

**SOCIAL SERVICES AGENCY  
ADMINISTRATIVE POLICIES AND PROCEDURES MANUAL**

Subject: Duty to Warn

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Approved:

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## **I. PURPOSE**

To provide guidelines defining the extent to which SSA staff are under a "duty to warn" law enforcement and persons identified as targets of threatened action.

## **II. POLICY**

SSA staff are under a "duty to warn" law enforcement and persons identified as targets of threatened action, where there is the existence of a "special relationship" with the person making the threats or the identifiable victim of the threats, and there appears to be a foreseeable risk of harm or injury to the victim.

The California Supreme Court (*Tarasoff v. Regents of the University of California*, 17 Cal. D3 435 (1976)), established that patient confidentiality ends when "public peril begins" and "therapists have an obligation to use reasonable care to protect potential victims." The legal decision sets an affirmative duty precedent in cases of harm to others that is generally accepted within the social work and therapeutic professions. SSA employees are not therapists, but do have duties which create a "special relationship" (i.e., social workers, case-handling staff) with a potentially dangerous person or potential victim are subject to the same disclosure requirements as those imposed upon a therapist.

Notification of a threat should be made under appropriate circumstances where a determination has been made that there is a foreseeable risk to a readily identifiable victim.

SSA staff shall communicate to contractors that SSA contractors have the same requirement to notify law enforcement and the potential victim, if they become aware of a threat. The contractor shall also notify SSA staff immediately by telephone (not a voice mail); if the person they are trying to reach is not available, they shall ask for the Supervisor or Manager. The Supervisor or Manager who is notified is to complete a Special Incident Report.

Whenever any Agency employee, during the course of their employment, becomes aware of a credible threat to another person, that employee should immediately inform their Supervisor or Manager of the threat.

### References

County Counsel Opinion No. 2001-142, 84-83, and 84-165

*Tarasoff v. Regents of the University of California*, 17 Cal. 3d 425 (1976)

*Johnson v. County of Los Angeles*, 143 Cal. App. 3d 298 (1983)

P&P C 38, Appropriate Response to Workplace Violence

## **III. PROCEDURE**

In the event staff become aware of a threat by or against someone in their caseload or other third parties, the following actions should be taken:

A. Immediately notify your Supervisor or available management staff in person. Do not leave a message.

B. Fully document how and when the information was obtained.

C. Determine if a duty to warn exists:

In determining whether a "duty to warn" exists, an assessment of each situation must be made. Of particular significance in the determination are:

- The existence of a "special relationship" with the person making the threats or the foreseeable victim and, most importantly,
- The likelihood of harm to a foreseeable victim.

If help is needed in assessing if a "duty to warn" exists, the Manager with jurisdiction over the reporting employee should contact County Counsel to assist with an analysis of the particular situation.

Staff must follow appropriate confidentiality or disclosure laws/policies and procedures that may apply to the particular type of information involved; i.e., release of confidential information may require or permit a notice being made.

D. Contact the appropriate law enforcement agency and cooperate as directed.

If the identified target of threatened action is located at your facility, and there is a Sheriff Special Officer (SSO) present at your facility, notify the on-site SSO.

In all other cases, contact the local law enforcement agency (the agency having jurisdiction over where your facility is located; i.e., County or City).

Examples:

E. Continue to cooperate as directed by law enforcement. Do not contact the identified victim unless instructed to do so by SSA management following consultation with law enforcement. Document on Special Incident Report (see F. below) when and who contacted the identified victim.

F. Fill out a Special Incident Report and route as per established procedure.

G. In addition, staff should follow any divisional policies related to flagging cases where dangerous situations exist.

- 1. Your facility is located in Santa Ana and the identified target of threatened action is not located at your facility, contact the Santa Ana Police Department. 2. Your facility is located in Santa Ana and has a Sheriff Special Officer (SSO) on-site and the identified target of threatened action is located at your facility, contact the on-site SSO. 3. If someone calls and tells you they have been threatened and are in danger, request they immediately hang up and call 911.