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Would Megan's Law Have Saved Megan?

Her neighbors knew a child sex-offender had been living among them for six years.

By Tim O'Brien

It's been almost two years since 7-year-old Megan Kanka was molested and murdered, allegedly by a convicted sex offender, in a house across the street from her home in Hamilton Township. It was the crime that spawned Megan's Law, mandating that neighbors be notified when a convicted sex offender moves in.

As Megan's Law hurred through the Legislature -- it passed the Assembly unanimously two weeks after its introduction and was signed three months after Megan's murder -- few questioned its premise. If Megan Kanka's parents had known that a convicted sex offender had moved in across the street, the argument went, they could have kept their daughter away.

But lost in the outrage and political posturing was a lone but untidy and inconvenient fact: Within the close-knit enclave in the Trenton suburb where Megan Kanka was killed, it was known that one of the occupants of the house where she died had an unsavory past, and the knowledge did nothing to prevent the crime.

A convicted sex offender -- though not the one who allegedly killed Megan -- had lived there for six years. His name is Joseph Cifelli. He had molested a little girl, had served nine years in the state prison for sex offenders at Avenel, and

had returned to the house where he grew up on Barbara Lee Drive in the township's Mercerville section, near Hamilton Square. It was the house where the rape and strangulation of Megan took place, say police.

While many residents in the neighborhood did not know about him, most of those who lived closest to him did know his history. In fact, neighbors steered police to his house -- the scene of the crime -- on that July night in 1994 when officers joined the community in searching for the missing girl. The tip proved a turning point in the case.

In fact, interviews and a police report make clear that neighbors living within at least eight houses of the Cifelli house were aware that he was a convicted sex offender. Those interviewed also all knew specifics of the charges against him. The homes include those to the left and right of the Cifelli house, to the back of the Cifelli house on Livingston Drive, and those on both sides of the Kanka house. [See diagram, page 24.]

The Kankas have told the media and police that in the 15 years that they lived on the block before the murder, no one told them about Cifelli's sex offender past. When Maureen Kanka began spearheading her drive, she expressed shock that sex offenders were living near her home. The Kankas declined, through an intermediary, to be interviewed for this story.

But four neighbors say they believe that the Kankas -- of 32 Barbara Lee Drive -- also knew that Cifelli, who lived diagonally across the street from them, was a convicted sex offender. These include neighbors to the right (No. 26), to the left (No. 38) and directly across the street (No. 33). And James Rivera, who lives around the block at 104 Nancy Drive and became involved

in the lobbying effort for Megan's Law, says that Maureen Kanka told him that she knew Cifelli was a convicted sex offender. However, she did not know the history of Jesse Timmendequas, the man charged with Megan's murder.

'Joey's Back'

Joseph Cifelli grew up in his parents' home, with a brother and sister, at 27 Barbara Lee Drive. Cifelli, who turns 41 this Sunday, had invited two fellow convicted sex offenders, whom he had befriended while all three served time in the Avenel facility, to live with him. The two, Timmendequas and Brian Jenin, moved in during late 1992 or early 1993 after living for a couple of years in San Diego.

Timmendequas, 35, is charged with committing the fatal assault on the night of July 29, 1994. His trial, before Superior Court Judge Andrew Smithson in Trenton, is set to begin in September.

After almost 60 interviews of residents in the neighborhood and surrounding blocks, it is clear that the community did not know the background of Timmendequas or of Jenin, 40. A few on the block say they were leery because the two had moved in with Cifelli, who they knew had served time for molesting a young girl. "I told my husband, 'I don't think they met in church,'" says one woman on the block who asked that her name not be used.

However, many in the immediate community had been notified about Cifelli the old-fashioned way: over the backyard fence, in the street, from their children and on the telephone.

"I got a call from a friend who said, 'Joey's back,'" says Joan Kowalski, 64, who lives at 20 Barbara Lee Drive, across the street from the Cifelli house

and two doors down from the Kanka home. Adds Kowalski of that call in 1987 or 1988, "It was the same woman who told me about him in the first place, way back when he was arrested."

Cifelli's crime and arrest was in 1978, in Willingboro, about nine miles southwest of Hamilton, in Burlington County. The woman who called her, says Kowalski, was Dolores Ervin, who moved to New Egypt, eight miles southeast of Hamilton, with her husband in 1979, after they had sold their home to the Kankas.

Ervin's son, Fred Ervin Jr., also of New Egypt, says his mother would rather not be interviewed. His father, Fred C. Ervin, died two years ago.

The son, a 47-year-old contractor, grew up in what is now the Kanka house and says his younger brother "hung with Joe" Cifelli. "When I read that in the papers [that neighbors had no knowledge that three sex offenders were living on the block], I was pissed," he says. "They all knew what Joey Cifelli did. It was common knowledge. How could those neighbors go to bed at night and sleep and say that they didn't know that he was a pervert?"

Ervin says he knew about Cifelli's crime, and subsequent return from Avenel, from his brother, who he says lived in the Hamilton area and kept in touch with the neighborhood.

One neighbor, Nancy Gibilisco, who lives at No. 44, two doors down from the Kankas, says, "I just knew he had been in jail, but I didn't know why." She adds, "I kept my grandchildren away from that house because there were three scuzzy, bummy-looking guys living there."

Neighbors in seven homes, as well as former resident Ervin, told the Law Journal that Cifelli had done time for sodomizing or raping a young girl, and all knew particulars about the victim. Authorities in Burlington County confirm that Cifelli was indicted in August 1978 for carnal abuse, sodomy and impairing the morals of a 9-year-old girl. He pleaded guilty that fall to three counts of impairing, and served nine years at the Adult Diagnostic and Treatment Center in Avenel.

Burlington County and Willingboro authorities gave details of the relationship between Cifelli and his victim, matching the story long-circulated along residents of Barbara Lee Drive and near-

by streets.

According to the police reports of the 1978 charges, Cifelli was accused of abusing a girl on several occasions and in several locations, including a house on Stevens Avenue, a street that connects with Barbara Lee Drive. It was unclear whether the plea deal included the Stevens Avenue allegations.

"I heard about Joe when I was around 14, from other kids on the street," says Chris Bell, who is now 22 and lives at No. 51 Barbara Lee Drive, four doors down from what was the Cifelli house. (It has since been demolished and turned into "Megan's Place," a memorial park.) Bell, who says that he and his siblings sometimes babysat for the three Kanka children, says that while he does not know who knew and who didn't know, "I just assumed that the younger kids [on the street] knew the story." Asked who told him that Cifelli was a child molester, Bell says, among others, "the Foster kids."

The Fosters live at No. 21 Barbara Lee Drive, on one side of what was the Cifelli house. It was Keith Foster, according to a police report in the court record of Timmenedequas' criminal case, who alerted police to focus on the Cifelli house. According to Hamilton Police Officer James Nelson's report, Foster approached the officer on Stevens Avenue while he was canvassing the neighborhood in search of Megan Kanka on the night of the murder, telling him that Cifelli "had a past conviction for child molestation." Foster explained, according to Nelson's report, "that he had known Cifelli since they were children and resided in the neighborhood."

Two calls to Foster were not returned.

Chris Bell says that he too "told the cop who came to our house that night that they should check out Joe's house" because of the story about Cifelli's record.

Leslie Loretucci, who lives at No. 26, next to the Kankas, says that she long ago "had heard the rumors that Joe Cifelli had been released from prison" for a sex offense. She also accurately describes the precise nature of Cifelli's crime.

Loretucci, who has lived at 26 Barbara Lee Drive for 24 years, adds, "As for the other two, after they stayed for a while and I realized they were living there, I warned my kids to stay away

from that house. That house always made me nervous. Jesse was watching the kid's moves sometimes." Her son, David, was eight when Cifelli returned home, around the time his father died, in 1988, Loretucci notes, adding, "I told him and his sister to stay away from the house."

She adds that while she didn't know how much the Kankas knew, "Maurcen told me that they just didn't think about it."

One former resident did actually tell the press early on that everyone knew about Cifelli's molestation conviction. She is Judy Clevenger, who, like Fred Ervin Jr., had grown up on the street and moved away to raise her own family. Clevenger is the daughter of Kowalski, who lives two doors from the Kankas, and who often brought her daughter back to the block to visit her grandmother. Kowalski says her granddaughter was there so often that "I had my husband trim a limb off the tree in front so I could keep an eye on that [Cifelli] house, and I always told my granddaughter to never go near that house."

Clevenger attended the funeral of Megan Kanka on Aug. 4, 1994, along with hundreds of others. She told The Star-Ledger that neighbors knew of Cifelli's criminal record because they remembered when he was sent away in 1978. She was quoted as saying, "So when he came back everybody knew to stay away from him."

Does It Matter?

The legislators who sponsored Megan's Law at the state and federal levels say they were unaware that neighbors knew that one of the men in the house was a convicted child molester. "I had no idea," says Assemblyman Paul Kramer, R-Mercer, the main Assembly sponsor of Megan's Law, which was introduced and passed the Assembly in two weeks. He added, "It's never been questioned. I was at all those rallies, and it seemed to me that nobody knew Joe Cifelli's background."

Kramer, a Hamilton resident who is finance director of the sprawling township, says the law is "absolutely necessary." He adds, "The exposure over a person's head that he would spend the rest of his life with this Scarlet Letter over him if he molests a child will, hopefully, cause him to get treatment."

Rep. Richard Zimmer, R-N.J., the prime sponsor of the federal version of Megan's Law signed by President Clinton on May 17, says that he too was unaware that neighbors knew that one of the men in the house was a child molester, but says, "I'm not really surprised, based on neighborhoods I've lived in."

But both legislators say the law is not only necessary but would have passed just as easily even if lawmakers understood that neighbors had a warning of at least one of the residents in the house. "If indeed the neighbors knew, and I have no knowledge of that, it doesn't mean that parents aren't entitled to have that kind of information, disseminated in a full and official manner, so they don't have to rely on rumors," says Zimmer, who is the GOP candidate for the U.S. Senate this fall.

"Community notification is essential so that parents are armed with the information," Zimmer says. Citing a recent sexual assault on a child in Ocean County by a convicted sex offender known to some in the neighborhood, he adds, "Just because notification isn't perfect, doesn't mean it's not worthwhile doing."

Detractors, not surprisingly, say the neighbors' knowledge supports their arguments that the law will do little, if any, good. "The question isn't who knew, and it's certainly not a question of what the Kankas knew and when they knew it," says Edward Martone, executive director of the state chapter of the American Civil Liberties Union. "The question is what good is the information, especially if a neighborhood isn't given any support after a so-called 'time-bomb' or 'dangerous animal' does move in?"

"The government releases these people, often after not ensuring they receive enough treatment or are rehabilitated," says Martone, among the few

who testified in a state Senate hearing in opposition to the bill. "It's a little like a lion escaping from the zoo, and the cops come around with a picture of the lion. Great. But we have a governor ... and a body of politicians who, given a choice between solving a very vexing problem and having a slogan like Megan's Law, will choose the latter."

Most of the Kankas' neighbors interviewed express praise and admiration for their pursuit of the legislation. Typical was Leslie Cetrulo, who lives at No. 14, three doors down from the Kankas. "What she's doing is fabulous. We support her 100 percent," says Cetrulo. She and her husband, Angelo, were among the minority in the immediate area who said they had no idea about

Cifelli's record as a sex offender. John Devlin, who lives next to the Kankas, at 38 Barbara Lee Drive, and who has lived on the street 30 years, says people should be told everything. He adds that while he knew about Cifelli, he wished he and his neighbors knew about Timmendequas and Jenin when they had moved in with Cifelli. Devlin, a trustee of the Kankas' nonprofit foundation, is one of the neighbors who says he believes the Kankas knew about Cifelli.

'Knowing Doesn't Stop It'

About the only thing everyone agrees on, neighbors as well as proponents and opponents of Megan's Law, is that no matter how many laws and precautions are taken, there are no guarantees against assaults on children.

"Knowing doesn't stop it, and this law hasn't improved the problem one iota," says Karen Spinner, the spokeswoman for the New Jersey Association on Correction, who fought the bill in Trenton and whose association favors

spending more money on treatment and rehabilitation.

West Orange solo practitioner Alan Zegas, who testified against the bill on behalf of the Association of Criminal Lawyers of New Jersey, says "it's a revelation" to learn that some neighbors knew that one of the residents of the house where the crime occurred was a convicted sex offender. "To me this serves as an example that inadequate to solve the problem," says Zegas, who says "it's up to the neighbors to be vigilant."

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

Community notification, and in particular whether it should apply to offenders convicted before the law's enactment, is at the heart of the litigation under way in federal court. Last Monday, U.S. District Judge John Bissell ruled, in *W.P. v. Poritz*, that community notification is not unconstitutional and lifted his ban on its implementation, beginning tomorrow. The Third U.S. Circuit Court of Appeals is considering a motion filed by the public defender seeking to extend the injunction. The issue eventually could reach the U.S. Supreme Court. ■

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