Kanka in Hamilton Township. Jesse Timmendquas, who lived across the street, has been charged with the crimes. Neighbors claimed they did not know that Timmendquas was a sex offender who had recently been released from a state institution.

Prosecutors and law enforcement officials called Tuesday's ruling a victory against crime. Megan's father praised it from the State House in Trenton, while her mother applauded from Albany, where New York Gov. George Pataki was signing similar legislation into law. Governor Whitman said the ruling affirmed people's "right to know... and take appropriate precautions."

Even the White House issued a statement. President Clinton said the decision "will enhance the ability of every community to fight crime."

The ruling also received a warm reception from lawyers for the sex offenders who had challenged the law. They welcomed the court's requirement of judicial review and its narrower view of notification.

"Each side has something to

MEGAN'S LAW A chronology

July 29, 1994

Megan Kanka, 7, of Hamilton in Mercer County is abducted. Her body is found a day later at a county park two miles from her home. Police arrest Jesse Timmendquas, 33, a convicted sex offender who lives across the street but kept his criminal past a secret.

Aug. 2

Thousands attend a rally with Maureen and Richard Kanka to demand community notification about past sex offenders. Governor Whitman promises legislation.

Aug. 9

Lawmakers unveil a package of bills on sex offenders.

Aug. 28

Assembly passes all the bills after passing them on an emergency basis and suspending all committee hearings.

Sept. 26

A Senate committee amends the bills to provide various levels of notification.

Oct. 3

Senate passes Megan's Law.

Oct. 31

Whitman, with Maureen Kanka at her side, signs Megan's Law.

Jan. 3, 1995

A federal judge prevents Passaic County Prosecutor Ronald S. Fava from notifying the community about convicted rapist Carlos Diaz, who was released from state prison Jan. 1.

Feb. 22

Burlington County Superior Court Judge Harold B. Wells rules that Megan's Law is constitutional, but strips prosecutors of the power to decide a sex offender's level of risk, placing that responsibility on judges following a court hearing.

Feb. 28

U.S. District Judge Nicholas H. Pollan rules that community notification is additional punishment for those whose crimes were committed before the law was enacted and therefore is not constitutional. Pollan permits registration to continue but prohibits community notifications.

March 1

Attorney General Deborah Poritz, faced with conflicting trial court rulings, puts a freeze on community notifications until higher courts can rule on the appeals in five cases.

July 25

The state Supreme Court upholds Megan's Law, but agrees that an impartial review is required before authorities can decide how and when to notify a community.

crow about," said Ed Martone, executive director of the New Jersey chapter of the American Civil Liberties Union.

The court's opinion, written by Chief Justice Robert N. Wilentz, said the law does not punish criminals twice by requiring them to report their movements to law enforcement or by allowing authorities to alert the public of their presence.

"The essence of our decision is that the constitution does not prevent a society from attempting to protect itself from convicted sex offenders, no matter when convicted, so long as the means of pro-

tection are reasonably designed for that purpose and only for that purpose, and not designed to punish," the opinion said.

But the court said it was beyond the reach of the statute to alert the community through school meetings or speeches to religious congregations, and it limited public disclosure about the most dangerous offenders to their immediate neighborhood and those organizations that have immediate care of women and children.

That includes shelters, schools, or day-care centers in the vicinity of the sex offender. Such disclosures would apply only to sex of-

fenders deemed to pose a moderate or high risk to the community, the ruling said.

"The court also stripped prosecutors of the authority to single-handedly classify the level of danger that convicted sex offenders present to the community. That classification is important because it determines how far and wide the authorities can go to sound the alarm that a convicted sexual offender is in a community's midst."

As a result, a judge must review any convict's challenge to the classification prior to notification. The hearings would be closed to the public, and the offenders would be entitled to a lawyer. A sex offender would have the burden of proof.

Justice Gary S. Stein, the sole dissenter, argued that Megan's Law violates constitutional bans against ex post facto laws, and predicted that the law would almost certainly lead to mob justice, ranging from ostracism to violence against freed sex offenders.

But the majority opinion dismissed those fears.

"We do not perceive in this case a society clamoring for blood, demanding the release of previously convicted sex offenders in order to punish them, but rather families concerned about their children, who are understandably and justifiably fearful," the opinion said.

Law enforcement officials applauded the decision.

"It upholds the right of citizens to protect themselves from sexual predators," said First Assistant Passaic County Prosecutor Robert Warmington.

Ike Gandy, the assistant Bergen County prosecutor who heads his office's sex crimes division, said the only significant adjustment for prosecutors will be preparing for judicial hearings before going ahead with notification — an additional burden on staffs struggling to comply with Megan's law.

Opponents of the law were similarly happy, however.

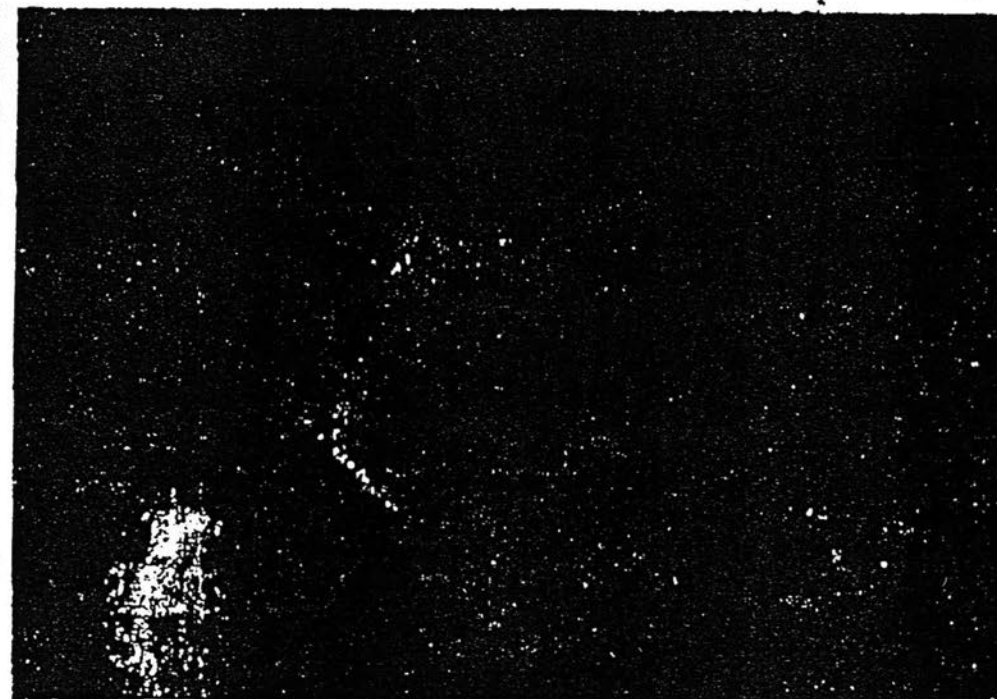
"The practical effect of the

court's ruling today is that while Megan's Law is implemented, it will not be in the criminal justice system in which it was done earlier," said Ronald K. Chmura, Rutgers I School professor who challenges the law to federal courts on behalf of Passaic County sex offender, Carlos Diaz.

Attorney John E. Farling, who handled the Burlington County case decided Tuesday by the 6 court, said his client greeted ruling with mild relief. His client identified only as "John Doe," and planned that he would "be entitled to a level of privacy" because he probably could not be classified as a moderate or high-risk offender.

"At the same time," Farling said, "John Doe assured me that he would be willing to carry the fight to the U.S. Supreme Court."

Staff Writers David Gibson, Leslie Kay and Thomas Zambito contributed to article.



Governor Whitman, left, announcing the state Supreme Court ruling Tuesday that Megan's Law is constitutional. Accompanying Whitman was state Attorney General Deborah T. Poritz.

Experts predict U.S. Supreme Court test

Say conflicting federal, state rulings must be resolved

By CHRISTOPHER MURPHY
Staff Writer

Despite Tuesday's ruling, the question of whether Megan's Law — and dozens like it across the country — is constitutional may require an answer from the U.S. Supreme Court, experts said.

The law that provides for community notification when a sex offender moves to a neighborhood is popular politically and enjoys widespread support. With New York's adoption of the notification law Tuesday, some variation of Megan's Law is now on the books in 47 states.

But it has a mixed record in court. Notification rules similar to those in New Jersey have been rejected by state and federal judges in at least seven states, according to the American Civil Liberties Union.

Even in New Jersey, which is considered to have the most far-reaching law, federal and state judges cannot agree.

Tuesday's state Supreme Court ruling upheld a decision by a Superior Court judge in Burlington County. But a U.S. District judge in Newark concluded earlier this year that the law was unconstitutional.

For a law to pass constitutional muster, it must survive challenges in both state and federal courts. The federal ruling has been appealed.

"At some point, the (U.S.) Supreme Court is going to have to step in and issue a unified opinion," Frank Askin, a professor at

Rutgers Law School in Newark, said Tuesday.

Until then, the big question in New Jersey is whether state officials can resume the community notifications that were suspended after U.S. District Judge Nicholas H. Politan ruled Feb. 28 they were an additional punishment and thus unconstitutional.

For months, state Attorney General Deborah T. Poritz has said New Jersey would resume notifications if the state Supreme Court ruled in favor of the law. But Poritz backed off that declaration Tuesday, saying officials would have to study the issue first.

Governor Whitman, meanwhile, predicted that notifications would resume in four to six weeks.

With the continuing uncertainty over the constitutionality of the law, Poritz would be taking a "calculated risk" if she were to order the resumption of community notifications, Seton Hall law Professor Kip Cornwell said Tuesday.

Politan's ruling was limited to a single sex offender who challenged Megan's Law. Because it was not a broad ruling encompassing a larger group of people, the state could technically resume notifications, Cornwell said — but that would be an "unusual practice."

"There is usually a great reluctance on the part of a state to take that risk until there is some kind of resolution," Cornwell said. "The pitfalls are that if community notifications are held unconstitutional down the road, the state has been willfully violating people's constitutional rights in the meantime. That's highly unfortunate."

But Morris County Prosecutor W. Michael Murphy Jr. disagreed. "The federal rulings are unique to the two individual cases," he said, "and the state Supreme Court ruling does not violate any U.S. constitutional principles."

The question of whether notification laws are constitutional has not allowed other states from copying the New Jersey model of Megan's Law. In addition to New York, two other states — Colorado and New Mexico — recently adopted laws patterned after New Jersey's, said John Russell, a spokesman for the U.S. Department of Justice.

The considerable public momentum for Megan's Law might dictate Poritz' next step, Cornwell said.

"It's going to take a while before this is resolved, and this is a statute the public is clamoring for," he said. "If this gets held up, it's going to be frustrating for a lot of citizens who want to see it go forward."

That seemed to be the indication from no less than the White House, which issued a statement Tuesday praising the New Jersey Supreme Court's decision.

"Today, communities will breathe a sigh of relief knowing that their security and safety are a top priority for law enforcement," the statement said. "This decision will enhance the ability of every community to fight crime."

Staff Writer Fredrick Kunkle contributed to this article.

THE RECORD

7-26-95

Victims' families find solace in their success

By MICHELLE BUESS
Trenton Bureau

While others debated constitutional issues Tuesday, the mothers and fathers and grandparents who will forever miss two little girls talked of justice — and their hopes that Megan's Law will provide warnings to other parents that danger may be lurking.

"You can't prevent this from happening again," said Richard Kanka, whose daughter, Megan, was raped and killed in July 1994, allegedly by a convicted sex offender living anonymously in their Mercer County neighborhood. "But darn it, we want to know where the danger lies."

"If there was a face on the dan-

ger, we would have known. Megan would have known and every victim that has suffered the same consequences as my daughter would have known."

Outrage over Megan's killing and the similar death months earlier of 6-year-old Amanda Wengert of Manalapan prompted lawmakers to quickly enact the legislation that requires sex offenders to register with local police.

A year earlier, in Passaic County, police say a paroled criminal with a record spanning two decades lured 7-year-old Divina Genao off a Passaic street, assaulted her, and then killed her.

The new laws, known collectively as Megan's Law, also require

that community groups and neighbors be notified when sex offenders at risk of committing new sex crimes live nearby.

On Tuesday, the state Supreme Court upheld the law.

Megan's mother, Maureen, was in Albany on Tuesday, watching New York Gov. George Pataki sign similar legislation for his state. Megan's father appeared with Governor Whitman at a State House news conference in Trenton.

Richard Kanka, whose family is now pushing for similar laws in California and Texas, described a "nervous night" awaiting Tuesday's decision. "It's a very solemn week for us," he said. "We're on a

very emotional roller coaster at this point."

"I was thrilled. I was crying," Maureen Kanka said. "It was a long night last night. I was a nervous wreck."

"We're hoping the public will listen to what Maureen and myself are saying: Please let the law take effect and let everybody just try to live and live together," Richard Kanka said.

Whitman praised the court's action, but warned that legislation alone cannot keep children safe.

"Parents need to understand that they still need to be extraordinarily vigilant," Whitman said. "Unfortunately, that's the way the world works."

Karen Wengert, whose daughter was snatched asleep from her Monmouth County home, allegedly by a teenage neighbor with a record of sex offenses, agreed that the ruling "doesn't take away the hurt of my loss."

"But I think this will help everyone," she said. "There was nothing positive out of Amanda's death before."

Maureen Kanka agreed: "With the state Supreme Court's decision today, I think this is going to open a lot of doors in other states. This is like a new wave across the country. I'm ecstatic that they put the safety of children over the concerns of pedophiles."

Meanwhile, the director of psy-

chology at the Adult Diagnostic and Treatment Center in Avenel, which houses about 740 sex offenders deemed repetitive and compulsive, said community notification could backfire.

The director, Nancy Graffin, said inmates denied jobs and housing after their release are more likely to commit further crimes. "That could be an unfortunate side effect of the law," she said.

But Amanda's grandfather, Bill Thomas, who served on a legislative task force studying the state's prison for sex offenders, considers Avenel's therapeutic approach to be a failure. He is circulating petitions to shut down the prison.

"Despite the unavoidable uncertainty of our conclusion, we remain convinced that the statute is constitutional. — To rule otherwise is to find that society is unable to protect itself from sexual predators by adopting the simple remedy of informing the public of their presence."

One change ordered by the court allows convicted sex offenders to seek a Superior Court hearing to challenge a county prosecutor's plans to publicize their presence. Fifteen judges will be designated around the state to decide notification questions in Megan's Law cases.

County prosecutors and legislators hailed the ruling. Sen. William Gormley, R-Atlantic, whose Senate Judiciary Committee reviewed the bills, said: "The administration, the committee and attorney general worked hard to put together a piece of legislation that would be constitutional."

Cape May County Prosecutor Stephen Moore urged groups or people who supervise children and want to be notified of sex offenders in their area to start registering with police. He said about three dozen offenders have registered in Cape May County.

"The Prosecutor's Office is extremely pleased with the ruling," said Robert Luther, first assistant prosecutor in Cumberland County. "It's a significant victory for the community."

Luther said about 100 offenders have registered with police in Cumberland County.

Atlantic County Prosecutor Jeffrey Blitz said 157 offenders have registered in his county. Blitz said his office would proceed with classifying the level of threat represented by the offenders and begin notification once state guidelines are prepared.

Some form of notification had begun in about three dozen cases around the state in January and February, but the practice was

halted by lower-court rulings.

The state law was challenged by a Burlington County offender identified only as John Doe. The offender claimed publicity about his past crimes would cost him his job and ruin his life.

In some cases, ex-offenders — or people mistakenly believed to be sex offenders — have been violently driven out of their homes. The court conceded the possibility of vigilantism exists, but believes in most cases the public and press will act responsibly.

"We do not perceive in this case a society clamoring for blood, demanding the names of previously convicted sex offenders in order to further punish them, but rather families concerned about their children who want information only to protect them," the ruling said.

Justice Gary Stein wrote a dissenting opinion. He charged the law "makes more burdensome the punishment for a crime, after its commission," and violates the constitution.

In March, U.S. District Judge Nicholas H. Politan found the law did constitute additional punishment for crimes committed before its enactment. However, Poritz said her office believes that ruling, which is being appealed, applies only to released offender Alexander A. Artway of Woodbridge, who challenged the state law in federal court.

John Furlong, the attorney for John Doe, said his client plans to appeal the state court ruling to the federal Supreme Court. However, Furlong said his client was pleased with the ability to contest community notifications in Superior Court before they proceed — a prime goal in his legal challenge.

"Each side has something to crow about," said Edward Martone of the American Civil Liberties Union, which joined Doe in his case.

The Associated Press contributed to this report.

Confusion greet Megan decision

BY KATHY BARBETT CARTER

A day after the state's top court upheld the nation's toughest sex offender notification law, confusion persisted yesterday over exactly when the public would begin receiving information about ex-convicts in their neighborhoods.

At the core of the conflict is whether an earlier federal judge's ruling, declaring the law unconstitutional, prevents police from notifying the public about sex offenders, regardless of the state Supreme Court decision.

Hours after the court issued its decision upholding Megan's law, Attorney General Deborah Poritz, Gov. Christie Whitman and U.S. Attorney Faith Hochberg said notification would likely occur in four to six weeks.

But yesterday John Furlong, the Trenton lawyer for "John Doe," the unidentified Burlington County sex offender who challenged the law, called

the prediction "laughable. It's not going to happen."

He said the state is legally prohibited from notifying the public by U.S. District Court Judge Nicholas Politan's ruling in the case of Alexander Artway,

Defendant admits killing girl in Manalapan. Page 20

a sex offender from Woodbridge who challenged Megan's law in federal court.

"The Artway decision had global significance," said Furlong.

Even if the decision is not binding on the state, Furlong said logistically he does not see how the state can jump all the legal and procedural hurdles it faces to begin notifications in four to six weeks.

In an interview yesterday, Poritz continued to stick to her schedule. Politan's order specifically barred notification with respect to Artway only, she argued.

Nevertheless, she said lawyers in her office are "continuing to look at this question, and we will be making a determination over the course of the next week" on whether they must get a federal court's permission to release names.

Both Politan's decision and the New Jersey Supreme Court's ruling, written by Chief Justice Robert N. Wilentz, held that the portion of the law requiring sex offenders to register with

Please turn to Page 12

Beginning of Megan's law notification in doubt

2/2

Continued from Page One

police is constitutional.

They parted company on whether the law could be applied retroactively.

Politan said public notification could only be done for those convicted after the law went into effect Oct. 31, 1994. Wilentz, in a 6-1 decision, said the public could be told about any sex offender leaving prison, regardless of when he was convicted.

"The essence of our decision is that the Constitution does not prevent society from attempting to protect itself from convicted sex offenders, no matter when convicted," he wrote.

In arguing his point, Wilentz said to apply the law only to those found guilty after last October would effectively delay any notification for years while they served their prison terms.

Wilentz wrote, "Had the Legislature chosen to exempt previously convicted offenders, the notification provision of the law would have provided absolutely no protection whatsoever on the day it became law, for it would have applied to no one. The Legislature concluded that there was no justification for protecting only children of the future from the risk of reoffense by future offenders, and not today's children from the risk of reoffense by previously convicted offenders."

They also disagreed on whether

Federal judge's ruling contradicts decision of state Supreme Court

the public notification required by the law is additional punishment imposed on people who have already paid their debt to society. Wilentz said it isn't; Politan said it is.

Politan compared notification to the "mark of Cain," viewing it as a sort of social branding of criminals and found it "punitive."

Politan said, "Megan's law, in application, would deputize every member of registrant's community and thus achieve the ultimate deterrent against reoffense by the registrant. This stated objective, regardless of how innocuously it has been couched by the Legislature, clearly constitutes a traditional element of punishment: Deterrence."

Wilentz looked at the very same fact — that awareness by neighbors of a sex offender's presence might make him less likely to strike again — and concluded it demonstrated the law had a legitimate purpose.

Wilentz and Politan also took very different views of the statistics on how often sex offenders commit additional crimes. Wilentz devoted four pages of his opinion to studies showing sex offenders are at "relatively high risk" of attacking again.

Politan dealt with the issue in a few paragraphs, concluding "there is in fact some disagreement as to the relative rate of recidivism among sex offenders in comparison to the likelihood of recidivism among those who commit other categories of crime."

A federal appeals court will review Politan's decision on Oct. 10.

Furlong, who is planning to ask the U.S. Supreme Court to review yesterday's state Supreme Court ruling, said he does not think notification will begin until the federal courts rule on Megan's law. The statute is named in memory of 7-year-old Megan Kanka of Hamilton Township, who was raped and murdered, allegedly by a convicted sex offender who lived across the street from her family.

Poritz agreed that it will take some time to develop guidelines, evaluate the 2,166 sex offenders already registered, classify them and send out written notices.

"There will be a short delay... but there is light at the end of the tunnel," said Poritz.

Furlong, on the other hand, said he believes notification is still a long

way off. He joked that it might not occur in "our lifetime."

As long as he is involved in legal challenges, he said, he is going to "pull out all the stops," including using all sorts of experts.

"I am going to bring everything I know to the table," Furlong said. He predicted the first hearing on whether a particular offender presents a serious enough risk to warrant notifying the neighbors "will take four months if it takes a day."

If and when the law gets into full gear, Megan's law hearings will impose an enormous strain on an already stressed justice system, taxing the time of judges, prosecutors and lawyers assigned to represented indigent sex offenders, Furlong said.

Many counties already have 150 to 200 sex offenders to evaluate.

"They cannot do it," Furlong said. "They're going to have to do triage."

But Poritz emphasized the words of Wilentz, who admonished lawyers and judges not to draw out these proceedings.

"Yes, there will be some delay," said Poritz, but she felt Furlong's predictions are an exaggeration.

"We are not talking about a full-blown hearing," said Poritz. "The rules of evidence do not apply."

Dole meets Kankas, praises parents' work

Megan Kanka's parents took their push for a tougher federal law on community notification of convicted sex offenders to the presidential campaign trail last night.

Maureen and Richard Kanka met privately with Senate Majority Leader Bob Dole (R-Kan.) at the Ocean Place Hilton in Long Branch, where he was attending a fund-raiser that netted \$600,000 for his campaign.

Following the meeting, Dole publicly praised the Kankas' efforts in fighting to change the laws in the face of deep personal grief and tragedy.

"When people speak out, something happens," he declared. "When there is a sexual predator around you have the right to know."

The Kankas stood in the back of the ballroom with tears welling in their eyes as Dole noted the one-year anniversary of their daughter's murder. Megan was killed last July 29 and police arrested a neighbor -- a convicted sex offender -- who lived across the street. The house where Megan was killed has been torn down and a park is being developed. The Kankas invited Dole to the park dedication in September.

The New Jersey law, which was upheld by the state Supreme Court on Tuesday, is tougher than a federal law that was part of last year's crime package. In the state, sex offenders must register with police, who are required to notify the community if the former convicted is deemed to be a danger. The federal law requires states to have a similar statute but does not mandate community notification.

Dole did not promise outright that the federal law would be tightened, but he did promise hearings as the Senate considers a new crime package later this year or early next.

The private meeting with Dole was arranged by Larry Weltzner, a political adviser of Dole's New Jersey finance chairman, Lewis Eisenberg.

Maureen Kanka said she thanked Dole for his support with last year's federal legislation. Richard Kanka said Dole seemed receptive to the idea of toughening the law.

Both said they appreciated the fact Dole took time out to listen to them.

The Kankas, however, declined to be drawn into a discussion about presidential politics.

Megan's Law upheld

State high court rules it's constitutional

By CHARLES STILE
Staff Writer

A1

TRENTON — The state Supreme Court yesterday upheld Megan's Law, ruling it is constitutional for authorities to warn residents of sex offenders living or planning to move into a neighborhood.

In a 6-1 decision, the high court said the state's controversial "community notification" law was not crafted as a form of punishment for sex offenders.

Despite the "possible severity" that notifying the community might have on some offenders, the court said the law's overall aim is to protect the public — not punish the offender.

"The essence of our decision is that the (state) constitution does not prevent society from attempting to protect itself from convicted sex offenders, no matter when convicted, so long as the means of protection are reasonably designed for that purpose and not designed to punish, that despite the possible severity of the impact, the sex offender's loss of anonymity is no constitutional bar to society's attempt at self-defense," wrote Chief Justice Robert N. Wilentz for the majority opinion.

The court said the law had taken steps to "restrict the damage" on offenders but noted that the Legislature "chose to risk unfairness to the previously convicted offenders rather than unfairness to the children and women who might suffer

because of their ignorance."

DESPITE SPELLING out some key revisions, the court left the law's basic foundation untouched and gave the state the green light to start warning parents, teachers, day-care centers and neighborhood residents in certain cases, once the fine-tuning of the law is finished.

State Attorney General Deborah T. Poritz had suspended notification in March, pending the outcome of yesterday's ruling.

The decision was hailed by everyone from President Clinton to the residents of Barbara-Lee Drive in Hamilton Township, the street where the law's namesake, Megan Kanka, 7, lived. Authorities say she was raped and murdered by a twice-

convicted sex offender who lived across the street from her house.

The ruling came only four days before the first anniversary of the girl's slaying, which sparked public fury and has made the issue of community notification a source of national attention.

Authorities have charged Jesse Timmendequas, 34, with the crime. The Kanka family said they were unaware of Timmendequas' criminal background when he was their neighbor.

Gov. Christie Whitman, Poritz and Maureen Kanka, the girl's mother, all said the legal triumph should encourage other states to enact similar

• see MEGAN, A8

1/2

Megan

• continued from A1

laws.

"I was thrilled. I was crying," said Kanka. "It was a long night last night. I was a nervous wreck."

"With the state Supreme Court's decision today, I think this is going to open a lot of doors in other states. This is like a new wave across the country," said Kanka, who coincidentally attended ceremonies in Albany yesterday where New York Gov. George Pataki signed New York's version of the sex-offender registration law.

IN A STATEMENT released from Clinton's press office, the president said he was "pleased" with the decisions and said it will "enhance the ability of every community to fight crime." The U.S. Justice Department took part in the defense of the law when the state Supreme Court took up the case.

Whitman, who signed Megan's Law on Oct. 31, 1994, said her administration was "very confident" of yesterday's outcome.

"We took a great deal of time to ensure that we have learned from what had happened in other states where there have been problems, where there have been reversals," Whitman said.

State Sen. Peter Inverso, R-Hamilton, the prime sponsor of the law, said the ruling "validates... that it is fair for the community to be armed with information that allows itself to take the appropriate precautions and safeguards."

The court said the guidelines designed to carry out the law were "valid" and with some key revisions could be implemented immediately.

Officials say some 2,000 released sex offenders in New Jersey have now registered with law enforce-

ment authorities and Whitman predicted notification could begin within 45 days.

Among the revisions, the court said offenders should have a chance to challenge the type of notification chosen for them by a county prosecutor. The ruling also said the state must restrict notification to people and civic groups "likely to encounter" a sex offender in the community.

Despite the festive mood among supporters, other legal fights remain.

IN MARCH, a federal judge ruled the law unconstitutional in a case involving Alexander Artway of Woodbridge, a sex offender released from prison in 1992. That ruling is being appealed by the Whitman administration to the Third Circuit Court of Appeals in Philadelphia.

Another federal judge blocked Passaic County from notifying the public in January. That case is also under appeal.

A question looming over yesterday's ruling was whether the federal cases make the state's ruling moot until the appeals are exhausted. Another unresolved issue was whether offenders could circumvent the ruling by challenging the law in federal court.

Poritz said she will study the possible effects of the federal rulings. "We are looking at the orders and what we got from the federal courts and we started doing this today to make certain that there is no bar to us going forward," she said.

Under Megan's Law, notification is carried out based on the offender's potential for committing another crime. Generally, offenders considered a low risk are classified under "Tier 1," in which only police departments are notified. Community groups, schools and day-care centers are notified of moderate risk "Tier 2" offenders; and "high-risk" offenders are labeled under

"Tier 3" — which allows for the broadest form of notice.

Mercer County Prosecutor Maryann Bielanowicz said her office has processed about 80 registrations since the law went into effect but only two offenders were classified — both in Tier 2 — before the law was challenged.

"But we haven't just been sitting here waiting for a decision," Bielanowicz said. "We have been moving ahead, enforcing the registration requirement and verifying addresses, notifying victims and local police departments, and putting together information that would be relevant to tiers and the extent of notification."

A TOTAL of 149 sex offenders have registered with police under Megan's Law in Burlington County, said Stephen Raymond, the county prosecutor. He didn't know how many of those were destined for the two higher tiers of notification. He said there are still other offenders in the county who have yet to register.

The case that led to yesterday's decision, Doe vs. Poritz, was filed by a Burlington County sex offender identified only as John Doe, who feared community exposure about his past crimes would cost him his job and ruin his life.

Doe's lawyer, John Furlong, said he remains convinced Megan's Law is unconstitutional because it punishes one group. "(Doe) assured me he would carry the fight to the Supreme Court," Furlong said.

But Furlong said he was pleased Doe will have a chance to contest any community notifications before they proceed. "The bottom line is this: John Doe got the relief he sought. There will be no community notifications without a prior due process hearing," he said.

"Each side has something to crow about," said Edward Martone, executive director of the state chapter of the American Civil Liberties Union, which joined with Doe in bringing

the case to the state Supreme Court.

Critics have warned that the law would spark vigilantism once some angered residents learned that sex offenders were living in the neighborhood. A Phillipsburg man was injured in a case of mistaken identity earlier this year when two men broke into a house where a recently released sex offender was believed to be staying.

But Wilentz wrote: "The court does not perceive in this case a society seeking vengeance, demanding the names of previously convicted sex offenders in order to further punish them, but rather families concerned about their children who want information only in order to protect them." He noted that Poritz has strongly warned that vigilantism will not be tolerated.

OPPONENTS OF the law also have said the law punishes sex offenders by stigmatizing them and making it virtually impossible for them to live a normal life. They argue that it violates the *ex post facto* provisions of the constitution that forbid authorities from increasing the severity of punishment after the crime was committed.

Associate Justice Gary Stein issued the lone dissenting opinion and echoed that view.

"I would hold that the devastating impact on prior sex offenders that will occur from implementation of the community notification law constitutes retroactively imposed punishment prohibited by the *ex post facto* clause of the Constitution," he said.

The Associated Press and staff writers Tom McGinty and Peter Aseltine contributed to this story.

Ruling a small comfort to Megan's neighbors

By TONI FORD
Staff Writer

A1

HAMILTON — The vibrant pink ribbons that once lined Barbara Lee Drive seem now to serve only as a faded reminder that a young girl was raped and murdered here almost a year ago.

But in the minds of many residents, the memory of Megan Kanka, the 7-year-old Sayen Elementary School pupil who allegedly died at the hands of a sex offender, will

never fade.

Nor will the anger.

Yesterday, though the rage still smoldered, it was softened somewhat by the state Supreme Court's ruling that a controversial law passed after Megan's death — a law providing community notification when a sex offender is released from prison — is indeed constitutional.

"We have a right to know," said Joann Davidson, a mother of three who was walking in the Mercerville Shopping Center. "It's not fair that

they (sex offenders) subject the innocent to their cruelty. They deserve everything they get."

Hamilton Mayor Jack Rafferty said the court ruling came at a good time.

"There's an old adage that says to strike while the iron is hot," Rafferty said. "Megan's tragedy just brought out the frustration of the (sex) crimes taking place. The opportunity to do something about it happens infrequently. I felt secure that it would not be rejected in total. I knew that it would be refined but

the substance would stay. I think it was the right thing to do."

For those who had participated actively — from the search for Megan when she was discovered missing to the campaign to get the law passed — the ruling was a sweet victory.

"I think it is fantastic," said Peggy Easton, dressed in her Megan's Law T-shirt. "We really worked hard and smart on it."

Easton, who also worked on the Megan Kanka scholarship campaign, lives next door to the memorial park

being built in Megan's memory. Until December, the home of Jesse Timmendequas, the man awaiting trial for allegedly murdering the young schoolgirl, stood there.

Ken Freeman is a senior fire fighter captain for the Nottingham Firehouse, which services Megan's Hamilton Square neighborhood. He was the among the first to go out on the all-night search for Megan after her parents reported her missing.

• see REACTION, A8

• continued from A1

He hadn't heard the news about the court ruling until he was asked for a reaction.

"It's good to see the judges recognized the children's rights," Freeman said. "It frosts me that Timmendequas had rights. What about Megan's? I think the more people know about their neighbors the better."

Joe Moran had nothing to do with Megan or the Kankas. He's not a politician and doesn't have children. But he has strong views on the subject of sex offenders. As he lounged with some buddies outside Fred and Pete's Deli yesterday, he agreed the ruling was a good thing but admitted he has some reservations.

He cited the instance of vigilantism that took place in Warren County shortly after the law was passed when some residents informed that a neighbor was a con-

victed sex offender, took matters into their own hands and mistakenly attacked two other men.

"My only question is are they going to have police cars out in the front of these people's homes 24 hours a day?" said Moran, who thinks sex offenders should be put in separate neighborhoods.

Nick Loretucci, who has lived on Barbara Lee Drive 23 years, was pleased that the law was upheld. He recalled the day almost a year ago that Timmendequas, whom he said rarely spoke to him, made small talk with him about his new van. He remembered that as Timmendequas walked away, Maureen Kanka came out of her house and was asking neighbors about her daughter's whereabouts.

Yesterday, standing in his driveway and washing that same van, Loretucci said he wondered why the law did not apply to all criminals.

"I realize they've served their time but how many times do you hear of repeat offenders?" he asked. "The law is a step in the right direction but there needs to be more."

Court ruling tightens Megan's Law loopholes

By CHARLES STILE
Staff Writer

ANALYSIS

TRENTON — In upholding Megan's Law yesterday, the state Supreme Court also took out its red pen and narrowed the fine print on one of the thorniest aspects of the law: Just who or what group gets notified of sex offenders planning to live in or move to a neighborhood?

While endorsing the guidelines crafted to carry out the law, the high court fine-tuned some of the standards for "community notification," the foundation of Megan's Law.

The wording apparently was an attempt to clarify the blurred lines of distinction separating the different forms of notification. Notification is based on a calculated estimate of the chance that a released sex offender might commit another

sex crime.

Critics and, to some extent, some supporters said the way the rules governing the law originally were written contained loopholes that put less serious offenders at risk of being exposed to the same degree of notification as the most dangerous ones.

Yesterday's decision attempts to stop that from occurring.

Still, supporters of the law essentially said it didn't matter anyway. They said most people will act responsibly and keep the information confidential when instructed to do so.

The court reserved its sharpest eye for notification involving offenders classified under the state attorney general's guidelines as being

a "moderate" risk of repeating such a crime. Technically, that means those who will be tagged as "Tier 2" offenders.

UNDER THE original set of rules, county prosecutors, working in tandem with local law enforcement, were required to notify any groups and organizations that asked the prosecutor's office to alert them when a Tier 2 notification is made. The original rules also said all "local educational institutions, licensed day care centers and summer groups" would be alerted to a Tier 2 sex offender's presence.

The court narrowed the rules. It said that only groups "likely to encounter" the sex offender would be given specific notification by the authorities. The court said Tier 2 notice will be limited to "only those community groups that own or operate an establishment where children

gather under their care, or where women are cared for..."

The court said that without the tightening of the language, moderate offenders could be subjected to the same level of notification as high-risk Tier 3 offenders.

"Tier 2 notification can easily amount to the same notification (as) Tier 3 if these limitations are not observed," according to the decision.

Observers have said Tier 2 restrictions could be meaningless because a counselor or a school teacher who is notified of a Tier 2 offender could tell a neighbor or relative who was not part of the notified community group.

ASKED SEVERAL months ago about that potential, Attorney General Deborah T. Poritz acknowledged there was nothing included in Megan's Law to stop the news of Tier 2 notification from spreading throughout the community.

Yesterday's decision addresses that concern by requiring authorities to instruct community group officials to not tell the wider community about the Tier 2 offender.

"The notice that goes out to such organizations shall specifically direct them not to notify anyone else," the court said.

Despite the stern language, there is nothing new in the decision that would stop — or punish — someone from spreading the word.

Staunch defenders of the law, including Gov. Christie Whitman and Poritz, pointed to a persistent theme that emerged throughout the decision: Most law enforcement officials, the press and the average neighborhood resident will act responsibly once they obtain sensitive information.

"There is no way to 100 percent guarantee that. But the court has indicated that (it has) a level of confi-

dence in the way the law is going to be implemented," Whitman said.

Added Poritz: "The court is presuming that New Jersey citizens will be responsible."

The court also found that the guidelines regulating the way Tier 3 notifications were to be carried out went beyond what was spelled out in the law. The guidelines allow Tier 3 notification to occur at "community meetings, speeches in schools and religious congregations and door-to-door visits in the community."

But the court said those groups did not always meet the "likely to be encountered" standard. "Those are means apparently designed to inform the entire community of the offender's presence, rather than means designed, as the statute requires, 'to reach members of the public likely to encounter the person registered.'"

CC ~~Admiral~~
M. Hall -
was sent to
be camped w/ Tim Bz
Cormack, Doug

The Honorable Edward T. Schafer
Governor of North Dakota
Bismarck, North Dakota 58505

Thank you for your letter regarding the proposed land transfer between the government and Indian Tribes in North and South Dakota. I understand your concerns about the potential impact the exchange may have on North Dakota's recreational areas.

My Administration has not issued a federal regulation for the land transfer; however, I did instruct the Army Corps to review the issue. Due to a large number of concerns about the proposed rule, the investigation has returned to its preliminary stages. As we revisit this process, I would like to see those directly involved in this issue reach an agreeable solution that the federal government could support.

I appreciate your commitment to the people of North Dakota, and I have forwarded your letter to Assistant Secretary of the Army for Civil Works John Zirschky so that he is aware of your serious objections to the proposal.

Sincerely,

Bruce

119206



EDWARD T. SCHAFER
GOVERNOR

State of North Dakota

OFFICE OF THE GOVERNOR
600 E. BOULEVARD — GROUND FLOOR
BISMARCK, NORTH DAKOTA 58505-0001
(701) 328-2200

June 30, 1995

The President
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Mr. President:

Sources in the U.S. Army Corps of Engineers say they have been directed by you to write a federal regulation facilitating a land transfer to Indian Tribes in North Dakota and South Dakota. Mr. President, such a rule will negatively affect fishing, hunting, and boating access on both Lake Sakakawea and Lake Oahe.

The idea behind the proposed federal regulation is not new; in fact, it's nothing more than a different approach to enact portions of the land transfer provision of the Equitable Compensation Act (P.L. 102-575, 1992) that were rescinded in Congress.

The Equitable Compensation Act provided both monetary compensation to the Tribes and directed the sale of certain U.S. government lands purchased when Garrison and Oahe Dams were built. These lands first would have been offered for sale to prior owners or their heirs (including the Tribes), and second, if former owners were not interested, the Tribes would have an option to purchase the properties.

For decades, these U.S. government lands have been under the jurisdiction of the U.S. Army Corps of Engineers and open to public hunting, fishing, and boating access. While the \$240 million trust fund established for the Tribes through the Equitable Compensation Act remained, Congress rescinded the land transfer portion of the legislation.

The high cost of implementation was cited as a factor in the rescision. In addition, myself and then-Governor Walter Dale Miller of South Dakota, numerous state and local government agencies, and the hunting and fishing public in both states expressed strong opposition to the legislation.

The President
Page 2
June 30, 1995

When it was first introduced in 1992, neither North Dakota's state government nor its citizens were informed of the Act, nor were we afforded the opportunity to provide input. Once state officials did learn of the deal, however, we informed North Dakota Senator Kent Conrad, a co-sponsor of the legislation, that the excessing process would jeopardize many public recreation sites -- sites that were developed with millions of dollars from state hunters and anglers, state and local parks and recreation departments, other federal entities, and private individuals.

Unfortunately, what failed in the legislative process now has been moved into the arena of federal administrative regulation at your behest. The Corps has been directed by officials in the your administration, with support from Senator Conrad and South Dakota Senator Tom Daschle, to reevaluate its land-excessing procedures with a "different attitude" to accomplish the land transfer. Mr. President, it is important to note that the Corps' current land excessing policy has remained in effect for many years.

We understand that the interpretation the Corps has been directed to make with this rule is so broad that public recreation areas, which we once thought were secure from any transfer, are again in jeopardy. In total, there are about 26,000 acres on Lake Sakakawea and 13,500 acres on Lake Oahe that could come under tribal jurisdiction, making future access questionable.

Should these areas be transferred to the Tribes, adequately marking them would be difficult, if not impossible. A boater beaching along the shoreline that previously was public land might find himself trespassing on land under tribal control. Furthermore, this sale would lead to a checkerboard pattern of Corps and tribally controlled lands, which ultimately will create confusion. Additionally, the public status of these lands will disappear, and with it untold public recreation value.

The decision regarding this land transfer rule is vital to North Dakota. If this federal rule is adopted, public recreation opportunities will be lost, jurisdictional confusion will increase, and lake access and shoreline use will be lost or restricted in many areas. This land transfer clearly is not in North Dakota's best interest, and I respectfully request that you rescind your directive to the Corps of Engineers.

Sincerely,



Edward T. Schafer
Governor

13:12:07

cc: Governor Marc Racicot
Governor Jim Geringer
Governor William Janklow

Maybe
let's show
Miles him to
won't show
to if
Gingrich
letting
him
know
about
the
commission

THE WHITE HOUSE
WASHINGTON

July 28, 1995

The Honorable Miles S. Rapoport
Secretary of State of the
State of Connecticut
Hartford, Connecticut 06106

Dear Miles:

Thank you for your letter regarding the Commission on Campaign Finance and Lobbying Reform that Speaker Gingrich and I discussed during our visit to New Hampshire. I believe that we have a rare opportunity for truly bipartisan cooperation on a matter of urgent concern to the American people.

I appreciate your interest in serving on the commission, and I've shared your letter with Bob Nash, Director of Presidential Personnel. Please feel free to contact him at (202) 456-6676 if you have any questions.

As we work to bring about meaningful reform in this area, I'm grateful for your involvement.

Sincerely,

Bill Clinton

I'm still trying
to get an answer from
the speaker - Please contact
him & get answer to do so, urging
him to follow up on the handshake



MILES S. RAPOPORT
Secretary of the State

THE PRESIDENT HAS SEEN
7/5/95

**REGISTER
VOTE**
YOU CAN MAKE A DIFFERENCE

July 1, 1995

The Honorable William J. Clinton
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear Mr. President,

I would like to offer my services to you as a member of the Commission on Campaign Finance Reform and Lobbying Reform that you and Speaker Gingrich discussed and agreed on during your New Hampshire visit. These issues are crucial, and I would like to help you in whatever way possible on this very important effort.

As Secretary of the State of Connecticut, I believe that campaign finance reform and lobbying reform are essential to preserving our democratic system, and preventing it from being completely dominated by insider lobbyists and powerful special interests. Along with voter registration and full participation in the democratic process, this office is committed to making campaign finance reform a top priority. As a Democrat, I believe that making democracy work inclusively, and fighting for an "even playing field" for all citizens, are essential for the future success and well-being of our party.

Since assuming office in January, I have fought for campaign finance reform for gubernatorial elections in Connecticut. The legislation received very strong public and editorial support, and passed four legislative committees. Although it was not brought to a floor vote, I believe its strong showing set the stage for an even more successful fight next year.

Prior to serving as Secretary of the State, I spent ten years in the Connecticut Legislature and served on the Government Administration and Elections Committee for those ten years; the last two years as Chair. As such, I was the sponsor of almost every election and campaign finance reform legislation to pass during that time, including mail-in registration, Connecticut's Motor Voter law, restrictions on lobbyist contributions, full disclosure of campaign contributions, the computerization of the statewide voter list, and many others.

I believe that I can be a genuine contributor to this Commission and believe the way to approach campaign finance reform is on both the state and federal level in mutually reinforcing

7/5/95

Todd -
Per Nancy's instructions
I have sent copies
to Sosnick & Nash -
Will send original to
Dorskind after you replied
have seen - (also
copy in chron). C.

Jim Dorskind

Please coordinate
the reply.

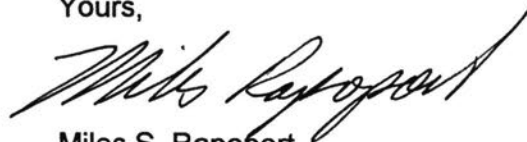
AC sig

ways. I would be willing to devote both time and office resources to this very important issue if you see fit to include me in the process.

Though there may be many hoops and obstacles to overcome before this Commission becomes a reality, I did want to let you know early of my interest. I believe a state perspective is always helpful on these types of issues, and, I believe, my particular experience would be well suited to making a contribution.

Thank you for your consideration--and thank you for helping to put this issue back on the national agenda.

Yours,

A handwritten signature in black ink, appearing to read "Miles Rapoport". The signature is fluid and cursive, with a long horizontal stroke at the end.

Miles S. Rapoport
Secretary of the State

original to Dorskind

To: Jim Dorskind
Please prepare
response. Thank
you -

THE PRESIDENT HAS SEEN
- 1/31/95
Need to do
a memo letter to
this young lady
on her letter
for

THE AMERICAN FLAG - WHAT IT MEANS TO ME

The American Flag - What It Means To Me. In order for me to explain what the Flag means to me, I feel that first I need to explain how I interpret it.

Our Flag has four major parts: the blue field, the stars, the red stripes, and the white stripes.

The way I see the blue field is that it represents how America defended its freedom, along with the Flag. Whether it is by flying through a blue sky or through a blue ocean, there has always been a strong group of Americans ready at a moment's notice to go fight and possibly lay down their lives for all Americans. When I see the white stars on the Flag, I picture Betsy Ross sewing the first American Flag with the thirteen stars that represented the first thirteen original colonies. Then, I imagine each state fighting and not giving up and then, one by one, having it's own star added to the growing number of stars to symbolize it's new membership in the Union. Because of the Declaration of Independence, we had the freedom to add the other thirty-seven stars to the original thirteen. To me, the red stripes have always been symbolic of the blood shed to protect us, and the lives lost to assure us of freedom, or to help a country in need. It is the strong impression of the white stripes reminding me of the white tombstones of Arlington National Cemetery in Washington, D.C. I had the

April
Hawmkey
67 A Peterson St.
Anella, Pa.
15312
Phone - 412-587
3019

opportunity to visit Arlington this past May. The rows upon rows of the white tombstones is a grim reminder of the lives lost, sometimes needlessly, but not without honor. The changing of the guard at the Tomb of the Unknown Soldier and the actual tomb itself also come into mind when I see our Flag now.

All of these pieces - the blue field, the stars, the red and white stripes - have a major part to play in the interpretation of the American Flag, and the Flag wouldn't be the same with just one part missing.

The American Flag. These three words mean a lot of different things to a lot of different people. What exactly does it mean to me? To me, the Flag is like a signed contract with America, assuring all citizens of the United States the basic rights which are life, liberty, and the pursuit of happiness. The Flag is also the key to opportunity for all Americans. People have fought over and been killed to provide us with opportunity. When I speak of opportunity, I mean that in America, I can do what I want, as long as I follow the law, and I am free to chase down my dreams and accomplish all that I possibly can.

Our Flag has been associated with both bad and good times in America, and these moments have produced some of the most unforgettable pictures in American history. One that comes first to my mind is the raising of the Flag in Mount Suribachi in Iwo Jima. The raising of that particular flag came about when a group of Marines were getting ready to replace a small American flag that was already flying

with another one which was ninety-six by fifty-six inches on an iron pole about twenty feet long. Joe Rosenthal, the photographer of the picture, was quoted in Sunday, January 22, 1995's Parade, a Sunday newspaper magazine, as saying: "The tension in the picture comes from the weight of the pole which was about one hundred and fifty pounds. Other guys jumped in to help when they saw it was heavy." He also stressed that the picture was not posed. His photograph spawned a bronze sculpture which stands proudly in Washington, D.C. That statue is a breathtaking sight to see in the early morning light, which I did. It made me appreciate the struggle those loyal Marines endured to make sure our Flag went up and stayed there.

Both of my grandfathers were in the Army and served in World War II. My father's father was awarded a purple heart, and when he passed away in 1983, my grandmother was presented with the Flag that covered his casket. I thought, and still think, that it was an honor for my grandfather to be covered with a flag the way Presidents and Generals are.

Our Flag is honored in many ways. These lines in the "Star Spangled Banner" by Francis Scott Key: "Oh say can you see by the dawn's early light what so proudly we hailed at the twilight's last gleaming, whose broad stripes and bright stars through the perilous fight..." and the Pledge of Allegiance: "I pledge allegiance to the Flag..." which is said by millions nationwide daily whether it be before the start of a new school day or before an executive meeting.

The Star Spangled Banner and the Pledge of Allegiance may have been written centuries ago, but people still and will continue to honor the Flag. By using flag stamps or simply removing hats when the Star Spangled Banner is being played or sung shows respect.

Musicians still are getting in the act of expressing their emotions about our Flag and country. One of my favorite songs was written by Lee Greenwood and was "Operation Desert Storm"'s Anthem. His song "God Bless the U.S.A." has many inspirational messages, but these lines: "The flag still stands for freedom and they can't take that away. I'm proud to be an American where at least I know I'm free, and I can't forget the men who died who gave that right to me. And I'd proudly stand up next to you, and defend her still today, 'cause there ain't no doubt-I love this land. God Bless the U.S.A." All Americans should have this attitude.

According to Thorndike Century Junior Dictionary, the word "flag" means, "A light piece of cloth, usually with square corners, on which the picture or pattern that stands for some country." That is not how I would define our American Flag.

Yes, our Flag may be a simple piece of cloth with stars and stripes on it, but that simple piece of cloth has been fought over many times, defended with human lives, stirs up emotions, and can even bring a man to tears.

In conclusion, I find it impossible to try to describe how I feel about our Flag in one word, one paragraph, or even one thousand words. The Flag means so much to people. To me, April Starinsky, it offers peace, liberty, and hope-peace between all fifty states, the God-given liberty I received at birth, and the hope that people for generations to come will continue to work and strive for world peace and will continue to honor and respect the Flag that my grandfathers, along with other people's grandfathers, brothers, fathers, sisters, mothers and children fought so bravely for and even laid down their lives for. That's something we can all hope for, and that's what our American Flag means to me.

By

April Starinsky

THE PRESIDENT HAS SEEN
7/31/95

THE WHITE HOUSE
WASHINGTON

July 28, 1995

MR. PRESIDENT:

The attached DPC memo sets forth a plan of action launching a teen pregnancy initiative, headed by an independent, private-sector organization. It also specifies a role for Dr. Foster.

The memo recommends, (i) a low-key White House meeting with about 15 prominent people, plus several experts in the field. You would be briefed on current local efforts and on what needs a national campaign could address; (ii) a follow-up organizational meeting, hosted by a participant at the White House meeting, to plan the launch of the private organization; (iii) start-up event for the new entity by year-end, which you would attend. Funding for the new entity would come from foundations or private individuals.

Dr. Foster would be a Senior Advisor to the President and Secretary of HHS on Teen Pregnancy and Youth on a part-time consulting basis, with no staff. He would remain in Nashville, at Meharry. No announcement would be made until a decision is made on nominating another person for Surgeon General.

Approve plan _____ Disapprove _____ Discuss ☒

Todd Stern

Handwritten notes:
I have ideas about trust
+ more ideas about
+ I disagree but I want to
announce soon
but I want to
discuss it
I disagree but I want to
announce soon
but I want to
discuss it

Handwritten notes:
Copied
Ben-Ami
Rasco
8/1/95
S.

Handwritten notes:
Let's discuss this
with anyone in
HRC so we can be
certain? - BC
Leon Panetta
meharry V.

THE PRESIDENT HAS SEEN
7/31/95

THE WHITE HOUSE
WASHINGTON

July 24, 1995

95 JUL 24 P 6 : 19

MEMORANDUM TO THE PRESIDENT

FROM: Carol Rasco
Jeremy Ben-Ami
Janet Abrams

THROUGH: Leon Panetta

RE: Teen Pregnancy Initiative

BACKGROUND

In this year's State of the Union address, you urged parents and leaders of all sectors of society to join together in a national campaign against teenage pregnancy. You identified the epidemic of children-having-children as one of our most serious social problems and stressed that "government can only do so much" to solve this complicated dilemma.

We have met with the Chief of Staff about plans now underway for creating a nationwide, private-sector initiative on teen pregnancy. This memo requests your personal involvement to ensure that final commitments are made by the individuals we hope will spearhead the effort.

LAUNCHING THE CAMPAIGN

Since January, Jody Greenstone and Belle Sawhill have been working with members of the White House staff to lay the foundation for an independent, private-sector organization dedicated to reducing the incidence of teen pregnancy in the U.S.

The organization would be bi-partisan and would be led by prominent individuals from the business, religious, media, entertainment, civic, health care, education, and foundation communities. The new group would work to focus national attention on the problem of teen pregnancy and support community prevention efforts across the nation. Likely activities would include:

- spearheading a grassroots campaign to make teen pregnancy prevention a priority in communities throughout the U.S.
- establishing a clearinghouse of information on prevention efforts
(There is now no central source of data on who's doing what in teen pregnancy.)
- supporting the evaluation of promising prevention strategies
(A lot is going on in the field, but very few programs have been rigorously evaluated.)

- providing technical assistance to communities seeking to start programs
- conducting communications outreach on the issue.

A list of candidates to be founders of the organization has been developed. Belle Sawhill (now at the Urban Institute) and Sarah Brown (an expert on teen pregnancy at the Institute of Medicine) have agreed to take on lead operational roles. While many of the individuals targeted as board members have expressed positive interest in the proposed new venture, we believe your direct involvement is necessary to secure commitments from the group.

RECOMMENDED PLAN OF ACTION

(1) White House Discussion

We suggest that you convene a meeting with the approximately 15 prominent individuals on our target list, plus several experts in the field of teen pregnancy prevention. The event would take place in early September and would require approximately 1 hour of your time. Media strategy would be very low-key.

Experts would brief you and the group on what is being done in prevention at the local level and offer thoughts on what needs a national campaign might address. You would speak to the seriousness of the problem -- with its linkages to the debilitating cycle of poverty and welfare dependency -- and exhort the group to come together to combat this major threat to America's youth.

(2) Organizational Meeting

One of the participants in the White House meeting (ideally, the head of a major foundation) would agree in advance to host a follow-up event for the group of 15 and other interested individuals. This event would be a planning session for launching the envisioned private-sector organization.

(3) Launch

The new entity would be established by the end of the year. Foundations and/or private individuals would provide start-up funding. You would be present for the launch.

FYI ON DR. HENRY FOSTER

Based on the approval of the Chief of Staff, we met with Dr. Foster last week and offered him the following position:

Title: Senior Advisor to the President and to the Secretary of Health and Human Services on Teen Pregnancy and Youth

Position: Part-time consultant, paid by HHS.

Staff: There would be no staff reporting to Dr. Foster

Reports to: The Secretary of HHS and the President

Responsibilities: The President would charge Dr. Foster with leading the Administration's efforts to catalyze national action to combat teen pregnancy and provide positive opportunities for youth. He would be a visible spokesperson and would work closely with national leaders, urging them on behalf of the President, to take an active role in addressing the problem of teen pregnancy.

Role with the Private-Sector: Dr. Foster would be the President's liaison to the Private Sector Initiative. He may eventually serve on the board of the new group. He would not be the Chair or the day-to-day Director.

Other: Dr. Foster would not move to Washington, but would remain in Nashville and keep his tenured position at Meharry. Dr. Foster would be subject to Hatch on the days he is being paid, and would be subject to all ethics and conflict of interest rules.

We will wait to announce Dr. Foster's new position until a decision is made about nominating another individual for Surgeon General.

DECISIONS REQUESTED

- Please indicate if you approve of the proposed plan of action for the teen pregnancy initiative:

_____ YES _____ NO

- Below is a preliminary list of invitees for the suggested White House meeting on teen pregnancy. Our intention is to have no more than 25 people at the event. Please review the list, and edit as desired. Please also indicate names of any other individuals you would like to invite.

Spiritual Voice

Andrew Young

Sister Mary Rose, Covenant House, NY

Entertainment

Oprah Winfrey

Visible Republicans

John Danforth

Anne McLaughlin, former Labor Secretary

Thomas Kean, President of Drew University

Public Health Leaders

C. Everett Koop

Henry Foster

Corporate Leaders/Fundraisers

John Pepper, Procter & Gamble

Sharon (Mrs. Warren) Buffett

Linda Wachner, Warnaco Inc.

A CEO member of the Mid-South Foundation

Community Practitioners

Marion Howard, Emory University, Atlanta

Michael Carrera, Children's Aid Society, NY

Elayne (Mrs. William) Bennett, BestFriends, DC

Academics

Kris Moore, ChildTrends, Inc.

Genie Rosoff, Guttmacher Institute

Doug Besharov, American Enterprise Institute

Communications

Charlotte Beres, Ogilvy & Mather
Jay Winston, Harvard School of Public Health

Foundation Executives

Angela Blackwell, Rockefeller Foundation
David Hamburg, Carnegie Foundation
Susan Beresford, Ford Foundation
Doug Nelson, Casey Foundation

Core Organizing Group

Jody Greenstone
Belle Sawhill, Urban Institute
Bill Galston
Sarah Brown, Institute of Medicine

Administration Participants

Donna Shalala
Carol Rasco
Alexis Herman

- Please indicate here names to be added to the list:

THE PRESIDENT HAS SEEN
7/31/95

end of May. NFI Administrator Elaine McReynolds said it was the most successful conference ever. James Lee credits FEMA's success to knowledge of his people that they have "support and sincere encouragement" from you.

See Leon Erskine again

Mack note on privatization of U.S. Enrichment Corporation. Strongly urges that Vice President be included in any final decision on privatization inasmuch as this decision is directly related to both the Gore-Chernomyrdin commission and our reinventing government efforts.

Phoenix Gazette poll. From Doug. Your job rating is up for second quarter in a row: 30% say "excellent" or "good;" 35% say "fair;" 32% have unfavorable opinion -- lowest level since fall 1994. Statewide poll in July of 707 adults.

Waco poll by CNN/USA TODAY. From Rahm. 57% think the FBI deserves at least a moderate amount of blame, versus 33% in 1993; 87% assign such blame to Koresh; 34% to you. 50% think actions of federal agents were responsible, 43% think irresponsible.

Letter on leatherback turtles forwarded by Erskine. Environmental Prof. James Spotila of Drexel University writes to inform you that the law creating a permanent park for these turtles and saving them from extinction was signed in Costa Rica July 18. He says passage of the law is a direct result of your support. Spotila sends a second letter about another endangered sea turtle off of Texas and Louisiana and argues that helping them would be good 1996 politics. I have forwarded these letters to Katie.

*I need reply to Spotila
probably through Frank
the Costa Rican president.*

*originals to
Dorskind*

Jim Dorskind

Please coordinate
the reply.



U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

Office of General Counsel

General Counsel 95 JUL 25 P2:20

7-25-95

ERSKINE,

THE PRESIDENT SHOULD BE
INTERESTED IN THIS. HIS
SUPPORT FOR SAVING LEATHERBACK
TURTLES TIPPED THE BALANCE IN
COSTA RICA (AND HE'S EVEN
GETTING SOME CREDIT FOR IT!!)

LA REPUBLICA



Uruguay y
Colombia
tras el boleto
de la final /21A

MIÉRCOLES 19 de julio de 1995 - 40 páginas - 3 secciones

SAN JOSÉ, COSTA RICA

¢45

Ratifican convenio de protección costera

Crean Parque Marino Las Baulas

El control de las actividades que se desarrollan en las costas se enfocará hacia la defensa de la flora y la fauna marinas.

EMILIA MORA GAMBOA

La República

Un programa destinado a proteger las zonas marino-costeras fue ratificado este martes por el Presidente de la República, José María Figueres, actividad en la cual también se firmó el decreto de creación del Parque Marino Las Baulas, en Guanacaste.

El plan, presentado por el Programa de Estudios Ambientales (PROAMBI) de la Escuela de Biolo-

gía de la UCR, busca la integración interinstitucional con el fin de que los proyectos que cada entidad desarrolla no compitan entre sí, sino que, por el contrario, se desenvuelvan de manera ordenada.

Según explicó el biólogo Jorge Campos, coordinador de PROAMBI, el país tiene una fuerte responsabilidad en materia de conservación, y hasta la fecha se ha dado más importancia a la protección en las zonas terrestres y se han descuidado los ecosistemas marinos.

Por ello, en un esfuerzo coordinado entre la Comisión Zona Marino Costera (CZMC) y el PROAMBI se propuso la creación del Área Marina de Uso Múltiple (AMUM), así como la identificación y demarcación de aquellas áreas marino-costeras del país que deben decla-

rarse dentro de esta categoría.

La conformación de las AMUM permitirá desarrollar corredores biológicos marinos, dinámica que servirá como garante de la reproducción y dispersión de la biodiversidad marina del país.

Mientras, el Ministro de Recursos Naturales, René Castro, dijo que la estrategia se sustenta en tres conceptos: conocer, salvar y usar. Además, aseguró que el mar territorial significa el 25 del total del país y los AMUM permitirán identificar las zonas que deben protegerse y cómo utilizar los recursos sin causar un impacto negativo.

Los esfuerzos también se dirigen hacia la explotación turística y al buen manejo de la pesca deportiva, artesanal e industrial.



Al concluir la actividad en el teatro Melico Salazar, el presidente Figueres saludó a los transeúntes.

EN EL MUNDO

Enigma por el clima

PAGINA 20-A



SANTA CRUZ

Nuevo parque para tortugas

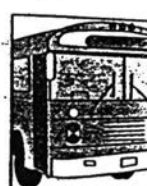
PAGINA 18-A



GENERAL CANAS

8 heridos al chocar buses

PAGINA 10-A



Nº 17.582/DLIX

LA NACION

San José, Costa Rica, miércoles 19 de julio de 1995 84 páginas Secs. A-B-C

¢50,00

DEPORTES
Etapa mortal en el tour
 Pág. 33-A

Natación ganó oro y bronce
 Pág. 36-A

18A/ EL PAIS

LA NACION, miércoles 19 de julio de 1995

Parque Nacional Marino Las Baulas

Las tortugas tienen su parque

• Creadas las Areas Marinas de Uso Múltiple

MAURICIO HERRERA
Redactor de La Nación

Las tortugas baulas ya podrán desovar en Playa Grande de Guanacaste sin temer el saqueo ni la amenaza del turismo sin control.

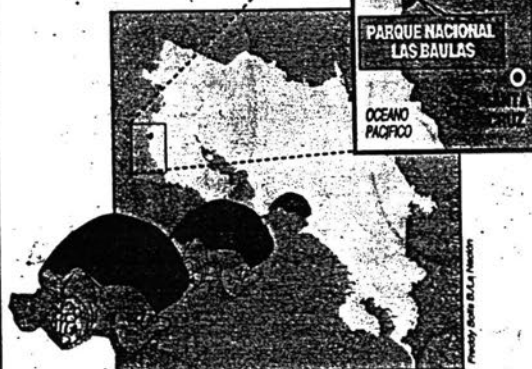
Desde ayer, estos quelonios, de 1,50 metros de longitud y entre 500 y 700 kilogramos de peso, son los principales beneficiados del Parque Nacional Marino Las Baulas, la única área protegida del mundo dedicada exclusivamente a la defensa de las tortugas.

El presidente José María Figueres y el ministro de Recursos Naturales, René Castro, firmaron el decreto de creación del parque, el cual tendrá una extensión de 400 hectáreas. El acto se realizó durante la inauguración del taller "Por el rescate del océano, la costa y sus recursos", en el Teatro Melico Salazar.

Hasta ahora, Las Baulas, adonde arriban, entre octubre y marzo, por lo menos 900 tortugas, tenía la categoría de Refugio de Vida Silvestre, pero ahora gozará de total protección.

Según Castro, el Poder Ejecutivo cuenta con los recursos sufi-

BAULAS PARA SIEMPRE



El nuevo parque nacional tiene 400 hectáreas de extensión y recibe en cada temporada de desova, entre octubre y marzo, a unas 900 tortugas. Abarca principalmente a las playas Grande y Larga, vecinas de la población de Yamarindo.

cientes para garantizar el mantenimiento del lugar, pues hay un presupuesto de ¢2.000 millones para todas las áreas protegidas, cifra que surge de fondos del presupuesto y del incremento en el precio de ingreso en los parques.

De acuerdo con el doctor James Spotila, profesor de ciencias am-

bientales de la Universidad de Drexel (Filadelfia), esta acción hará que paulatinamente se incremente la llegada de los quelonios a esta playa, la tercera en importancia en el mundo.

Las tortugas baulas son consideradas las más grandes del mundo.

ACCION EN EL MAR

En la misma actividad, el mandatario también rubricó el decreto que crea el Sistema de Areas Marinas de Uso Múltiple (AMUM).

Esta nueva categoría abarca sitios costeros que ya son áreas silvestres protegidas y su zona de influencia, hasta un máximo de 12 millas marítimas.

El objetivo fundamental es dar un manejo apropiado y propiciar la investigación científica en los sistemas marino-costeros para recuperar aquellos alterados por la acción del hombre o por condiciones naturales, con el fin de aumentar su productividad, la biodiversidad marina y la calidad ambiental.

Algunos de los puntos beneficiados con esta normativa son el golfo de Papagayo, el Parque Nacional Marino Ballena, el Parque Nacional Corcovado, la Isla del Caño, las islas del golfo de Nicoya, Isla del Coco, Tortuguero y Cahuita.

Con las AMUM se identificarán las necesidades de cada una de los sitios y se procurará la integración de los esfuerzos con Nicaragua y Panamá, para propiciar una explotación racional de la pesca artesanal, industrial y deportiva, el aprovechamiento turístico y la conservación de la biodiversidad.



Department of Bioscience
and Biotechnology
College of Arts and Sciences
32nd and Chestnut Streets
Philadelphia, Pennsylvania 19104
TEL 215 895-2624
FAX 215 895-1273

July 21, 1995
215-895-2627

Honorable William J. Clinton
President of the United States
The White House
1600 Pennsylvania Ave.
Washington, DC 20500

Dear Mr. President:

It is my very great pleasure to inform you that the law creating Las Baulas de Guanacaste as a permanent Park for the leatherback turtles on the Pacific coast of Costa Rica was signed by President Jose Maria Figueres and Natural Resources Minister Rene Castro in a ceremony on Tuesday, July 18 during a workshop in San Jose to establish a national program for management of marine resources in Costa Rica. This guarantees the survival of the third most important nesting area for leatherbacks in the world and is a direct result of your interest in the plight of this magnificent animal.

I personally thanked both President Figueres and Minister Castro after the ceremony on your behalf for their bold and decisive action in finalizing the Park. They expressed a sincere desire to have you visit the beach this December or January to see the Park and commune with the turtles. In connection with this visit President Figueres plans to convene a meeting of the Presidents of all of the Central American countries in San Jose to sign a cooperative agreement on the preservation and management of marine resources in the region. He will be officially inviting you to address this meeting and to visit the new Park with the other Presidents. The meeting and the visit of the Presidents to see the mother turtles lay their eggs on the beach under the moonlight will be a symbol of the commitment of all of participating nations to sustainable development and preservation of the environment for our grandchildren.

Enclosed are copies of news articles on the signing of the law, photos of the event, and a copy of the newest Earthwatch magazine which highlights your efforts for the Park on Page 7. I look forward to walking the beach with you in Costa Rica this winter. Thank you again for all of your help in this effort. We have saved a species from almost certain extinction and that is a lasting achievement indeed.

Sincerely yours,

A handwritten signature in black ink, appearing to read "James R. Spotila".

James R. Spotila
Betz Chair Professor
of Environmental Science



Department of Bioscience
and Biotechnology
College of Arts and Sciences
32nd and Chestnut Streets
Philadelphia, Pennsylvania 19104
TEL 215 895-2624
FAX 215 895-1273

July 21, 1995
215-895-2627

Honorable William J. Clinton
President of the United States
The White House
1600 Pennsylvania Ave.
Washington, DC 20500

Dear Mr. President:

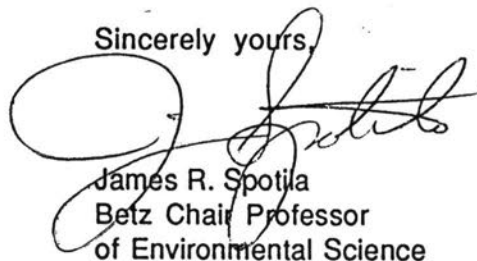
Now that the third most important nesting area for leatherbacks has been saved by the new Park in Costa Rica it may be time to focus on the important role that sea turtles can play in the 96 election. I know it seems far fetched that sea turtles can be a central element in your successful reelection, but they can be central to the outcome in at least two states, Texas and Louisiana, and can mobilize the environmental and mainstream vote nationwide by symbolizing the commitment of the Clinton-Gore administration to the preservation of the environment and the wise use of our natural resources.

The importance of sea turtles in the states of Louisiana and Texas is due to the conflict between shrimp fishermen and the federal government over the use of Turtle Excluder Devices (TEDS) to prevent the drowning of sea turtles. Shrimp fishermen are incensed over TEDS while environmentalists, biologists, and many others are incensed that the Kemp's Ridley turtle is on the verge of extinction and close to 100 of the 590 adult females left in the Gulf are being killed by shrimpers each year. Past and current actions by the National Marine Fisheries Service have been well meaning but counterproductive. They are not serving the interests of your administration because they are alienating both fishermen and environmentalists. This problem fuels the antigovernment, antiregulation rhetoric of the far right and poisons your chances in these states and beyond. Fishermen see the federal government interfering with their livelihood while environmentally conscious voters see ineffective action which causes them to sit on the sidelines and to not bother to vote. There is a positive solution to this dilemma and I outline it in the accompanying paper entitled "Sea Turtles, TEDS, and Shrimpers: A Practical Solution to an Environmental and Political Problem". I am convinced that someone such as myself can bring these people together to find a workable solution to this problem and that we could then educate the fishermen to accept and use the solution. This would save the turtles, save the shrimpers and help to win the election of 96!

The importance of sea turtles to the overall 96 election campaign lies in their central importance as a symbol of a clean and healthy environment. Almost everyone loves sea turtles. They are large, friendly, inoffensive animals that have the mystery and appeal of dinosaurs without the inherent danger. They nest on the beaches from Florida to North Carolina in the summer, produce very cute hatchlings, and don't eat anyone. Thus, they have a high cuddle factor. They are the Pandas of the ocean and can be the symbol of the enlightened environmental policy of the Clinton-Gore Administration. They can solidify the environmental vote. I know that the economy is central to the election, however, if the environmental vote stays home in 96 the result will be another 94.

Those that support the Newt Republicans' attack on our environmental laws are a lost cause already. Saving the environment can be a central theme to mobilize a significant portion of the electorate to vote Clinton-Gore in 96. This can be done by solving the TED -Turtle crisis, by visiting the new Park in Costa Rica, in whose formation you played such a central role, and by addressing the International Sea Turtle Symposium of 500 scientists and conservationists that will be held in February at Hilton Head. A visit by the Teenage Mutant Ninja Turtles to the White House to thank you for helping to save sea turtles from extinction might also be very photogenic if combined with an award to Earthwatch and some sea turtle scientists for their efforts to study and save the environment. Finally, don't forget that you have also saved the desert tortoise from extinction via the recent completion of its recovery plan, and the compromise over development and tortoise habitat in Las Vegas. The tortoise may be slow, but it has a very important following in California.

Sincerely yours,

A handwritten signature in black ink, appearing to read "J. Spotila", is written over the typed name and title.

James R. Spotila
Betz Chair Professor
of Environmental Science

Sea Turtles, TEDS, and Shrimpers: A Practical Solution to an Environmental and Political Problem

**James R. Spotila
Betz Chair Professor
of Environmental Science
Drexel University
Philadelphia, PA 19104
July 21, 1995**

Summary

The Environmental Problem

Sea turtles are endangered. The Kemp's Ridley is almost extinct and is being killed by shrimp trawls.

The Economic Problem

Shrimp fishermen are being out competed by foreign fishermen. U.S. shrimpers must use Turtle Excluder Devices (TEDS) that add cost and reduce catch. Foreign competition does not use TEDS and produces lower cost shrimp.

The Political Problem

Both the shrimpers and environmentalists are upset with the federal government for neither saving the turtles nor the shrimp fishery. The command and control approach of the past has forced a technology on the shrimpers (TEDS) which they feel is not workable. This translates into a serious problem for the Clinton-Gore administration in the states of Louisiana and Texas, and perhaps beyond, for the election of 96.

The Practical Solution

A Presidential Committee or Commission to include non governmental scientists and members of all stakeholder groups to find a shrimper friendly solution acceptable to all by June 1996. Technology training to be provided to fishermen by a non governmental organization such as a university based laboratory.

Background

All 7 species of sea turtles are endangered or threatened. The most endangered is the Kemp's Ridley turtle, *Lepidochelys kempi*, which is limited to about 590 reproductive females that nest at one beach in Mexico, Rancho Nuevo. Unfortunately, these turtles have a bad habit of getting caught in shrimp trawls and drowning. Thus, last year many Kemp's Ridleys and Loggerheads, *Caretta caretta*, washed up dead on the Texas coast and this has happened again this year. At this time there are lawsuits and counter law suits in federal courts asking for shrimping to be stopped in these waters and for government regulations to be overturned. Despite years of effort the federal government has been unable to formulate and carry out a viable policy for preservation of endangered sea turtles and enhancement of the shrimp fishery in the U.S. This has been due primarily to an over reliance on a command and control approach to the problem and a failure by both the National Marine Fisheries Service (NMFS) and the State Department to carry out effective programs. The former has imposed specific regulations on shrimpers which have not been accepted as effective by the people being regulated, and the latter has failed to execute provisions of a federal law that would provide relief for the shrimpers vs their foreign competition.

This is not only an environmental and economic problem, but a potentially critical political problem as well in the states of Louisiana and Texas which are critical to the outcome of the 96 election. The importance of sea turtles in these states is due to the conflict between shrimp fishermen and the federal government over the use of Turtle Excluder Devices (TEDS) to prevent the drowning of sea turtles. Shrimp fishermen are incensed over TEDS while environmentalists, biologists, and many others are incensed that the Kemp's Ridley turtle is on the verge of extinction and that close to 100 adult females are being killed by shrimpers in the Gulf each year. Past and current actions by NMFS have been well meaning but counterproductive. They are not serving the interests of the Clinton-Gore administration because they are alienating both fishermen and environmentalists. This problem fuels the anti-government, anti-regulation rhetoric of the far right and poisons the political atmosphere in these states and beyond. Fishermen see the federal government interfering with their livelihood while environmentally conscious voters see ineffective action which causes them to sit on the sidelines and to not bother to vote.

There is a very good way to prevent the drowning of sea turtles in shrimp trawls. That is to use Turtle Excluder Devices (TEDS) on the trawls so that the turtles can swim out of the trawl before becoming caught. This approach was developed and tested by NMFS and it works reasonably well for both turtles and shrimpers. The latter benefit because the by catch is reduced. (By catch is the unwanted "trash fish" that makes up the majority of a shrimp trawl catch). However, the very word TEDS makes shrimpers in Louisiana and Texas see red. They object to having the government impose this regulation on them. The central problem is that the solution that works was developed by NMFS and imposed on the fishermen. No one asked the fishermen what the solution should be. They may even have a better idea.

Another problem with the TED story is that there is a federal law, called Public Law 109, which states that the U.S. will only import shrimp from foreign nations that use TEDS in their shrimp fisheries. However, while this has been applied to countries around the Caribbean, it has not been applied to the many other nations that sell shrimp to the U.S., including Thailand, India, China, Spain, etc. The State Department has even recently turned down proposals for conferences to educate the fishermen and government officials in the Indian Ocean area and Mexico about sea turtles and TEDS. Not only has the lack of enforcement of this law led to a competitive disadvantage for U.S. shrimpers vs their foreign competition, but the unwillingness to support these conferences has thrown insult on top of injury for both sea turtle advocates and shrimpers.

Perhaps the State Department is more concerned with free trade than the extinction of sea turtles, however, leveling the playing field by getting other nations to accept and use TEDS would be a big step forward in winning the hearts and minds of the fishermen in Louisiana and Texas and preventing the extinction of the Kemp's Ridley turtle. If the shrimpers saw that the federal government was making an effort to apply Public Law 109 and was trying to get other nations to use TEDS, they might be more willing to use them themselves. If environmentalists saw that the federal government was taking a proactive approach to this problem they might be more convinced that the Clinton-Gore administration was really environmentally friendly and be encouraged to vote in the next election.

At this time it appears that the ruckus over sea turtles and TEDS has

alienated both fishermen and environmentalists in Texas, Louisiana, and around the country. The Clinton-Gore administration is being maligned by both sides in this controversy. Yet, this does not have to continue to be the case. There is a practical solution to this problem.

Practical Solution

First, we should make the assumption that all parties are acting in good faith. Shrimpers want to catch shrimp, make money and feed their families. Environmentalists want to save sea turtles and eat shrimp. The former do not, in general, want to kill turtles, and in the past have cooperated with non-federal biologists to save sea turtles. Shrimpers used to keep exhausted sea turtles on deck to recover after pulling them out of their trawls. Now they don't because they don't want to be fined \$10,000 for having a turtle on their deck. Environmentalists, in general, are not wild eyed radicals who want to put shrimpers out of business. There should be a middle ground. There are several ways to prevent the drowning of sea turtles in shrimp trawls. For example, shrimpers could use TEDS, they could avoid trawling in waters where there are many turtles, they could trawl for shorter periods of time, or they could design their own solution that will work in their particular situation. It would be far better to set the goal of saving the turtles, of not killing them, and then let the shrimpers come up with an acceptable approach to reaching that goal. The shrimpers know best how to catch shrimp while not killing turtles. Let them design the solution. Right now they see the feds as the bad guys coming to shut them down. There is a better way.

The better way could be implemented by having a meeting between the President or Vice President, the area Congressmen, shrimpers, and sea turtle advocates. Then a Presidential Committee or Commission should be set up to find a solution to this problem. It should be composed of sea turtle biologists, fisheries biologists, sea turtle advocates, shrimpers, members of other stake holder groups as appropriate, and representatives of elected officials. This committee should have non government biologists on it because the shrimpers will not trust the work of federal biologists. A suggested list of members is attached. The Committee should be charged with finding a solution acceptable to the stakeholders and the government that can be implemented before June, 1996.

Once a solution is devised, a non governmental entity should be engaged to transfer the appropriate technology to the shrimpers so that the solution can be implemented during 1996. For example, a sea turtle course could be offered to the shrimpers that included some sea turtle ecology and physiology, TED technology if still appropriate, other pertinent components of the solution, etc. If offered on the boats, or at least in the ports, by university based biologists using graduate students as instructors, this training would be much more acceptable than if forced on the shrimpers by people in federal uniforms. I am convinced that the right person could put together a team that could accomplish this goal within a year.

Proposed Committee Members

Chairman

Vice-President Albert Gore or his designee

Scientists

Dr. Edward Theriot
Vice President for Systematics
Academy of Natural Sciences
Philadelphia, PA

Dr. Theriot is a native of Louisiana and a long time fisherman. He is an expert in the biology and systematics of diatoms and has extensive field experience around the world. He understands the world of the scientist and the fisherman and will be a good facilitator for the committee.

Dr. James R. Spotila
Betz Chair Professor
of Environmental Science
Drexel University
Philadelphia, PA

Dr. Spotila is an expert in sea turtles and fishery biology. He has many

years of experience in these fields and recently helped to establish a National Park for sea turtles in Costa Rica. For several years he worked with fishing organizations to improve walleye fishing in eastern Lake Erie.

Dr. John Musick
Chairman
Fisheries Department
Virginia Institute of Marine Science
Gloucester Pt, VA

Dr. Musick is an internationally known fisheries scientist who has worked with both the fishery and sea turtles in the Chesapeake Bay and Atlantic Ocean for many years. He is also President of the International Sea Turtle Symposium for 1996.

Dr. Jack Rudloe, President
Gulf Specimen Inc.
Panacea, Florida

Dr. Rudloe is a commercial supplier of marine specimens for biological laboratories around the country. He is also an author of several books on the oceans, including one on sea turtles, and articles in *Audubon*, *National Geographic*, and *Natural History*. He has worked with commercial fishermen for many years.

J. Whitfield Gibbons
Research Ecologist
Savannah River Ecology Laboratory
University of Georgia
Aiken, SC

Dr. Gibbons is an internationally known ecologist and turtle expert. He is the author of several books and an effective facilitator in finding practical solutions to environmental problems. He has studied the effects of environmental perturbations on fish, amphibians, and reptiles at the Savannah River Plant and other sites for over 30 years.

Representatives from the Shrimp Fishermen's Associations in Texas and Louisiana

Three members

Representatives from Environmental Organizations

Three Members

Representatives from Congressional, State and Local Government Offices

Six Members

Presidential Representatives

Four Members



Spot, Ya
Department of Bioscience and Biotechnology
College of Arts and Sciences
32nd and Chestnut Streets
Philadelphia, Pennsylvania 19104

Photos

EARTHWATCH



FOUR THOUSAND YEARS
BEFORE THE MAST
THE LAST OF MAN'S SEWN BOATS

Jim Dorskind

C. EVERETT KOOP, M.D.

Please coordinate
the reply.

original sent to Dorskind
S

July 26, 1995

The Honorable William J. Clinton
THE WHITE HOUSE
1600 Pennsylvania Avenue
Washington, DC 20500

Dear Mr. President:

Please do not fall for the tobacco industry's very successful -- and often used -- ploy to avoid regulation -- the promise that they will abide by a voluntary agreement, in lieu of regulation.

I have watched the tobacco industry abrogate its own code of ethics at every turn over the past 15 years. What reason do we have to believe that they are more trustworthy now than they were previously?

All the best.

Sincerely yours,

Chick / am

C. Everett Koop, M.D.

THE PRESIDENT HAS SEEN

2. B. us 7/31/95

(need a reply)

Coalition on Smoking OR Health

1150 Connecticut Avenue, NW, Suite 820, Washington, DC 20036

Telephone: (202) 452-1184 Facsimile: (202) 452-1417

July 26, 1995

Steering Committee

Scott D. Ballin, Chairman
American Heart Association

Fran Du Melle
American Lung Association

Michael F. Heron
American Cancer Society

Administrator - Federal Issues

Joy Epstein

Administrator - State Issues

Peter Fisher

Counsel

Matthew L. Myers
Asbill, Junkin & Myers

Public Policy Advisory Council

American Academy of Family Physicians

American Academy of Pediatrics

American Association for Respiratory Care

American College of Cardiology

American College of Chest Physicians

American College of Physicians

American Public Health Association

American Society of Internal Medicine

Association of State and Territorial

Health Officials

Interreligious Coalition on Smoking OR Health

March of Dimes Birth Defects Foundation

National Coalition of Hispanic Health and

Human Services Organizations (COSSMHO)

Society of Cardiovascular

& Interventional Radiology

The President
The White House
Washington, D.C. 20500

Re: The Need to Permit FDA to Act to Protect Children from Tobacco

Dear Mr. President:

We understand from published reports that your review of the Food and Drug Administration's proposals to protect children from tobacco is leading towards an option for a "voluntary" agreement with the tobacco industry. This option would be in place of the more meaningful and comprehensive solution which would result from permitting the FDA to complete its investigation leading to a declaration that nicotine containing tobacco products are drugs and under the authority of the FDA. The FDA can then issue a proposed solution that can focus on the real problem--children's use of tobacco. The solution can provide a meaningful, comprehensive program focused entirely on the need to make it more difficult for children to acquire tobacco and for tobacco companies to market their products to children.

It is ironic that on the same day the Washington Post reports you are leaning towards a "Trust the Industry" solution, Congressman Henry Waxman released the contents of thousands of pages of Philip Morris documents that demonstrated that Philip Morris has repeatedly tested the effects of nicotine on our nation's young people and has deceived the American public about what it knew about the role of nicotine in its products. With an unparalleled history of lies and deceptions, this is the one industry in the US which has proven that it is untrustworthy.

We urge you to permit the FDA to assert its jurisdiction over tobacco and propose the first ever federal program with a realistic opportunity to reduce tobacco use among children. The tobacco industry is pushing for you to accept voluntary action or a compromise along the lines of what Philip Morris proposed last month. The voluntary compromise proposed by the tobacco industry is a fraudulent smoke screen designed to prevent meaningful action and meaningful progress. History and the tobacco industry's own prior actions demonstrate why we must not miss the historic opportunity presented by FDA's investigation. Every major tobacco initiative in the past has been undermined and effective action short circuited by tobacco industry promises and political compromises that fail to bring about real change.



Children are the key to reducing the future death toll from tobacco. Ninety percent of all smokers begin as children. David Kessler said it best: tobacco is first and foremost a "pediatric disease". Despite the reduction in tobacco use over the last decade among adults, smoking rates among teenagers have not declined and may even be rising slightly. The magnitude of this tragedy cannot be overstated. Every day approximately 3000 children - too young to purchase tobacco products legally - light up for the first time and new data from the Centers on Disease Control show that an alarming percentage of those children become addicted long before they reach the legal age. Children are what FDA's proposed action is all about.

1. The FDA should be allowed to Assert Jurisdiction and Propose a Public Solution. It Should Not Be Prevented From Completing Its Investigation and Acting By A Short Term Political Compromise. FDA's assertion of jurisdiction over Tobacco Products BY ITSELF represents a Major Step forward.

All too often political compromise reached through confidential, non-public negotiations has cut off public debate of important tobacco related issues and led to action which has undermined meaningful change.

In the past public health advocates have accepted change that the tobacco industry already knew would have little impact. In 1964 the FTC proposed strong health warnings and Congress cut a deal with the tobacco industry to replace the FTC's proposal with a weak meaningless health warning. It happened again in 1969 when Congress also caved in to a tobacco industry demand. Since 1964, every time Congress considered legislation to better protect children, the tobacco industry has come forth with a new voluntary program to discourage tobacco use among children, each of which was wholly ineffective.

The very announcement by FDA that tobacco is a drug, an addictive drug, will have a direct impact on how Americans perceive tobacco products. Equally as important, FDA assertion of jurisdiction will for the first time provide a mechanism to make changes and adjustments in how to reduce tobacco use among children without having to engage in a multi-year political battle in Congress to make the most insignificant changes.

The FDA protects consumers from injury from all other consumable products by overseeing how they are manufactured, distributed, labeled, and marketed. It is time that we subject tobacco to these same requirements.

2. For tobacco policy changes to have a significant impact on tobacco use, particularly among children, the changes must be comprehensive and substantial. Anything less is a mistake and would demonstrate that we have not learned from past mistakes.

The history of tobacco policy change in the United States is littered with public relations gestures, good intentions and few meaningful actions that actually reduced tobacco use among children.

To be effective, tobacco control efforts to protect children must be comprehensive and mandatory. Thus, restrictions on the access of children to tobacco products, no matter how good, are unlikely to bring about a long term major reduction unless these restrictions are accompanied by other actions, like the elimination of the advertising and marketing tools the tobacco industry uses to create demand among children or the attractive packaging used by the industry to create positive associations of their products among impressionable adolescents.

If the tobacco industry is sincere in its assertions that it does not want children to use tobacco products, and that it does want consumers to be fully informed, none of the specific proposals should be beyond what they are willing to accept.

3. The tobacco industry's sincerity should be measured by its actions not its rhetoric.

For more than 30 years the tobacco industry has proclaimed that its products do not cause disease or drug dependence, that it does not want children to smoke, that it does not market to children, and that it supports efforts to reduce the access of children to tobacco. Having issued these grandiose public relations statements, it has then proceeded to do just the opposite.

While the industry says it does not want children to smoke, it markets heavily to kids. Philip Morris says it doesn't want children to smoke, but no cigarette is smoked by more children than Marlboro and no company spends more money marketing its products in a manner than is consistently effective with children. R.J Reynolds' Old Joe Camel Cartoon advertising campaign is another perfect example. The increasing use of youth oriented giveaways, like t-shirts, and the sponsorship of youth oriented activities, like rock concerts, where tobacco products and tobacco related gear are given away are more accurate measures of the industry's intent than its public pronouncements.

Philip Morris promotes its youth access campaign as a solution, but at the same time has opposed every meaningful youth access bill introduced at the federal, state, and local level. The tobacco industry's actions whenever meaningful youth access laws are discussed are also inconsistent with its professed position. The industry has regularly opposed those actions which have been shown to reduce the ability of underage children to obtain tobacco products illegally, including proposals to require picture i.d.'s for young people wishing to purchase tobacco products as is often required for the purchase of alcohol, the licensing of tobacco retailers, the authorization of effective monitoring mechanisms, the requirement that all tobacco products be sold face to face as is required for alcohol sales, etc. Instead of effective measures to restrict the illegal sale of tobacco products to minors that focus on the seller, the tobacco industry often proposes ineffective voluntary programs and then urges that children who are found to possess tobacco products be turned into criminals, a policy that will only lead to the law being ignored and even worse, will breed disrespect for law.

Finally, the tobacco industry frequently points to its educational campaigns focused on tobacco use by youth. Once again, close examination of these programs reveals that they are little more than

clever public relations gimmicks designed to fend off legislative action, not to discourage youth tobacco use. While these programs routinely tell teenagers not to smoke because they are not yet mature enough to make the decision whether to smoke, they never tell kids not to smoke because it is addictive and causes death and disease.

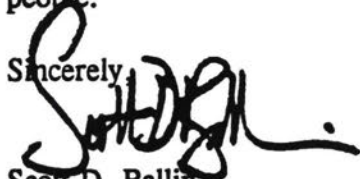
4. Recent events present a unique opportunity for progress in the effort to reduce tobacco use, particularly among children, an opportunity that needs to be carefully assessed and maximized.

Tobacco industry documents, as described in detail on the floor of Congress by Congressman Henry Waxman on July 25, 1995 and in the July 17, 1995 issue of The Journal of the American Medical Association and as laid out in the media and in Congressional hearings last year have for the first time disclosed the extent to which the tobacco industry has lied to the American public about what it knew about the health effects and addictive nature of its products. These disclosures present a special opportunity and has generated broad support for government action to reduce tobacco use among children, support that cuts across demographic and geographic lines;

FDA's investigation, combined with disclosures from other sources, has revealed the tobacco industry's intentional manipulation and control of nicotine for its pharmacologic impact on consumers;

FDA under Dr. Kessler has provided both moral and substantive leadership of an unprecedented nature. FDA's investigation has already contributed new important information on the two subjects that have the potential for changing how teenagers perceive tobacco - addiction and tobacco industry exploitation of the addictive nature of nicotine and the tobacco industry's callous targeting of young people.

Sincerely,


Scott D. Ballin
Chair, Coalition on Smoking OR Health
Vice President for Public Affairs
American Heart Association


Fran Du Melle
Deputy Managing Director
American Lung Association


Michael F. Heron
National Vice President for Public Affairs
American Cancer Society

cc: Vice President Gore
Leon Panetta
Abner Mikva

Harold Ickes
Carol Rasco
Marilyn Yager

Nancy Min
Sally Katzen

THE PRESIDENT HAS SEEN
7/31/95

THE WHITE HOUSE
WASHINGTON

July 29, 1995

MEMORANDUM FOR THE PRESIDENT

FROM: TODD STERN *TSS*
SUBJECT: Recent Information Items

Jim Dorskind

Please coordinate
the reply.

We have received the following recent information items:

*(Need to send
memo to
effect of
encouraging)*

• **Higgins note on Synar.** Kitty talked to David Kessler yesterday, who is serving as Mike's physician. Mike began radiation and chemotherapy treatment at NIH yesterday and will be home within the week. His condition is serious but treatable. Your call made an enormous difference in lifting his spirits.

• **Rivlin memo on security of federal facilities.** Progress is being made to implement recommendations of the DOJ Report on this subject. GSA has primary responsibility for security and ensuring agency compliance with standards established by DOJ. GSA has taken interim measures to heighten security at federal facilities at an FY 95 cost of \$20.7 million, expanding its contract guard force by almost 800 positions. GSA will report to OMB in October on future funding needed to complete implementation of the enhanced security measures. OMB is preparing an Executive Order to establish a permanent Interagency Security Committee to address government-wide security concerns.

• **Cisneros note on homeownership.** Upbeat report. Second quarter data show a half-point increase in homeownership rate (about a half million homes) -- biggest one-quarter rate increase since before 1980. The public-private National Partners in Homeownership, comprising 56 nationwide organizations and led by Henry, has a goal of 8 million new homeowners from the start of 1995 through 2000, which would bring the national rate to an all-time high of 67.5%, compared to 64.2% at year-end 1994. With a strong economy, low mortgage rates and low inflation, 2.4 million new homeowners have been added in the past two and a half years.

• **James Lee Witt thank you.** James Lee is very grateful that you took the time to make the video supporting the National Flood Insurance Program. He showed the video to 500 people at the National Flood Insurance Conference in St. Louis at the

THE WHITE HOUSE
WASHINGTON

July 28, 1995

MEMORANDUM FOR: THE PRESIDENT

FROM: KITTY HIGGINS *Kitty*

SUBJECT: Mike Synar

I spoke with David Kessler today. He's serving as Mike Synar's physician. David reported that your call to Mike made an enormous difference in raising his spirits. Mike is now at NIH and begins radiation and chemotherapy today. David hopes Mike will be home within the week, after six rounds of treatment. He characterizes Mike's condition as serious but treatable and would be happy to provide more information if that would be helpful.

cc: Leon Panetta
Harold Ickes
Jack Quinn

68 JUL 28 1995 P 0 1 44

THE PRESIDENT HAS SEEN
7/31/95

THE WHITE HOUSE
WASHINGTON

July 29, 1995

MEMORANDUM FOR THE PRESIDENT

FROM: TODD STERN

SUBJECT: Recent Information Items

We are forwarding the following recent information items:

(A) Stern memo summarizing various items.

(B) Lake memo on Vietnamese asylum seekers. The House has easily passed -- over our opposition -- a Chris Smith (R-NJ) amendment calling for new refugee interviews in Asian first asylum countries for the 40,000 screened-out Vietnamese boat people. Tony says this amendment would undermine the international agreement on screening Vietnamese boat people, which has worked fairly well. We have now proposed an alternative: promising U.S. refugee interviews *in Vietnam* for those who return there, providing entry to the U.S. for those of special humanitarian concern to us. UNHCR supports this idea and it was favorably received in the House during State Department testimony Tuesday. It would not require increasing our FY 96 refugee ceiling.

(C) Perry note on Lockheed Martin merger. DOD's Office of Economic Adjustment provides financial and technical assistance to communities affected by major reductions in defense employment, coordinating with Commerce, Labor and SBA. Regarding Lockheed/Martin, OEA is already providing assistance to seven of eight affected areas and can increase this assistance if necessary. OEA is also monitoring the eighth area (E. Windsor, N.J.) for potential assistance needs. DOD is also about to transfer \$30 million to SBA for a new program to provide loan guarantees to small defense contractors (the Defense Loan and Technical Assistance Program.)

(D) Reich and Brown memos to Erskine on Lockheed/Martin merger. Bob notes Labor is ready to provide rapid response services including outreach, testing, labor market information and counseling, where needed. Some \$250 million is available for federal response to States whose Dislocated Worker Units get notice of mass layoffs. Ron discusses the Economic Development Administration, which has been assisting communities affected by defense cutbacks since 1988. He also mentions the Minority Business Development Agency and the Bureau of Export Administration,

we should
get some
substantive
Reich - Bob
Congress
to cut
this out

CC
ERSKINE
LEON P.
M. FOL
TYSON



THE PRESIDENT HAS SEEN
7/31/95
THE SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301

26 JUL 1995

95 JUL 27 P 6 : 43

MEMORANDUM FOR WHITE HOUSE DEPUTY CHIEF OF STAFF

SUBJECT: Lockheed Martin Merger Community Assistance

This responds to the President's inquiry about the Department of Defense's (DoD) ability to help those affected by the Lockheed Martin merger.

DoD already provides financial and technical assistance to states and communities affected by major reductions in defense employment. Planning grants are made available to help local governments better understand their economic dependence on DoD expenditures and to develop diversification strategies for communities and businesses. DoD's Office of Economic Adjustment (OEA) coordinates its assistance with the Departments of Commerce and Labor and the Small Business Administration (SBA).

One of the critical elements of success in this effort is the cooperation and coordination with key local stakeholders, including the defense prime contractors. DoD has been tracking the Lockheed Martin merger and the likely community impacts. I am pleased to advise you that OEA is already providing assistance to seven of the eight areas impacted by this merger. As a result, we can easily modify or expand these efforts to include any additional job losses. For the one exception, East Windsor, New Jersey, we are monitoring it closely for potential assistance needs.

Also, DoD is about to transfer \$30 million to the SBA to establish the Defense Loan and Technical Assistance Program which will provide loan guarantees to small defense contractors and subcontractors, some of which will undoubtedly be affected by the merger. This program will be carried out by SBA in cooperation with DoD.

I hope this information is helpful. If you have further questions, Josh Gotbaum and I are available to discuss.

William J. Perry

**THE WHITE HOUSE
WASHINGTON**

OFFICE OF THE STAFF SECRETARY

Fax Transmittal Sheet

TO: The Honorable Henry Cisneros

Fax Number: 202-708-0299 **Phone Number:** 202-708-1422

FROM: TODD STERN

SUBJECT: PRESIDENTIAL NOTE

DATE: JULY 31, 1995

NUMBER OF PAGES (including cover sheet): 4

MESSAGE:

If all pages are not received, please call 202/456-2702

The document accompanying this facsimile transmittal sheet is intended only for the use of the individual or entity to whom it is addressed. This message contains information which may be privileged, confidential or exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any disclosure, dissemination, copying or distribution, or the taking of any action in reliance on the contents of this communication is strictly prohibited.

THE PRESIDENT HAS SEEN
7/31/95

THE WHITE HOUSE
WASHINGTON

July 29, 1995

MEMORANDUM FOR THE PRESIDENT

FROM: TODD STERN *TSS*
SUBJECT: Recent Information Items

We have received the following recent information items:

I need to see Higgins note on Synar
• **Higgins note on Synar.** Kitty talked to David Kessler yesterday, who is serving as Mike's physician. Mike began radiation and chemotherapy treatment at NIH yesterday and will be home within the week. His condition is serious but treatable. Your call made an enormous difference in lifting his spirits.

letting go of our magazine
• **Rivlin memo on security of federal facilities.** Progress is being made to implement recommendations of the DOJ Report on this subject. GSA has primary responsibility for security and ensuring agency compliance with standards established by DOJ. GSA has taken interim measures to heighten security at federal facilities at an FY 95 cost of \$20.7 million, expanding its contract guard force by almost 800 positions. GSA will report to OMB in October on future funding needed to complete implementation of the enhanced security measures. OMB is preparing an Executive Order to establish a permanent Interagency Security Committee to address government-wide security concerns.

(Circled X)
• **Cisneros note on homeownership.** Upbeat report. Second quarter data show a half-point increase in homeownership rate (about a half million homes) -- biggest one-quarter rate increase since before 1980. The ~~public-private~~ National Partners in Homeownership, comprising 56 nationwide organizations and led by Henry, has a goal of 8 million new homeowners from the start of 1995 through 2000, which would bring the national rate to an all-time high of 67.5%, compared to 64.2% at year-end 1994. With a strong economy, low mortgage rates and low inflation, 2.4 million new homeowners have been added in the past two and a half years.

- **James Lee Witt thank you.** James Lee is very grateful that you took the time to make the video supporting the National Flood Insurance Program. He showed the video to 500 people at the National Flood Insurance Conference in St. Louis at the



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
THE SECRETARY

WASHINGTON, D.C. 20410-0001

95 JUL 25 P3:06

July 25, 1995

President William Jefferson Clinton
The White House
Washington, D.C.

Dear Mr. President:

We are making dramatic progress in 1995 on your commitment to a record-breaking expansion of homeownership opportunities for America's families. Yesterday's second quarter Census data recorded the biggest three-month increase in the nation's homeownership rate since before 1980.

On June 5th you announced the National Homeownership Strategy, a public-private partnership to expand the American Dream by achieving an all-time high level of homeownership in America by the end of the century. The National Partners in Homeownership, now consisting of 56 nationwide organizations representing private industry, community groups, and Federal, State, and local governments, was formed after you directed me last November to lead the partnership's efforts.

By January, 1995, we had produced a report calling for the partnership to carry out 100 strategic actions to generate up to 8 million homeowners from the beginning of 1995 through the end of the year 2000, which will bring the national homeownership rate to 67.5 percent, up from 64.2 percent at the end of 1994. This new all-time high national homeownership rate will exceed the previous 1980 peak of 65.6 percent. The 21st Century will start with -- for the first time ever -- more than two-thirds of America's families owning their own home.

I am pleased to report that the partnership has gotten off to an excellent start in moving toward the goals you have articulated. During the second quarter of 1995 (April, May, and June), the national homeownership rate increased by one-half percent, or approximately half a million families. This is the largest single jump in one three-month period since before 1980. It covers nearly one-sixth of the overall percentage growth needed to reach our final goal.

The Census Bureau also revealed that the number of homeowners in America increased by 721,000 during the first six months of 1995. Since the beginning of the partnership, homebuying activity is expanding for American families at an even faster pace than required in order to generate 8 million homeowners during the next six years.

Together with the efforts of the National Partners in Homeownership, your Administration's economic policies have played an essential role in producing the very favorable climate enabling homeownership opportunities to flourish. The growth of more than 7 million jobs since you took office, combined with low mortgage interest rates that are once again heading down, and a very low rate of inflation, has opened the doors of affordable homeownership for an increase of over 2.4 million homeowners in the last two and a half years.

We will continue working hard to build on your record of accomplishment, and we fully intend to reach your ambitious national homeownership goals. Homeownership is good for the economy, good for communities, good for families; it is a key to prosperity and dignity for over 60 million American households. We will redouble our efforts to ensure that this special opportunity for economic and social self-sufficiency is genuinely available for millions of hard-working Americans who are still waiting for the chance to own their own home.

Sincerely,


Henry G. Cisneros

TRANSMIT CONFIRMATION REPORT

NO.	:	006	
RECEIVER	:	917036979080	
TRANSMITTER	:		
DATE	:	JUL 31'95	14:13
DURATION	:	01'45	
MODE	:	STD	
PAGES	:	03	
RESULT	:	OK	

THE WHITE HOUSE
WASHINGTON

OFFICE OF THE STAFF SECRETARY

Fax Transmittal Sheet

TO: The Honorable William Perry
Secretary of Defense

Fax Number: 703-697-9080 Phone Number: 703-655-6955

FROM: Todd Stern

SUBJECT: PRESIDENTIAL NOTE: "We should get some publicity on
this. Does Congress want to cut
this out"

DATE: JULY 31, 1995

NUMBER OF PAGES (including cover sheet): 3

MESSAGE:

If all pages are not received, please call 202/456-2702

The document accompanying this facsimile transmittal sheet is intended only for the use of the individual or entity to whom it is addressed. This message contains information which may be privileged, confidential or exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any disclosure, dissemination, copying or distribution, or the taking of any action in reliance on the contents of this communication is strictly prohibited.

THE PRESIDENT HAS SEEN
7/31/95

THE WHITE HOUSE
WASHINGTON

July 29, 1995

We should
get some
publicizing on
this does Congress
way to cut
this out.

MEMORANDUM FOR THE PRESIDENT

FROM: TODD STERN *TS*
SUBJECT: Recent Information Items

We are forwarding the following recent information items:

(A) Stern memo summarizing various items.

(B) **Lake memo on Vietnamese asylum seekers.** The House has easily passed -- over our opposition -- a Chris Smith (R-NJ) amendment calling for new refugee interviews in Asian first asylum countries for the 40,000 screened-out Vietnamese boat people. Tony says this amendment would undermine the international agreement on screening Vietnamese boat people, which has worked fairly well. We have now proposed an alternative: promising U.S. refugee interviews *in Vietnam* for those who return there, providing entry to the U.S. for those of special humanitarian concern to us. UNHCR supports this idea and it was favorably received in the House during State Department testimony Tuesday. It would not require increasing our FY 96 refugee ceiling.

(C) **Perry note on Lockheed Martin merger.** DOD's Office of Economic Adjustment provides financial and technical assistance to communities affected by major reductions in defense employment, coordinating with Commerce, Labor and SBA. Regarding Lockheed/Martin, OEA is already providing assistance to seven of eight affected areas and can increase this assistance if necessary. OEA is also monitoring the eighth area (E. Windsor, N.J.) for potential assistance needs. DOD is also about to transfer \$30 million to SBA for a new program to provide loan guarantees to small defense contractors (the Defense Loan and Technical Assistance Program.)

(D) **Reich and Brown memos to Erskine on Lockheed/Martin merger.** Bob notes Labor is ready to provide rapid response services including outreach, testing, labor market information and counseling, where needed. Some \$250 million is available for federal response to States whose Dislocated Worker Units get notice of mass layoffs. Ron discusses the Economic Development Administration, which has been assisting communities affected by defense cutbacks since 1988. He also mentions the Minority Business Development Agency and the Bureau of Export Administration,

We should
get some
publicizing on
this - does
Congress
way to cut
this out



THE PRESIDENT HAS SEEN
7/31/95

THE SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301

Porus

26 JUL 1995

95 JUL 27 P6:43

MEMORANDUM FOR WHITE HOUSE DEPUTY CHIEF OF STAFF

SUBJECT: Lockheed Martin Merger Community Assistance

This responds to the President's inquiry about the Department of Defense's (DoD) ability to help those affected by the Lockheed Martin merger.

DoD already provides financial and technical assistance to states and communities affected by major reductions in defense employment. Planning grants are made available to help local governments better understand their economic dependence on DoD expenditures and to develop diversification strategies for communities and businesses. DoD's Office of Economic Adjustment (OEA) coordinates its assistance with the Departments of Commerce and Labor and the Small Business Administration (SBA).

One of the critical elements of success in this effort is the cooperation and coordination with key local stakeholders, including the defense prime contractors. DoD has been tracking the Lockheed Martin merger and the likely community impacts. I am pleased to advise you that OEA is already providing assistance to seven of the eight areas impacted by this merger. As a result, we can easily modify or expand these efforts to include any additional job losses. For the one exception, East Windsor, New Jersey, we are monitoring it closely for potential assistance needs.

Also, DoD is about to transfer \$30 million to the SBA to establish the Defense Loan and Technical Assistance Program which will provide loan guarantees to small defense contractors and subcontractors, some of which will undoubtedly be affected by the merger. This program will be carried out by SBA in cooperation with DoD.

I hope this information is helpful. If you have further questions, Josh Gotbaum and I are available to discuss.

William J. Perry

*The Pres.
has not
seen*



JIMMY CARTER

Todd -
Should we send to
NSC for appropriate
handling?

Yes ☒

No ☐

e

25 July 1995

To President Bill Clinton

As has always been my custom, I want to make a brief report on another overseas mission on behalf of The Carter Center -- this time back to Sudan, Kenya, and Uganda.

Our goals were to publicize the dedicated work of relief agencies throughout Sudan, to acknowledge the contribution of the combatants in honoring the cease-fire and to seek its extension, to add our support to the faltering peacemaking efforts of IGADD, to lessen tensions within the region, and to continue expanding our health programs. As we do this work, it is always sobering to realize that, in Sudan alone, we are dealing with a diverse region at war, the size of the U.S. east of the Mississippi River.

During the few days available to us, I had extensive meetings with political and military leaders in Khartoum, Southern Sudan, Nairobi, and Kampala. We found almost all of them fully cooperative in meeting the goals listed above. With some input from us and with strong influence of U.S. officials, a serious hostage crisis was resolved while we were in Lokichokio.

The one unanswered question, which affects the attitude of everyone concerning the conflicts, is the primary purpose of the U.S. government. Is it to promote harmony and a potential peace agreement in Sudan or is it to help orchestrate and support the overthrow of the Khartoum regime? It was predictable that President Bashir would claim the latter, but the attendance of our ambassador at the highly publicized conference of anti-Sudan groups in Asmara has created widespread doubt among others. Despite the efforts of the "Friends of IGADD," this further weakens an already ineffective IGADD effort and increases the obduracy of John

Garang and his SPLA, who obviously feel that they have something of a new alliance with Washington. I maintained that our government still supports the cease-fire period and the peace process, but did not attempt to explain our participation in Asmara.

For the first time, I was able to visit war-torn regions of southern Sudan controlled both by the government and rebel forces and to witness the delivery of humanitarian services. Access to many of these areas has been possible only during the last four months of relative peace, and the coordinated work of more than twenty relief agencies is truly heroic. Hundreds of new villages and tens of thousands of additional people are receiving services in eradicating Guinea worm, preventing river blindness, immunizing children, and distributing vitamin A and oral rehydration therapy. We are now planning a much wider health program throughout the nation and including malaria, leprosy, tuberculosis, sleeping sickness, and other tropical diseases.

After a great deal of persuasion, all sides agreed to a further extension of the cease-fire, and prospects are good for the removal of existing landing restraints to additional airstrips. The recent impasse between the Sudan government and Operation Lifeline Sudan is also likely to be resolved in the near future, through the efforts of U.N. special representative Traxler, who is trusted by all sides.

With the encouragement of President Daniel arap Moi, I extended an invitation to Garang, SSIM commander Riek Machar, and President Bashir to renew the peace talks at an early and convenient date, and spelled out the premises for Moi's IGADD mediation. All agreed to participate (Garang with some reticence) but, knowing the issues from long experience, I doubt that President Moi will sustain the kind of mediation effort that will be necessary for a final agreement. Stronger and clearer international support for him will be an important factor.

At the request of Riek, I urged a direct meeting between the southern leaders, but Garang was not willing, claiming that peace committees already existed. Both Presidents Bashir and Moi asked me to discuss their differences

with President Museveni. The serious border dispute between Sudan and Uganda is being resolved through Malawi's influence, and it is now planned that unrestrained observers will be stationed on both sides to assure that war materiel does not move from Uganda to the SPLA and that a bandit group known as the Lord's Liberation Army does not make raids again from Sudan into Uganda. Malawi will also furnish observers. The problem between Moi and Museveni is a personal one, and Museveni finally asked me to send a message to Moi from him, suggesting that the two meet at a time and place suggested by Moi.

This is an intriguing and troubling region, in which we at The Carter Center have been involved for almost a decade. I have prepared a more complete trip report, which will be made available to any of your assistants who might be interested in details.

I realize that you are greatly troubled by the crisis in Bosnia-Herzegovina, and still hope that an option of direct negotiations may someday be accepted by all sides. You have my best wishes.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jimmy", with a horizontal line above it.

The Honorable Bill Clinton
The President
The White House
Washington, D.C. 20500-2000

Todd -

Should we send to
NSC for appropriate
action?

Yes



No

OFFICIAL TRANSLATION

95 JUL 31 P3:21

Prague, 6 July 1995

Dear Mr. President,

Like you, I am pleased to note that Radio Free Europe / Liberty has recently been relocated to the Czech Republic. I perceive this step as an eloquent proof of the commitment of the United States to the strengthening of democracy in Eastern Europe and in the territory of the former Soviet Union as well as an expression of trust in the future of the Czech Republic.

In a letter addressed to you in early 1993, I stressed the importance of the role played by Radio Free Europe in our country. The programmes broadcast from its Prague studio in various languages continue to contribute significantly to the development of independent journalism, and consequently also of democracy, in the countries at which they are aimed.

In my view, according to my experience of a long-time correspondent of the Czech section of Radio Free Europe, the broadcasting station has maintained high standards and fostered the much-desired competition among broadcasting stations in a number of countries. One might say that despite the successes achieved on our way towards democracy, we still need Radio Free Europe.

I wish to thank you, dear Mr. President, for your personal contribution to the relocation of Radio Free Europe / Liberty to Prague; you helped to create another link between our countries.

Yours sincerely,

(Václav Havel)

The Honorable
Bill Clinton
President of the United States
The White House
Washington

Prezident republiky

V Praze dne 6. července 1995

Vážený pane prezidente,

jsem stejně jako Vy potěšen tím, že se rozhlasová stanice Svobodná Evropa/Svoboda v minulých týdnech přemístila do České republiky. V tomto kroku spatřuji výmluvný doklad, že Spojeným státům záleží na posílení demokracie ve východní Evropě a na území bývalého Sovětského svazu, a zároveň projev jejich důvěry v budoucnost České republiky.

Počátkem roku 1993 jsem Vám v dopise zdůraznil, jak důležitou roli zde dosud hraje vysílání Svobodné Evropy. Pořady vysílané nyní z pražského pracoviště Svobodné Evropy v různých jazycích i nadále významně přispívají k rozvoji nezávislé žurnalistiky a tím i demokracie v zemích, kam vysílání směřuje.

Podle mého názoru a podle mé zkušenosti dlouholetého spolupracovníka českého vysílání Svobodné Evropy je tato rozhlasová stanice na vysoké úrovni a napomáhá k vytváření žádoucího konkurenčního prostředí pro rozhlasové stanice v řadě zemí. Mohu říci, že přes úspěchy, kterých jsme již dosáhli na naší cestě k demokracii, je vysílání Svobodné Evropy stále potřebné.

Děkuji Vám, vážený pane prezidente, za Váš osobní přínos k přestěhování rozhlasové stanice Svobodná Evropa/Svoboda do Prahy; pomohl jste tak vytvořit další spojovací článek mezi našimi zeměmi.

Se srdečným pozdravem



Prezident Spojených států amerických
Bílý dům
Washington

Embassy of the Czech Republic
3900 Spring of Freedom St., N. W.
Washington, D. C. 20008

The Embassy of the Czech Republic presents its compliments to the Department of State of the United States of America and has the honor to transmit herewith a letter that the President of the Czech Republic Vaclav Havel has addressed to the President of the United States William J. Clinton with the request that the letter be forwarded to the addressee.

The Embassy of the Czech Republic avails itself of this opportunity to renew to the Department of State the assurances of its highest consideration.

Department of State
Office of Protocol
Washington, D.C.



No: 3741-95

July 27, 1995

Phone: (202) 363-6315
Fax: (202) 966-8540

THE PRESIDENT HAS SEEN
7/31/95

THE WHITE HOUSE
WASHINGTON

July 29, 1995

We should
get some
publicity on
this does Congress
way to cut
this out.

MEMORANDUM FOR THE PRESIDENT

FROM: TODD STERN *TS*
SUBJECT: Recent Information Items

We are forwarding the following recent information items:

(A) Stern memo summarizing various items.

(B) Lake memo on Vietnamese asylum seekers. The House has easily passed -- over our opposition -- a Chris Smith (R-NJ) amendment calling for new refugee interviews in Asian first asylum countries for the 40,000 screened-out Vietnamese boat people. Tony says this amendment would undermine the international agreement on screening Vietnamese boat people, which has worked fairly well. We have now proposed an alternative: promising U.S. refugee interviews *in Vietnam* for those who return there, providing entry to the U.S. for those of special humanitarian concern to us. UNHCR supports this idea and it was favorably received in the House during State Department testimony Tuesday. It would not require increasing our FY 96 refugee ceiling.

(C) Perry note on Lockheed Martin merger. DOD's Office of Economic Adjustment provides financial and technical assistance to communities affected by major reductions in defense employment, coordinating with Commerce, Labor and SBA. Regarding Lockheed/Martin, OEA is already providing assistance to seven of eight affected areas and can increase this assistance if necessary. OEA is also monitoring the eighth area (E. Windsor, N.J.) for potential assistance needs. DOD is also about to transfer \$30 million to SBA for a new program to provide loan guarantees to small defense contractors (the Defense Loan and Technical Assistance Program.)

(D) Reich and Brown memos to Erskine on Lockheed/Martin merger. Bob notes Labor is ready to provide rapid response services including outreach, testing, labor market information and counseling, where needed. Some \$250 million is available for federal response to States whose Dislocated Worker Units get notice of mass layoffs. Ron discusses the Economic Development Administration, which has been assisting communities affected by defense cutbacks since 1988. He also mentions the Minority Business Development Agency and the Bureau of Export Administration,

We should
get some
publicity on
this does Congress
way to cut
this out.



THE PRESIDENT HAS SEEN
7/31/95

THE SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301

Pours

95 JUL 27 P6:43

26 JUL 1995

MEMORANDUM FOR WHITE HOUSE DEPUTY CHIEF OF STAFF

SUBJECT: Lockheed Martin Merger Community Assistance

This responds to the President's inquiry about the Department of Defense's (DoD) ability to help those affected by the Lockheed Martin merger.

DoD already provides financial and technical assistance to states and communities affected by major reductions in defense employment. Planning grants are made available to help local governments better understand their economic dependence on DoD expenditures and to develop diversification strategies for communities and businesses. DoD's Office of Economic Adjustment (OEA) coordinates its assistance with the Departments of Commerce and Labor and the Small Business Administration (SBA).

One of the critical elements of success in this effort is the cooperation and coordination with key local stakeholders, including the defense prime contractors. DoD has been tracking the Lockheed Martin merger and the likely community impacts. I am pleased to advise you that OEA is already providing assistance to seven of the eight areas impacted by this merger. As a result, we can easily modify or expand these efforts to include any additional job losses. For the one exception, East Windsor, New Jersey, we are monitoring it closely for potential assistance needs.

Also, DoD is about to transfer \$30 million to the SBA to establish the Defense Loan and Technical Assistance Program which will provide loan guarantees to small defense contractors and subcontractors, some of which will undoubtedly be affected by the merger. This program will be carried out by SBA in cooperation with DoD.

I hope this information is helpful. If you have further questions, Josh Gotbaum and I are available to discuss.

William J. Perry

To: Jim Donskind
Please prepare
response. Thank
you -

THE PRESIDENT HAS SEEN
7/31/95
Need to do
a memo letter to
Pui Young Lee
on her letter
for

THE AMERICAN FLAG - WHAT IT MEANS TO ME

The American Flag - What It Means To Me. In order for me to explain what the Flag means to me, I feel that first I need to explain how I interpret it.

Our Flag has four major parts: the blue field, the stars, the red stripes, and the white stripes.

The way I see the blue field is that it represents how America defended its freedom, along with the Flag. Whether it is by flying through a blue sky or through a blue ocean, there has always been a strong group of Americans ready at a moment's notice to go fight and possibly lay down their lives for all Americans. When I see the white stars on the Flag, I picture Betsy Ross sewing the first American Flag with the thirteen stars that represented the first thirteen original colonies. Then, I imagine each state fighting and not giving up and then, one by one, having it's own star added to the growing number of stars to symbolize it's new membership in the Union. Because of the Declaration of Independence, we had the freedom to add the other thirty-seven stars to the original thirteen. To me, the red stripes have always been symbolic of the blood shed to protect us, and the lives lost to assure us of freedom, or to help a country in need. It is the strong impression of the white stripes reminding me of the white tombstones of Arlington National Cemetery in Washington, D.C. I had the

April
Hawmkey
67 A Peterson St.
Anella, Pa
15312
Phone - 412-587
3019

opportunity to visit Arlington this past May. The rows upon rows of the white tombstones is a grim reminder of the lives lost, sometimes needlessly, but not without honor. The changing of the guard at the Tomb of the Unknown Soldier and the actual tomb itself also come into mind when I see our Flag now.

All of these pieces - the blue field, the stars, the red and white stripes - have a major part to play in the interpretation of the American Flag, and the Flag wouldn't be the same with just one part missing.

The American Flag. These three words mean a lot of different things to a lot of different people. What exactly does it mean to me? To me, the Flag is like a signed contract with America, assuring all citizens of the United States the basic rights which are life, liberty, and the pursuit of happiness. The Flag is also the key to opportunity for all Americans. People have fought over and been killed to provide us with opportunity. When I speak of opportunity, I mean that in America, I can do what I want, as long as I follow the law, and I am free to chase down my dreams and accomplish all that I possibly can.

Our Flag has been associated with both bad and good times in America, and these moments have produced some of the most unforgettable pictures in American history. One that comes first to my mind is the raising of the Flag in Mount Suribachi in Iwo Jima. The raising of that particular flag came about when a group of Marines were getting ready to replace a small American flag that was already flying

with another one which was ninety-six by fifty-six inches on an iron pole about twenty feet long. Joe Rosenthal, the photographer of the picture, was quoted in Sunday, January 22, 1995's Parade, a Sunday newspaper magazine, as saying: "The tension in the picture comes from the weight of the pole which was about one hundred and fifty pounds. Other guys jumped in to help when they saw it was heavy." He also stressed that the picture was not posed. His photograph spawned a bronze sculpture which stands proudly in Washington, D.C. That statue is a breathtaking sight to see in the early morning light, which I did. It made me appreciate the struggle those loyal Marines endured to make sure our Flag went up and stayed there.

Both of my grandfathers were in the Army and served in World War II. My father's father was awarded a purple heart, and when he passed away in 1983, my grandmother was presented with the Flag that covered his casket. I thought, and still think, that it was an honor for my grandfather to be covered with a flag the way Presidents and Generals are.

Our Flag is honored in many ways. These lines in the "Star Spangled Banner" by Francis Scott Key: "Oh say can you see by the dawn's early light what so proudly we hailed at the twilight's last gleaming, whose broad stripes and bright stars through the perilous fight..." and the Pledge of Allegiance: "I pledge allegiance to the Flag..." which is said by millions nationwide daily whether it be before the start of a new school day or before an executive meeting.

The Star Spangled Banner and the Pledge of Allegiance may have been written centuries ago, but people still and will continue to honor the Flag. By using flag stamps or simply removing hats when the Star Spangled Banner is being played or sung shows respect.

Musicians still are getting in the act of expressing their emotions about our Flag and country. One of my favorite songs was written by Lee Greenwood and was "Operation Desert Storm"'s Anthem. His song "God Bless the U.S.A." has many inspirational messages, but these lines: "The flag still stands for freedom and they can't take that away. I'm proud to be an American where at least I know I'm free, and I can't forget the men who died who gave that right to me. And I'd proudly stand up next to you, and defend her still today, 'cause there ain't no doubt-I love this land. God Bless the U.S.A." All Americans should have this attitude.

According to Thorndike Century Junior Dictionary, the word "flag" means, "A light piece of cloth, usually with square corners, on which the picture or pattern that stands for some country." That is not how I would define our American Flag.

Yes, our Flag may be a simple piece of cloth with stars and stripes on it, but that simple piece of cloth has been fought over many times, defended with human lives, stirs up emotions, and can even bring a man to tears.

In conclusion, I find it impossible to try to describe how I feel about our Flag in one word, one paragraph, or even one thousand words. The Flag means so much to people. To me, April Starinsky, it offers peace, liberty, and hope-peace between all fifty states, the God-given liberty I received at birth, and the hope that people for generations to come will continue to work and strive for world peace and will continue to honor and respect the Flag that my grandfathers, along with other people's grandfathers, brothers, fathers, sisters, mothers and children fought so bravely for and even laid down their lives for. That's something we can all hope for, and that's what our American Flag means to me.

By

April Starinsky

Sosnick

↳ He came to Pres Kim's
State Dinner - want to help us
in '96 - we should contact him -

BC

8809 Nottingham showed
Louisville Kentucky Contact him.



Sosnick

He came to
Pres. Kim's
State dinner -
wants to help
us in '96 We
should

||

THE WHITE HOUSE



*Mobilization of Korean
Americans for 1996 election*

The Reverend

502-5695348 (G)

Syngman Rhee

502-5698039 FAX

and Mrs. Rhee

8809 Nottingham

Louisville Kentucky



THE PRESIDENT HAS SEEN
7/31/95

THE WHITE HOUSE
WASHINGTON

July 29, 1995

MEMORANDUM FOR THE PRESIDENT

FROM: TODD STERN *TSS*
SUBJECT: Recent Information Items

We have received the following recent information items:

*I need to send
this to the
President of
Congress*

- **Higgins note on Synar.** Kitty talked to David Kessler yesterday, who is serving as Mike's physician. Mike began radiation and chemotherapy treatment at NIH yesterday and will be home within the week. His condition is serious but treatable. Your call made an enormous difference in lifting his spirits.

- **Rivlin memo on security of federal facilities.** Progress is being made to implement recommendations of the DOJ Report on this subject. GSA has primary responsibility for security and ensuring agency compliance with standards established by DOJ. GSA has taken interim measures to heighten security at federal facilities at an FY 95 cost of \$20.7 million, expanding its contract guard force by almost 800 positions. GSA will report to OMB in October on future funding needed to complete implementation of the enhanced security measures. OMB is preparing an Executive Order to establish a permanent Interagency Security Committee to address government-wide security concerns.

- **Cisneros note on homeownership.** Upbeat report. Second quarter data show a half-point increase in homeownership rate (about a half million homes) -- biggest one-quarter rate increase since before 1980. The public-private National Partners in Homeownership, comprising 56 nationwide organizations and led by Henry, has a goal of 8 million new homeowners from the start of 1995 through 2000, which would bring the national rate to an all-time high of 67.5%, compared to 64.2% at year-end 1994. With a strong economy, low mortgage rates and low inflation, 2.4 million new homeowners have been added in the past two and a half years.

- **James Lee Witt thank you.** James Lee is very grateful that you took the time to make the video supporting the National Flood Insurance Program. He showed the video to 500 people at the National Flood Insurance Conference in St. Louis at the



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
THE SECRETARY

WASHINGTON, D.C. 20410-0001

95 JUL 25 P3:06

July 25, 1995

President William Jefferson Clinton
The White House
Washington, D.C.

Dear Mr. President:

We are making dramatic progress in 1995 on your commitment to a record-breaking expansion of homeownership opportunities for America's families. Yesterday's second quarter Census data recorded the biggest three-month increase in the nation's homeownership rate since before 1980.

On June 5th you announced the National Homeownership Strategy, a public-private partnership to expand the American Dream by achieving an all-time high level of homeownership in America by the end of the century. The National Partners in Homeownership, now consisting of 56 nationwide organizations representing private industry, community groups, and Federal, State, and local governments, was formed after you directed me last November to lead the partnership's efforts.

By January, 1995, we had produced a report calling for the partnership to carry out 100 strategic actions to generate up to 8 million homeowners from the beginning of 1995 through the end of the year 2000, which will bring the national homeownership rate to 67.5 percent, up from 64.2 percent at the end of 1994. This new all-time high national homeownership rate will exceed the previous 1980 peak of 65.6 percent. The 21st Century will start with -- for the first time ever -- more than two-thirds of America's families owning their own home.

I am pleased to report that the partnership has gotten off to an excellent start in moving toward the goals you have articulated. During the second quarter of 1995 (April, May, and June), the national homeownership rate increased by one-half percent, or approximately half a million families. This is the largest single jump in one three-month period since before 1980. It covers nearly one-sixth of the overall percentage growth needed to reach our final goal.

The Census Bureau also revealed that the number of homeowners in America increased by 721,000 during the first six months of 1995. Since the beginning of the partnership, homebuying activity is expanding for American families at an even faster pace than required in order to generate 8 million homeowners during the next six years.

Together with the efforts of the National Partners in Homeownership, your Administration's economic policies have played an essential role in producing the very favorable climate enabling homeownership opportunities to flourish. The growth of more than 7 million jobs since you took office, combined with low mortgage interest rates that are once again heading down, and a very low rate of inflation, has opened the doors of affordable homeownership for an increase of over 2.4 million homeowners in the last two and a half years.

We will continue working hard to build on your record of accomplishment, and we fully intend to reach your ambitious national homeownership goals. Homeownership is good for the economy, good for communities, good for families; it is a key to prosperity and dignity for over 60 million American households. We will redouble our efforts to ensure that this special opportunity for economic and social self-sufficiency is genuinely available for millions of hard-working Americans who are still waiting for the chance to own their own home.

Sincerely,



Henry G. Cisneros