

# Tarasoff v. regents of university of california



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An ethical dilemma alludes to the mental conflict that emerges from differing moral goals. Confidentiality and the safeguarding all private information is essential in healthcare especially about the treatment of mental illness. Because of the privatization of mental health treatment coupled with the closing of many state institutions, emergency department doctors and nurses are often faced with patients who are a danger to themselves, family members. A breach in privacy can negate the trust between the provider and the patient and lead to negative outcomes and legal issues however, concern for public safety must also be considered. The duty to warn others of the potential commitment of violent acts came to the forefront of healthcare in 1974(amended in 1976) in the case of Tarasoff v. Regents of University of California (Henderson, 2015).

#### Details of the case

Tarasoff v. Regents of the University of California, was a landmark case that dealt with the duty of mental health providers to notify those individuals who are threatened with harm. The Supreme Court in California heard The Tarasoff case, which dealt with a complex area of tort law regarding duty owed of a medical provider to an individual to whom a threat of harm has been made.

In 1969, while attending the University of California, Berkeley as an exchange student, Prosenjit Poddar met Tatiana Tarasoff. After the demise of the relationship, Poddar became increasingly despondent and obsessed with Tarasoff. During this time, Poddar began outpatient treatment and was subsequently diagnosed with paranoid schizophrenia by a psychologist at

Berkley, Dr. Lawrence Moore. It was during one of the treatment sessions, Poddar that discussed his intention to harm an unidentified female. Although the intended victim was not named directly, Tarasoff was easily identified. Dr. Moore, concerned for the safety of Tarasoff, requested to have Poddar detained by campus police. Dr. Moore then requested to have Poddar involuntarily committed, believing that he was suffering from an acute episode of paranoid schizophrenia. Poddar was detained by campus security but was released after a brief interview during which time he answered questions rationally. Poddar was warned to stay away from Tarasoff with no further action taken. After the release, Dr. Harvey Powelson, medical ordered the destruction of all notes taken by Dr. Moore as well as the returns of all letters from the police. Tarasoff nor her parents were not notified of the threat.

On October 27, 1969 Poddar viciously attacked Tarasoff, causing her death. Tarasoff's parents filed a lawsuit against Dr. Moore and employees at the University alleging that Poddar had confided his intention to kill Tarasoff, Additionally Dr. Moore nor his associates failed to warn the Tarasoff family of the imminent threat against Tatiana.

At trial, Poddar was convicted of second-degree murder. The wide-ranging implications of the case focus on the health care provider-patient relationship. Because of this landmark case, health care providers have the duty to protect potential victims from harm caused by the patients under their care. As of 2014, thirty-three states have instituted a duty to warn law (Henderson, 2015).

### Defendant's Argument

Dr. Moore argues mental health providers cannot with certainty predict the likelihood that a patient will act on threats of violence. Dr. Moore and the medical team further state that a breach in confidentiality will have detrimental effects on treatment. Further, the act of warning by revelation of confidential information would constitute a breach of trust.

### Plaintiff's Argument

Tarasoff's parents argued that Dr. Moore violated the professional standards by neither warning them of a patient considered to be dangerous, nor detaining a patient considered to be dangerous. The defendants also asserted that Dr. Moore and others abandoned a patient deemed dangerous by ordering the destruction of all therapeutic notes. The plaintiffs further argued that Dr. Moore failed to provide adequate follow up care with Poddar to ensure he was not a danger to himself nor the public.

### Summary of the ruling

The ruling by the Supreme Courts required a balance between the need to protect privileged medical communication between a mental health provider and the patient to protect against potential threats. The special relationship in this case is the one that is established between a patient and his mental health provider. Such a relationship may increase obligations of protection. A duty of care may arise from the establishment of a special relationship between the health care provider and patient which imposes a duty upon the clinician to control the patient's conduct, or a special relation between the

provider and the other individual, which gives to the other a right of protection (Bersoff, 2014). This relationship was crucial to the ruling regarding the circumstances of the Tarasoff case. When a health care provider has direct or indirect knowledge of information that a reasonable individual may determine that a patient may harm himself or others, this provider must exercise reasonable and prudent judgement to prevent harm. The court in California ruled that mental health professionals have an obligation to both the patient and individuals who are threatened by a patient. Justice Mathew Tobriner ruled that protective privilege ends about public safety and further states that mental health providers should notify the authorities as they are charged with public safety.

Lastly, about the liability of the officers who failed to detain Poddar, the court held that a public employee cannot be found liable for an injury resulting from a discretionary decision. Therefore, the police officers involved were granted immunity from prosecution.

### Summary argument

The plaintiffs in this case presented the best legal argument. For example, the psychiatrist is found to violate the professional standards. Dr. Moore was to be held liable for the failing to protect and warn. Regardless of whether the plaintiff's interests are qualified for legitimate protection from the defendant under the law is relative to the establishment of a duty to care. Obligation of care is the aggregate of foreseeability, degree of certainty of harm to the individual, establishment of a special relationship. Once a health care provider, in this case psychotherapist, determines that a patient

represents a genuine peril, he bears a lawful obligation to his patient, as well as to his patient's intended victim.

The pros and cons of the argument on each side

By notifying the police, the provider tried to detain the defendant and protect the public after he became aware of an acute episode of paranoid schizophrenia. He did not warn nor protect the intended victim which eventually led to her death. Thus, the ruling was made in favor of the plaintiff's, the parents of Tatiana Tarasoff. Despite the defendant's argument that the more public good would be accomplished through the support of mental health treatment and complete protection of confidentiality of patients undergoing treatment.

## References

Bersoff, D. N. (2014). Protecting victims of violent patients while protecting confidentiality. *American Psychologist*, 69 (5), 461-467. [http://dx. doi. org/10. 1037/a0037198](http://dx.doi.org/10.1037/a0037198)

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