



a program of Law Foundation of Silicon Valley

4 North Second Street, Suite 1300, San Jose, CA 95113

Intake line (408) 280-2420 • Fax (408) 886-3850

Confidentiality and the Tarasoff Exception

While most information and records obtained during providing mental health services are confidential, there is an exception commonly called, “the Tarasoff Exception.” The Tarasoff exception arose from a case decided by the California Supreme Court in 1976 titled, Tarasoff v. Regents of University of California, 17 C.3d 425.

When must a psychotherapist give a Tarasoff warning?¹

The Tarasoff exception places a duty on a mental health professional to warn a person and inform law enforcement when: 1) a patient has communicated a serious threat of physical violence against an individual; and 2) the mental health professional believes that a patient presents the possibility of being violent to the person or persons who the patient threatened.

What must be in the Tarasoff warning?

The mental health professional has a duty to warn the potential victim or group of victims that an individual has made a threat towards them. The mental health professional must also notify law enforcement of the threat. The mental health professional may also release any information that is for the protection of the potential victim. However, mental health professional is also required to give the warning in a way that protects the privacy of the patient as much as possible.

What happens if the mental health professional fails to give the Tarasoff warning?

If the mental health professional fails to give the appropriate warnings, he or she may be liable for civil damages if there are harmful outcomes.

How does Tarasoff operate in an in-patient psychiatric setting?

A mental health professional in an inpatient setting has the same duty under Tarasoff as a mental health professional in an outpatient setting. However, if the patient is on an involuntary hold, it is less reasonable for the mental health professional to believe that the patient presents a serious threat of violence because the patient has no access to that person and is undergoing treatment. The mental health professional should evaluate the potential threat of harm for purposes of Tarasoff upon discharge. Because it is presumed that a patient would not be released from an involuntary psychiatric hold if there is still threat of violence to another person, Tarasoff would less likely be reasonable or appropriate in an inpatient setting.

DISCLAIMER: This fact sheet is intended to provide accurate, general information regarding legal rights. It does not constitute legal advice. Because laws and legal procedures are subject to frequent change and differing interpretations, Mental Health Advocacy Project cannot ensure the information in this fact sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your rights for your particular case.

¹ Cal. Welf & Inst. Code §5328(r) and Cal. Civil Code §43.92