18-04 - Tarasoff Notifications

Los Angeles County Sheriff's Department

NEWSLETTER

Field Operations Support Services

TARASOFF NOTIFICATIONS

The purpose of this newsletter is to inform Department personnel of existing policy and procedures regarding Tarasoff Notifications. A Tarasoff Notification is a notification received by law enforcement from a licensed psychotherapist concerning an individual who, "presents a serious danger of violence against a reasonably foreseeable victim or victims." In these situations, California law prevents an individual who has made these threats from purchasing or possessing a firearm or other deadly weapon for a period of five years. Additionally, the local law enforcement agency is required to report this notification to the California Department of Justice (DOJ), so proper notification can be made to the individual regarding the prohibition of firearms or other deadly weapons.

BACKGROUND

In 1968, Prosenjit Poddar met Tatiana Tarasoff at the University of California, Berkley. The two became friends, went on a few dates, and Prosenjit wanted a relationship. When Tatiana rejected his advances and told him she was not interested, Prosenjit fell into a deep depression and began to stalk Tatiana. After Tatiana left for a trip to South America, Prosenjit began to see a college therapist, and during one of those sessions, he told the therapist he wanted to kill Tatiana for rejecting him. The therapist wrote his supervisor and campus police a letter stating that Prosenjit suffered from paranoid schizophrenia and he intended to have him committed for a mental evaluation. The police placed Prosenjit into temporary custody but released him after he appeared rational and promised to stay away from Tatiana. The therapist's supervisor decided that no further action for a mental evaluation was necessary and ordered all of the therapist's records and notes of Prosenjit's treatment be destroyed. Neither Tatiana, nor her parents, were notified that she could potentially be in danger. Two months later, when Tatiana returned from her trip, Prosenjit stabbed her to death.

COURT RULING

Tatiana's parents filed several causes of legal action against the University of California, which ultimately went to the California Supreme Court under *Tarasoff vs. Regents of the University of California, 1976.* The Court's decision held that, "when any patient communicates to his or her psychotherapist, a serious threat of physical violence against a reasonably identifiable victim, **that psychotherapist** has a duty to protect the intended victim." The psychotherapist's decision to report is based on his or her belief that the disclosure of information outweighs the patient's right to confidentiality *and* is necessary to prevent or lessen a serious and imminent threat to the health or safety of their intended victim. The California Welfare and Institutions Code (WIC) section 5328(r) outlines the amount of information which can be disclosed by the psychotherapist to the intended victim or law enforcement is discretionary.

LAW ENFORCEMENT RESPONSIBILITY

California WIC section 8100(b)(1) prohibits any person that communicates a serious threat of physical violence against an identifiable person to a licensed psychotherapist, from being allowed to buy, sell, or have a firearm in their possession, for a period of five years. Per California WIC section 8105(c), the psychotherapist must notify the local law enforcement agency within 24 hours of the initial threat, and law enforcement is then required to notify the DOJ. The Department's Manual of Policy and Procedures (MPP) section 5-09/540.00 instructs that, "deputies ***shall*** make the notification via the Law Enforcement Report of Firearms Prohibition form" (SH-R-631).

The MPP section also states that the completion of this form *"does not preclude Department personnel from taking additional police action should the circumstance warrant. (e.g., a complaint report relative to other crimes such as stalking, terrorist threats, suspicious circumstances, etc.)"* Deputies should contact the reporting psychotherapist for further information, while keeping in mind that California WIC section 5328(r) states that information may be released to the victim(s) and/or law enforcement, "as the psychotherapist determines is needed for the protection of that person or persons," which may or may not include many details.

Deputies have the responsibility to follow-up with the intended victim, to establish if a crime, such as domestic violence, stalking, or terrorist threats, etc., has occurred. If a crime has occurred, deputies are to follow proper Department reporting procedures, and complete the appropriate reports. In the instance when the intended victim has already been made aware of the threat of harm expressed via the psychotherapist, is not in sustained fear of the threat, and no crime has been committed, a deputy should provide that person with information on obtaining a restraining order. A detailed log entry should be made, referring to the Firearms Prohibition Report (SH-CR-631), coinciding Uniform Report Number (URN), and use the "444" Statistical Code.

If you have any questions regarding the information contained in this newsletter, please contact Field Operations Support Services, at [REDACTED TEXT]

REFERENCES

Tarasoff v. Regents of the University of California, 17 Cal. 3d 425

Welfare and Institutions Code 5328(18)

Welfare and Institutions Code 8100(b)(1)

Welfare and Institutions Code 8105(c)

MPP section 5-09/540.00, Tarasoff Notifications Received from Licensed Psychotherapists

Law Enforcement Report of Firearms Prohibition (SH-R-631)

http://lasdweb/sites/eForms/Documents/Law%20Enforcement%20Report%20of%20Firearms%20Prohibition.p