

**COUNTY OF HUMBOLDT  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
BEHAVIORAL HEALTH**

POLICY NO. :	POLICY TITLE:	EFFECTIVE DATE:
0100.302	<b>DUTY TO PROTECT</b>	04/26/96
PROGRAM:	ADMINISTRATION	REVISION DATES: 01/26/10, 1/15/13, 5/23/13
AFFECTS:	ALL	REVIEW DATES: 5/24/11, 10/30/12, 9/23/13, 6/2/14, 11/13/17
APPROVED BY BEHAVIORAL HEALTH DIRECTOR: SIGNATURE ON FILE		

**PURPOSE** To provide direction to the Department of Health and Human Services-Behavioral Health (DHHS-BH) staff when performing their duty to protect reasonably identifiable victims of serious threats of violence by clients in the course of their professional duties.

**DEFINITION(S)**

Psychotherapist: includes anyone defined within [California Evidence Code Section 1010](#).

Serious Threat of Violence: A serious risk of loss of life or grave bodily injury to another person.

Assessment of Risk of Violence: Conduct an evaluation to thoroughly assess whether staff reasonably believe there is a serious risk of loss of life or grave bodily injury. Competence in the assessment is demonstrated by applying one's education, training and experience to the facts of the patient's situation.

Reasonably Identifiable Victim: Any person(s) or intended victim(s) that the client has made a serious threat of violence towards and who can be identified by name or by relationship or by title, or by any other identifiable means. There may be instances where there is no identifiable victim, but there are intended/foreseeable victims to protect.

Duty to Protect: Efforts made to warn the victim or others likely to apprise the victim of the danger, and to notify law enforcement agencies.

**POLICY** DHHS-BH staff take appropriate actions to assess if a client is reasonably likely to commit violence and, if so, discharge their duty to protect as outlined below.

**PROCEDURE**

1. In situations where a serious threat of violence towards an identifiable or foreseeable victim has been made, staff are required to:
  - 1.1. Document in the client's medical record, the statement made by the client with specific quotations.
  - 1.2. Immediately notify their supervisor.
  - 1.3. Do an assessment to make a determination whether the statement poses a serious threat of violence to a reasonably identifiable person or foreseeable victim. If the behavioral health staff determines that a serious threat of violence exists towards an identifiable person or foreseeable victim then they must discharge their duty to protect. This intervention will be documented in the medical record.
  - 1.4. The duty to protect may be discharged by taking reasonable steps to notify the intended victim of the serious threat of violence and by notifying law enforcement. Taking these two steps provides immunity from liability for the mental health professional should violence occur. Such notification must be documented with Medical Records.

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- 1.5. A letter, using the [Sample Duty to Protect Letter](#), must be completed identifying the client's name, address and physical description. It will also identify the law enforcement agencies notified.
  - 1.6. The letter must be mailed to the individual being threatened via Certified Mail, Return Receipt Requested, confirming the telephone notification (or attempts to notify by telephone) and restating the threat. Letters must be sent to each individual being threatened.
  - 1.7. A letter using the [Sample Duty to Protect Law Enforcement Letter](#) must be mailed to the law enforcement agencies contacted confirming the telephone conversation which reported the threat.
  - 1.8. Copies of the Duty to Protect letters will be maintained in a file with Medical Records and all Certified Mail receipts will be sent to Medical Records also.
  - 1.9. In situations where the victim is foreseeable, but specifics regarding identification are missing, e.g. there is not enough information to contact the victim directly or it is a named group of people, e.g. everyone on the plaza at lunch time, this information should be communicated with as much detail as possible to law enforcement and documented as outlined above.
2. An [Incident Report](#) will be completed by clinical staff, with copies of the Duty to Protect letters. The report will be sent to the Behavioral Health Administration as soon as possible or within one working day. The report must include the following:
    - 2.1. Name of staff issuing the warning
    - 2.2. Name of staff supervisor and/or other persons involved in the decision
    - 2.3. Client communication with the psychotherapist of a serious threat of physical violence.
    - 2.4. And how the intended victim or victims were reasonably identifiable or foreseeable.
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FORM(S)/  
ATTACHMENTS

[Duty to Protect Guidelines](#)  
[Sample Duty to Protect Letter](#)  
[Sample Duty to Protect Law Enforcement Letter](#)  
[Incident Report Form](#)

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REFERENCE

[California Welfare and Institution Code Section 5328 \(r\)](#)  
[Civil Code §43.92 \(b\)](#)  
[California Evidence Code Section 1010](#)

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