

Recommendation for a Statutory Duty of Mental Health Professionals
To Warn BOTH Intended Victims AND Criminal Justice of Threats of Violence by a
Client

The mental health profession is now subject to the civil requirement to warn threatened individuals OR the criminal justice authorities when a client/patient threatens physical harm to someone. [This is called a "Tarasoff warning" status post the Tarasoff vs. Regents of the University of California case \(1976\) in which a man with paranoid schizophrenia had threatened a murder to his therapists, then went on to commit that murder.](#)

As is the case with legal precedence generally, the first expression of the Tarasoff principle was weaker than it needed to be. Subsequent jurisprudence has amplified the intent of the therapist's duty to protect the intended victim of a violent act by a client who makes such a threat. [For example, now it has been held that a Tarasoff warning or the client's admission to others that he is in mental health treatment does NOT constitute a violation of physician-patient privilege, and it has also been held that threats from a client's family toward another should be dealt-with by a Tarasoff warning.](#)

Adherence to this legal dictum vary by venue and by agency. Some agencies, such as the local (Louisville KY region) Seven Counties Services CMHC seem to be predisposed to "contract-out" or "dismiss" a threat by a client to assault or even murder. In extremity Seven Counties for example will tell authorities when the therapist considers the threat 'material enough,' but this policy mostly seems to apply only when non-employees of Seven Counties are to-be victims. If a threat of violence is made to employees occurs, the practice seems to be to make some notice to the intended victim, and leave it at that.

[However, the intent of the Tarasoff decision is to pro-actively protect victims of such threats.](#) In keeping with the progressing strength of legal decisions regarding this duty-to-warn, it seems patent that **enhanced** protection of the intended victim would happen if mental health professionals given such a menacing occasion notify BOTH the intended victim and authorities. When I worked in forensic psychiatric agencies after the Tarasoff decision, notably the Grauman Unit of the Kentucky Division of Forensic Psychiatry, and at early days of Kentucky Correctional Psychiatric Center, this policy of dual-warning did indeed prevail. [Indeed the duty to warn an intended victim AND authorities AND her/his household AND for the mental health professional to seek civil commitment proceedings for the potential perpetrator is expressly stated in Kentucky Revised Statutes \(KRS 202A.400\), with Section #2 of this statute holding that "The duty to warn a clearly or reasonably identifiable victim shall be discharged by the mental health professional if reasonable efforts are made to communicate the threat to the victim, and to notify the police department closest to the patient's and the victim's residence of the threat of violence."](#)

Accordingly, I would recommend this type of dual warning, as this statute specifies in ALL circumstances whenever a mental client makes a material threat to violence. I would even advocate for legislative establishment of a law to this effect, not just for non-employees of mental health agencies, but for those who work in these settings.