

PA's Preventing Gun Violence: Civil Protective Orders & 5150

Mass shootings have become almost commonplace in America. Though the National Rifle Association has condemned healthcare professionals to “stay in their lane,” PAs know that gun violence is not a right-to-bare-arms issue – it is a public health epidemic that those in the medical community can help prevent. PAs have the ability to recognize warning signs prior to violence and utilize appropriate interventions to curb potential tragedy.

Profiles of Mass Shooters

It is commonly and incorrectly assumed that those who commit mass shootings are mentally ill. The reality is that most mass shooters do not have a diagnosed mental illness at the time of the shooting and often do not meet criteria for involuntary psychiatric commitment or firearm prohibitions. Rather, the profile for mass shooters commonly includes histories of domestic violence, racist behavior, stalking or assaulting women, or affiliations with extremist groups. These perpetrators also frequently communicate their plans in advance in person, writing, or over social media. Despite these indicators, law enforcement cannot intervene unless the criminal activity has already occurred or there are qualifying psychiatric symptoms.

Civil Protective Orders

Various types of civil protective orders can prohibit a potentially dangerous person from having contact with a potential victim, or from purchasing or possessing a firearm. It should be noted that, in California, clinicians cannot petition for protective orders on behalf of a patient. However, PAs should be aware of the array of orders available and ready to discuss options as clinically indicated.

Domestic Violence Restraining Order

Because of the relationship between domestic violence and mass violence, a **domestic violence restraining order (DVRO)** may be appropriate to consider for patients who express concern about the violence potential of a family member or intimate partner. DVROs are court orders that can be issued to protect against abuse, harassment, or stalking by a current or former intimate partner, family member, or household member. Abuse can be verbal, psychological, written, or physical, and might include threats against intimate partners, children, or others living in the home. If the order is granted, the perpetrator may be ordered to stay away from the victim(s), move, obtain counseling, or complete an intervention program.

Gun Violence Restraining Orders (GVRO)

Some people may be at risk of harming themselves or someone else, and unwilling or unable to separate themselves from firearms that they own. Extreme risk protection orders, also known as “red flag” laws or [gun violence restraining orders \(GVROs\)](#) in California, are a way to remove any firearms the potential perpetrator currently possesses and to temporarily suspend their ability to purchase additional firearms or ammunition weapons. No criminal activity or mental health history is required, only a demonstrated risk of firearm-related harm. GVROs have proven effective as an intervention for mass shootings. The potential perpetrator is prohibited from possessing and purchasing firearms and ammunition for the duration of the GVRO.

Mental Health Hold (5150)

In California, a person can be placed on an involuntary psychiatric hold, or 5150, if, due to a mental illness, they are determined to pose a danger to themselves (DTS) or others (DTO), or if they are “gravely disabled” (GD), meaning they cannot provide for their own food, clothing, or shelter. Law enforcement and certified mental health professionals can place these holds. Though the law includes dangerousness as one of the criteria, 5150 holds are designed to connect people to mental health services, not to prevent community violence. A 5150 on its own does not trigger a firearm prohibition, so if there is concern for firearm-related harm, other interventions should be considered as an adjunct. It should be noted, psychiatric holds do not apply to people whose risk of dangerousness or grave disability is due to alcohol or drug use, dementia, intellectual disability, or antisocial behavior.

If a person detained on a 5150 is officially admitted to a designated inpatient facility for DTS or DTO, California law prohibits them from purchasing or owning a firearm for the next five years. Designated facilities are inpatient psychiatric hospitals specially certified by each county, and generally do not include emergency departments, crisis services units, or medical hospitals. Additionally, someone who is admitted for dangerousness twice within a one-year period is prohibited indefinitely under California law.

If a clinician suspects that someone poses a risk of harm and is not certified to file a 5150, they can involve someone who is able to, usually an emergency mental health provider or a law enforcement officer. That person will decide, particularly in cases of threats to others, if a psychiatric hold is merited. If no one is available to write a [5150 application](#), clinicians who provide emergency medical care in general acute care hospitals can place a patient on a [1799 hold](#) to detain the person for 24 hours. If the patient’s status does not improve, they may be evaluated for a 5150 once a professional is available. Please note that a 1799 does not include any provisions for firearm removal or prohibition.

Tarasoff

California’s Tarasoff duty, or Duty to Protect, applies when a patient makes a threat to a psychotherapist of serious violence against a reasonably identifiable victim or victims.



Generally, “psychotherapists” refers to licensed mental health clinicians, including psychiatrists, psychologists, psychiatric nurses, and psychiatry PAs. If the criteria for a Tarasoff are met, there is a duty to take clinically appropriate steps to protect the potential victim, which includes notifying law enforcement. Such notification supersedes any privilege of patient-therapist privacy.

Other California Civil Protective Orders

If threats are made of violence at a school or workplace, a setting-specific violence prevention order may be most appropriate. [Workplace](#) and [school violence prevention orders](#) can last up to three years, and [civil harassment restraining orders](#) last for up to five years, with the possibility of renewal. The perpetrator is prohibited from possessing and purchasing firearms and ammunition for the duration of the order.

To understand reporting obligations for intentional injuries, read on about [Mandatory Report Requirements](#).

Disclosure

Clinicians should use their clinical judgement to determine whether a patient’s risk of suicide or interpersonal violence merits sharing their protected health information (PHI) with an outside party, including family members or law enforcement. According to HIPAA, if a patient makes a “serious and imminent threat” of violence, the clinician is allowed to disclose protected health information that 1) is necessary to prevent or lessen a serious and imminent threat to the health or safety of the patient or others, and 2) is to a person(s) reasonably able to prevent or lessen the threat. According to the US Department of Health and Human Services, “HIPAA expressly defers to the professional judgment of health professionals in making determinations about the nature and severity of the threat to health or safety posed by a patient.”