

 <p style="text-align: center;"><b>County of Sacramento</b>  <b>Department of Health Services</b>  <b>Division of Behavioral Health Services</b>  <b>Policy and Procedure</b></p>	Policy Issuer (Unit/Program)	BHS-CMS-YDF
	Policy Number	04-03
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Title: Duty to Protect (Tarasoff)		Functional Area: Legal
Approved By:		
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**Background/Context:**

Juvenile Justice Institutions Mental Health Team (JJIMHT) members have a duty to protect under specific circumstances as defined in California Civil Code 43.92. Duty to protect is considered as part of the danger to others risks established when assessing a youth detained at the Youth Detention Facility (YDF). Therefore, it is expected that a clinician conducting an assessment of a youth will have assessed the risk of danger to others and taken appropriate action related to this obligation to protect. This includes information received from a credible third party, such as a family member, the arresting entity, YDF staff, or other professionals.

**Definitions:**

Duty to Protect: when a therapist determines or pursuant to the standards of his/her profession should determine that his/her patient presents a serious danger of violence to another, he/she incurs an obligation to use reasonable care to protect the intended victim.

**Purpose:**

The purpose of this policy and procedure is to detail the protocol JJIMHT members will utilize when a youth or credible third party has communicated to a clinician a serious threat of physical violence against a reasonably identifiable victim or victims.

**Details:**

1. Evaluation
  - A. It is the responsibility of the psychiatrist and/or clinician to assess risk and duty to protect at the time the threat of harm is made. Consideration of placing the youth on an involuntary hold shall be weighed during this assessment period.
  - B. In the case of a youth being potentially dangerous where it is reasonably expected the condition will be ameliorated by treatment or intervention prior to his/her release and where the youth remains in a locked, secured setting and under observation, the continued evaluation for duty to protect will be on-going.
  - C. Any threats towards reasonably identifiable victim or victims during the course of assessing a youth detained at the YDF will be reported to the Supervising

Probation Officer and documented in the response and recommendation to probation on the mental health referral form.

- D. The duty to protect may occur at the time the youth is released from the YDF or diverted to a psychiatric facility for further treatment.
  - I. For youth released from the YDF and the duty to protect is warranted, the Supervising Probation Officer (SPO) or designee will inform the person(s) taking custody of the youth of the threat(s), contact the reasonably identified victim or victims and the appropriate law enforcement agency.
  - II. For youth diverted to a psychiatric facility for further treatment and the duty to protect is warranted, the JJIMHT clinician will inform the accepting facility the need for a duty to protect may be required prior to discharge from the facility or during the course of hospitalization if the threats are directed toward someone who may visit the youth in the psychiatric facility.
  - III. For youth being released from the YDF and JJIMHT members are available, the SPO may request a clinician re-assess the youth prior to release to determine if the duty to protect is warranted. In any case, the person(s) accepting custody of the youth should be informed of the concern raised while the youth was in custody.
- 2. Completing the Duty to Protect
  - A. If the duty to protect under the circumstances listed in section 1 exists, the duty shall be discharged by making reasonable efforts to communicate the threat to the victim(s) and to a law enforcement agency.
  - B. The JJIMHT clinician or psychiatrist will clearly document in the electronic mental health and electronic medical record the following:
    - I. Clinical status and threat justifying the duty to protect
    - II. Consultation with JJIMHT Program Coordinator/Psychiatrist and SPO.
    - III. The title of the Probation personnel who is charged with contacting the intended victim(s) and the law enforcement agency.
    - IV. Upon completion of the duty to protect, the JJIMHT clinician or psychiatrist shall request the following information from the Probation personnel making the report:
      - a. The date, time, phone number and name of the person(s) notified on behalf of the intended victim(s).
      - b. The date, time, phone number, name of the law enforcement agency and a report number if one was generated.
  - C. The JJIMHT clinician or psychiatrist will complete the Tarasoff Notification Form which is then scanned into the youth's electronic mental health record and electronic medical record.

**Reference(s)/Attachment(s):**

Tarasoff Notification Form

**Related Policies:**

BHS-CMH-YDF-03-06-Adverse Incident Reports

BHS-CMH-YDF-08-09-Release of Protected Health Information

BHS-CMH-YDF-08-12-Accounting of Disclosures

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