

August 3, 2009

MOOT BEIT DIN, 5770

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COURSE OUTLINE

- I. DESCRIBE COURSE AND WRITING ASSIGNMENT
- II. TARASOFF CASE DESCRIPTION
- III. CONFIDENTIALITY
 - VaYikra 1:1-2 (2), Yoma 4b (10)
 - BaMidbor 24:5 (3), Baba Batra 60a (11)
 - Sanhedrin 31a (12)
 - Hezek Re'iyah in Privacy: Law and Theology, pp. 294-297 (25)
 - Rabbeinu Gershom in Privacy: A Jewish Perspective, pp. 87-88 (26)
- IV. LASHON HORA – GOSSIP, LIBEL
 - VaYikra 19:16, with commentary of Hirsch (4)
 - Sefer HaChinuch #236 (21)
 - BaMidbor 15:32-36 (5), BaMidbor 27:1-11 (6), Shabbat 96b (13)
 - Tehilim 34:13-15 (7), Avoda Zara 19b (14)
 - Erechin 15a (15)
 - Erechin 15b (16)
 - Rambam, Hilchot De'ot 7:1-6 (22)
- V. BREACHING CONFIDENTIALITY, LO TA'AMOD
 - Zechariah 8:19 (8)
 - VaYikra 18:5 (9), Yoma 85b (17), Rambam, Hilchot Yesodei HaTorah 5:1-2 (23)
 - VaYikra 19:16 (4), Sanhedrin 73a, 74a (18), Rambam, Hilchot Rotzeach 1:9, 13, 14, 16 (24)
 - Privacy: A Jewish Perspective, pp. 76-78 (26)
- VI. PROFESSIONAL CONFIDENTIALITY
 - A. Difference between Jewish Law and "Privilege"
 - Confidentiality and Rabbinic Counseling (27)
 - B. The Law of the Land is the Law
 - Dina De'Malchusa Dina (28)

- C. Professional Oaths
Professional Secrecy, pp. 78-80 (29)
- D. Public Policy Concerns
 - 1. Threat to Property vs. Threat to Life
 - 2. Risk of Losing Income, License to Practice
 - 3. Risk of Others Not Seeking Treatment
 - 4. Who/How to Tell?
 - a. Pirkei Avot 1:14 (19)
 - b. Gittin 45a, 58a (20)
 - c. Privacy: A Jewish Perspective, pp. 76-78, 82-87 (26)
 - d. On Maintaining a Professional Confidence (30)
 - e. Halachic Definitions of Confidentiality (31)

VII. ADDITIONAL INFORMATION TO BE INCORPORATED

- A. Evolution, Methodology, and Procedure of Jewish Law, including relative authority and weighting of sources
 - D'Oraita
 - Torah SheBiktav
 - Torah SheBaal Peh
 - D'Rabbanan - style of legislation (majority, precedent), who can amend?
 - Style and content of Mishnah, Gemorah
 - Transition from universal authority of Gemorah to local authority of Geonim, Rishonim
 - Transition from conclusions of Gemorah to Codes, methodology of Bet Yosef
 - Purpose and style of Shaylot U'Teshuvot
- B. Context of the sources and biographical information about the authors
 - R. Akiva
 - Rambam - biography, major works, lasting impact
 - R. Yosef Karo - biography, major works, lasting impact
 - R. Moshe Isserles

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Tarasoff v. Regents of the University of California

From Wikipedia, the free encyclopedia

Tarasoff v. Regents of the University of California, 17 Cal. 3d 425, 551 P.2d 334, 131 Cal. Rptr. 14 (Cal. 1976), was a case in which the Supreme Court of California held that mental health professionals have a duty to protect individuals who are being threatened with bodily harm by a patient. The original 1974 decision mandated warning the threatened individual, but a 1976 rehearing of the case by the California Supreme Court called for a "duty to protect" the intended victim. The professional may discharge the duty in several ways, including notifying police, warning the intended victim, and/or taking other reasonable steps to protect the threatened individual.

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Facts

Prosenjit Poddar was born into the Dalit ("untouchable") caste in Bengal, India. He came to UC Berkeley as a graduate student in September 1967 and resided at the International House. In the fall of 1968 he attended folk dancing classes at the International House, and it was there he met Tatiana Tarasoff. They saw each other weekly throughout the fall, and on New Year's Eve she kissed Poddar. He interpreted the act to be a recognition of the existence of a serious relationship. This view was not shared by Tatiana who, upon learning of his feelings, told him that she was involved with other men and otherwise indicated that she was not interested in entering into an intimate relationship with him. This gave rise to feelings of resentment in Poddar. He began to stalk her and soon had feelings of killing her.

As a result of this rebuff Poddar underwent a severe emotional crisis. He became depressed and neglected his appearance, his studies and his health. He remained by himself, speaking disjointedly and often weeping. This condition persisted, with steady deterioration, throughout the spring and into the summer of 1969. The defendant had occasional meetings with Tatiana during this period and tape recorded various of their conversations in an attempt to ascertain why she did not love him.

During the summer of 1969 Tatiana went to South America. After her departure Poddar began to improve and at the suggestion of a friend sought psychological assistance. Prosenjit Poddar was a patient of Dr. Lawrence Moore, a psychologist at UC Berkeley's Cowell Memorial Hospital in 1969. Poddar confided his intent to kill Tatiana. Dr. Moore requested that the campus police detain Poddar, writing that, in his opinion, Poddar was suffering from paranoid schizophrenia, acute and severe. The psychologist recommended that defendant be civilly committed as a dangerous person. Poddar was detained, but shortly thereafter released, as he appeared rational. Dr. Moore's supervisor, Dr. Harvey Powelson, then ordered that Poddar not be subject to further detention.

In October, after Tatiana had returned, Poddar stopped seeing his psychologist. Neither Tatiana nor her parents received any warning of the threat. Poddar then befriended Tatiana's brother, even moving in with him. Several months later, on October 27, 1969, Poddar carried out the plan he had confided to his psychologist, killing Tarasoff. Tarasoff's parents then sued Moore and various other employees of the University.

Poddar was convicted of second-degree murder, but the conviction was later appealed and overturned on the grounds that the jury was inadequately informed. A second trial was not held, and Poddar was released on the condition that he return to India. [1]

Opinion of the Court

The California Supreme Court found that a mental health professional has a duty not only to a patient, but also to individuals who are specifically being threatened by a patient. This decision has since been adopted by most states in the U.S. and is widely influential in jurisdictions outside the U.S. as well.

In the majority opinion, Justice Mathew O. Tobriner famously stated: "... the confidential character of patient-psychotherapist communications must yield to the extent that disclosure is essential to avert danger to others. The protective privilege ends where the public peril begins."

Justice Clark dissented, stating in his minority opinion that "the very practice of psychiatry depends upon the reputation in the community that the psychiatrist will not tell".

Subsequent Developments

People of the State of New York v. Robert Bierenbaum was a landmark murder case, setting precedent on upholding Physician-patient privilege even when a *Tarasoff* warning is invoked: "Neither a psychiatrist issuing a *Tarasoff* warning nor a patient telling his friends he's in treatment constitutes a waiver of a patient's psychiatrist-patient privilege." [2][3]

1. ^ Intervention and Reflection: Basic Issues in Medical Ethics 8th Edition
2. ^ Psychology News (<http://www.psych.org/pnews/00-10-20/tarasoff.html>)
3. ^ NY Times (<http://query.nytimes.com/gst/fullpage.html?sec=health&res=9C05E1D81239F93BA3575AC0A9669C8B63>)

External links

- Extended summary of *Tarasoff v. The Regents of the University of California* (<http://www.adoctorm.com/docs/tarasoff.htm>)
- Full text opinion in HTML format from Stanford University (<http://www.stanford.edu/group/psylawseminar/Tarsoff%20I.htm>)
- Full text opinion in PDF format (<http://www.publichealthlaw.net/Reader/docs/Tarasoff.pdf#search=%22Tarasoff%20v.%20Regents%20of%20the%20University%20of%20California>)
- | People v. Poddar (criminal case that lead up to Tarasoff) (<http://login.findlaw.com/scripts/callaw?dest=ca/cal3d/10/750.html>) --> requires login and password

Retrieved from "http://en.wikipedia.org/wiki/Tarasoff_v._Regents_of_the_University_of_California"
Categories: 1976 in law | California state case law | United States tort case law | Mental health law in the United States | University of California

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