

HEALTH SERVICES POLICY & PROCEDURE MANUAL

North Carolina Department Of Public Safety
Prison

SECTION: Administrative – Reporting

POLICY # AD VIII-3

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SUBJECT: Duty to Warn

EFFECTIVE DATE: January 2014

SUPERCEDES DATE: January 2005

PURPOSE

To outline the conditions under which a duty to warn exists and specify the actions that the professional should take in discharging their responsibility.

POLICY

When an offender informs a medical or mental health professional in the context of a professional relationship of an intention to physically harm an identifiable victim and that professional believes that the threat of harm is serious and real, then certain actions on the part of that professional are required. This policy applies to all full-time or contractual health professionals (includes psychiatrists, psychologists, social workers, physicians, physician extenders and interns) who are engaged in providing health care treatment in the Division of Prisons.

PROCEDURE

- I. A duty to warn exists when a health professional has identified a particular offender as dangerous, in his professional opinion, and that offender has expressed an intention to physically harm a specific identifiable victim. The professional must believe that the offender intends to carry out the threat.
- II. When a mental health professional believes or suspects that a duty-to-warn situation exists, the local Mental Health Program Director shall be contacted immediately for guidance and assistance in the implementation of required actions.
 - A. When the potential victim is a non-offender:
 1. The potential victim should be contacted by phone; however, if this is not possible, then a certified letter shall be sent. In the latter case, a local law enforcement agency should also be asked to locate the potential victim to warn him/her of the threat. All contacts and efforts to contact shall be electronically documented in the mental health record if possible and in writing if electronic documentation is not available in that facility.
 2. If close to release, the offender may meet the requirements for commitment to a state psychiatric hospital. If the mental health professional feels that a male offender may qualify for commitment; the offender should be transferred to a Mental Health Facility at least thirty (30) days before his release. Female offenders should be sent to North Carolina Correctional Center for Women for referral for commitment.
 3. When it is necessary to warn a potential victim, other than another offender, a memo to this effect shall be sent to the Regional Director and Facility Head with copies to the Parole Commission, field and area jacket, and to Combined Records.
 4. If an offender informs more than one mental health professional of a threat against an identifiable victim, the Mental Health Program Director shall assign the responsibility of notifying the potential victim to one of the mental health professionals. After the potential victim has been warned, the assigned professional will document the contact electronically or in the written medical record; and, in addition, will send copies of the memo to the other professional or professionals who heard the threat.
 - B. When the potential victim is an offender:

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1. If an offender is threatening another offender, the Administrator of the Facility or Officer-in-Charge should be notified, so that actions may be taken to ensure the safety of the potential victim and maintain order within the Facility.
2. A memo shall be placed in the threatening and threatened offender's Facility, Area, and Combined Records, as well as in the written Outpatient Health Record if electronic documentation cannot be done, to ensure that prison officials are aware of the danger. Documentation by the health professional is completed electronically when possible
3. Notice shall also be made to the Classification Services Section for addition to the Central Monitoring Case File.

Paula Y. Smith, M.D.

5/16/2014

Paula Y. Smith, MD, Chief of Health Services

Date

SOR: Chief of Health Services
Director of Mental Health