

Behavioral
Health
Workforce
Development



Our Duty to Protect

Recognizing and Addressing
Domestic Violence and Bullying

Indigenous Land Acknowledgement

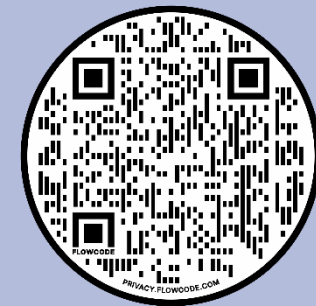
- We respectfully acknowledge that we live and work in territories where indigenous nations and tribal groups are traditional stewards of the land. Our California office resides in Tongva territory.
- Please join us in supporting efforts to affirm tribal sovereignty across what is now known as California and in displaying respect, honor, and gratitude for all indigenous people.

Whose land are you on?

Option 1: Text your ZIP code to 1-907-312-5085

Option 2: Enter your location at [Native Land Digital](#)

Option 3: Access Native Land website via QR Code





Advocates for Human Potential, Inc. (AHP) MIP Team



Kathleen West
Project Director



Tammy Bernstein
Project Manager



Kate Cox
Operations Manager



Susan Lange
TTA Provider



Vic Walker
Operations Specialist



Tiffany Malone
Grantee Coach



Cklara Moradian
Grantee Coach



Caitlin Storm
Quality Assurance



Christian Citlali
Grantee Coach

Learning Objectives

This course aims to inform **all behavioral health providers** of their **duty to protect the community at large** when a perceived imminent threat is made by a client/patient.

We will discuss

- Highlights of the Tarasoff case
- Next steps when faced with an identifiable threat
- Protections to the reporter as stipulated under California law

After attending this webinar, participants will be able to

- Explain the legal implications of the Tarasoff case
- Discuss the difference between duty to warn (duty to report) and duty to protect
- Identify reporting steps in the event of a perceived imminent threat

Trauma- & Resilience-Informed Statement

This presentation contains information that might cause a strong emotional response or remind you of painful past experiences.

Please feel free to draw on tools for coping with this moment, such as

- Turning off your camera
- Taking a rest break
- Drinking a glass of water
- Standing
- Stretching
- Walking around
- Taking belly breaths
- Grounding or regulating activities of your choice



Why is the Tarasoff case important?

The Tarasoff case imposed a liability on all mental health professionals to protect a victim from violent acts.

Tarasoff is an important decision by the California Supreme Court with legal implications that state mental health providers have an obligation to protect persons who could be harmed by a patient.

| Implementation | State |
|------------------|---|
| No duty required | Maine Nevada North Carolina North Dakota |
| Other | Delaware Georgia Illinois |



Seminal Case Law: Tarasoff v. Regents of the University of California

Facts

Tarasoff v. Regents of the University of California

- Prosenjit Poddar killed Tatiana Tarasoff; both were students at the University of California, Berkeley.
- Tarasoff's parents alleged the following:
 - Two months earlier, Poddar confided his intention to kill Tarasoff to Dr. Lawrence Moore, a psychologist employed by the Cowell Memorial Hospital at UC Berkeley, which was operated by the Regents of the University of California ("Regents").
 - On Dr. Moore's request, UC Berkeley campus police briefly detained Poddar, but released him when he appeared rational. Police warned Poddar to stay away from Tarasoff.
 - Dr. Harvey Powelson, Dr. Moore's superior, then directed that no further action be taken to detain Poddar.
 - No one warned Tarasoff of her peril.

Facts

Tarasoff v. Regents of the University of California

The trial court decided in favor of the defendants (Dr. Moore, Dr. Powelson, campus police, university health service, and the Regents).

Tarasoff's parents appealed.

1976: The Supreme Court of California held that mental health professionals have a duty to protect individuals who are being threatened with bodily harm by a patient, even if the intended victim is not their patient/client.

Case Example

- A behavioral health provider is counseling a couple around issues of domestic violence.
- The husband reports that he has made threatening comments to his wife in the past.
- The wife has threatened to divorce her husband.
- The husband has stated that he would hurt his wife if they divorced.
- **Reflection Questions:**
 - Would you report the case to the police as a threat?
 - Is this threat serious?
 - How would you assess the situation to carry out a duty to protect—or a duty to warn?



Poll Question

Is the **duty to warn** mandatory under the current **duty to protect**?

Duty to Warn and Protect Legislation

- Duty to warn was in place from 1974 to 1976 and from 2004 to 2006.
- New legislation was enacted in 2007 to remove the liability and mandated component with "duty to warn."
- Legislation went into effect on Jan. 1, 2013, clarifying that the Tarasoff duty in California is now solely a **duty to protect**.

(Weinstock, et al., 2014)



Chat/Unmute Question

What do you think are the negative implications of an automatic or mandatory duty to warn?

Duty to Warn and Protect

Warning alone may exacerbate a dangerous situation and a warning in itself does not protect the victim.

Some still believe that their duty is strictly to warn.

Clinicians now have the freedom to decide whether to warn or engage in an alternative protective action:

- Hospitalization
- Medication management
- Therapeutic interventions that maintain client confidentiality, such as reality testing, cognitive restructuring, or supportive therapy

Protective actions taken in addition to, or occasionally instead of, breaching confidentiality to warn, can be the best course of action.

(Weinstock, et al., 2014)

California Law Protections to the Mandated Reporter

California and many other jurisdictions passed immunity statutes specifying the situations creating a duty to protect and a means to obtain immunity.

The 1986 California immunity statute granted clinicians immunity from potential future liability if they made reasonable attempts to warn a potential victim and to notify the police.

California gives mandated reporters who report suspected cases of child abuse absolute protections for making these reports.

(Weinstock, et al., 2014)



Poll Question

Is the **duty to warn** mandatory under the current **duty to protect**?

Duty to Protect Next Steps

Behavioral health providers assess the following:

- Has the client/patient ever seriously injured or thought about seriously injuring another person?
- For new clients/patients or patients whose symptoms are becoming worse—are they dangerous to others, and is the danger due to mental illness?
- Is the client/patient losing the capacity to control violent impulses?

Duty to Protect

Next Steps

- Duty to protect can involve
 - warning the potential victim,
 - notifying the police,
 - starting a commitment hearing,
 - informing mental health evaluators of the threat, and
 - utilizing professional supervision.
- Duty to protect involves working with clients experiencing suicidal and homicidal thoughts.

(Weinstock, et al., 2014)

Case Example

- David is a 35-year-old cisgender male who has a history of domestic violence toward his partner. Both David and his partner are in counseling separately for David's violence toward his partner.
- In the counseling session, David insists that he is going to hurt his partner tonight at the house. He says that he is going to use a club or hurt them if they do not straighten up.
- **Reflection Questions:**
 - Do you perceive that threat as credible?
 - What questions would you ask to assess the credibility and seriousness of the threat?
 - Has David hurt his partner before? If yes, how many times? How severe were the injuries?
 - What steps would you take to protect or possibly warn?

Duty to Protect in Context

- Systemic oppression
 - Racism
 - Ableism
 - Classism
 - Police violence on marginalized bodies
 - Fears of causing additional harm to clients
1. How can we best support interns to navigate the complexities of balancing what is ethical and legal with the realities of needing to make quick decisions in crisis situations?
 2. How can we best support interns to adhere to mandated laws while protecting them from moral injury and trauma?

Q & A

Important Reminders

- **MIP Educational Institution Program Capacity Survey**: Was due June 17, 2022, for all MIP Educational Partners. Please ask your Ed Partners to submit ASAP.
- **MIP Intern Self-Assessment**: Please distribute this link to your interns. Each intern must take this self-assessment survey **as soon as their internship is confirmed** with your agency and no later than 1 work week after the first day of their internship.
- **MIP Mentor Self-Assessment**: Each mentor must take this self-assessment survey as soon as their role as a mentor is confirmed within your organization and no later than 1 month before they are assigned their first intern.
- **Contracts**: Contracts have begun to go out! Please be sure to follow the instructions in the email and submit the signed contract to ahpcontracts@ahpnet.com.
- **Invoices**: The MIP Invoice Template was sent out Friday, June 17, 2022, and may be submitted upon execution of contract.

Save the Dates!

The Learning Collaboratives will be 2-hour regional interactive sessions from 10:00 a.m. to 12:00 p.m. and 1:00 pm to 3:00 p.m.

An email with registration links has been sent. If you have any questions, please contact your Grantee Coach or the general MIP inbox: ca_mip@ahpnet.com.

Learning Collaborative dates:

December 14 & 15

Next Webinar:

Serving our Hosts: Reaching and Engaging With Underserved Populations

November 1, 2022, from 12:00 p.m. to 1:00 p.m.

References

- Chappell, B. (2017, April 12). [North Miami officer is arrested over shooting of therapist during standoff](#). NPR.
- Dolgoff, R., Loewenberg, F. M., & Harrington, D. (2009). *Ethical decisions for social work practice* (8th ed.). Thomson Brooks/Cole.
- The duty to protect. (2006). *The Harvard mental health letter*, 22(7), 4–5.
- Granich, S. (n.d.). [Duty to warn, duty to protect](#). Social Work Education Supplemental Website. Retrieved October 4, 2022.
- Quimbee. (2020, October 19). [Tarasoff v. Regents of the University of California case brief summary | Law case explained \[Video\]](#). YouTube.
- Weinstock, R., Bonnici, D., Seroussi, A., & Leong, G. B. (2014). No duty to warn in California: now unambiguously solely a duty to protect. *The journal of the American Academy of Psychiatry and the Law*, 42(1), 101–108.