

## CHAPTER SIXTEEN

## CRIMES AGAINST THE STATE

Crimes against the state include crimes that target the government infrastructure. It may include treason, sabotage, sedition or even spying. We're seeing cases today, largely due to the recent increases in terrorism, that had largely been dormant since the end of the Cold War.

**Treason**

The drafters of the U.S. Constitution were aware of the need to protect the new democracy against attack and provided for the punishment of the crime of treason. Treason is levying war against the United States or providing aid and comfort to the enemy.

States also have treason laws and California is no exception:

**PC 37. Treason**

*(a) Treason against this state consists only in levying war against it, adhering to its enemies, or giving them aid and comfort, and can be committed only by persons owing allegiance to the state. The punishment of treason shall be death or life imprisonment without possibility of parole. The penalty shall be determined pursuant to Sections 190.3 and 190.4.*

*(b) Upon a trial for treason, the defendant cannot be convicted unless upon the testimony of two witnesses to the same overt act, or upon confession in open court; nor, except as provided in Sections 190.3 and 190.4, can evidence be admitted of an overt act not expressly charged in the indictment or information; nor can the defendant be convicted unless one or more overt acts be expressly alleged therein.*

**PC 38. Treason; Knowledge or Concealment**

*Known as **Misprision of treason**, it is the knowledge and concealment of treason, without otherwise assenting to or participating in the crime. It is punishable by imprisonment in the state prison.*

**Sedition**

Sedition is conspiring to overthrow or to destroy the government of the United States, other violent acts against the United States, or calling for the immediate resort to armed force against the United States.

In an interesting and by today's standards, unusual statute, that harkens back to the Cold War and Senator McCarthy's "Red Scare," Government Code Section 1028 warns us that any government employee cannot be a member of the Communist Party, or to advocate the overthrow of the government of the US, or California:

**Government Code 1027.5. Legislative Findings**

*The Legislature of the State of California finds that:*

*(a) There exists a world-wide revolutionary movement to establish a totalitarian dictatorship based upon force and violence rather than upon law.*

*(b) This world-wide revolutionary movement is predicated upon and it is designed and intended to carry into execution the basic precepts of communism as expounded by Marx, Lenin, and Stalin.*

*(c) Pursuant to the objectives of the world communism movement, in numerous foreign countries the legally constituted governments have been overthrown and totalitarian dictatorships established therein against the will of the people, and the establishment of similar dictatorships in other countries is imminently threatening. The successful establishment of totalitarian dictatorships has consistently been aided, accompanied, or accomplished by repeated acts of treachery, deceit, teaching of false doctrines, teaching untruth, together with organized confusion, insubordination, and disloyalty, fostered, directed, instigated, or employed by communist organizations and their members in such countries.*

*(d) Within the boundaries of the State of California there are active disciplined communist organizations presently functioning for the primary purpose of advancing the objectives of the world communism movement, which organizations promulgate, advocate, and adhere to the precepts and the principles and doctrines of the world communism movement. These communist organizations are characterized by identification of their programs, policies, and objectives with those of the world communism movement, and they regularly and consistently cooperate with and endeavor to carry into execution programs, policies and objectives substantially identical to programs, policies, and objectives of such world communism movement.*

*(e) One of the objectives of the world communism movement is to place its members in state and local government positions and in state supported educational institutions. If this objective is successful, propaganda can be disseminated by the members of these organizations among pupils and students by those members who would have the opportunity to teach them and to whom, as teachers, they would look for guidance, authority, and leadership. The members of such groups would use their positions to advocate and teach their doctrines and teach the prescribed Communist Party line group dogma or doctrine without regard to truth or free inquiry. This type of propaganda is sufficiently subtle to escape detection. There is a clear and present danger, which the Legislature of the State of California finds is great and imminent, that in order to advance the program, policies and objectives of the world communism movement, communist organizations in the State of California and their members will engage in concerted effort to hamper, restrict, interfere with, impede, or nullify the efforts of the State and the public agencies of the State to comply with and enforce the laws of the State of California and their members will infiltrate and seek employment by the State and its public agencies.*

**Government Code Section 1028 Public Employee - Membership in Communist Party or Organization Advocating Overthrow of U.S. Government by Force or Violence**

*It shall be sufficient cause for the dismissal of any public employee when such public employee advocates or is knowingly a member of the Communist Party or of an organization which during the time of his membership he knows advocates overthrow of the Government of the United States or of any state by force or violence.*

**Government Code 1028.1. Public Employee - Duty to Respond to Subpoena and to Testify to Certain Questions**

*It shall be the duty of any public employee who may be subpoenaed or ordered by the governing body of the state or local agency by which such employee is employed, to appear before such governing body, or a committee or subcommittee thereof, or by a duly authorized committee of the Congress of the United States or of the Legislature of this State, or any subcommittee of any such committee, to appear before such committee or subcommittee, and to answer under oath a question or questions propounded by such governing body, committee or subcommittee, or a member or counsel thereof, relating to:*

- (a) Present personal advocacy by the employee of the forceful or violent overthrow of the Government of the United States or of any state.*
- (b) Present knowing membership in any organization now advocating the forceful or violent overthrow of the Government of the United States or of any state.*
- (c) Past knowing membership at any time since October 3, 1945, in any organization which, to the knowledge of such employee, during the time of the employee's membership advocated the forceful or violent overthrow of the Government of the United States or of any state.*
- (d) Questions as to present knowing membership of such employee in the Communist Party or as to past knowing membership in the Communist Party at any time since October 3, 1945.*
- (e) Present personal advocacy by the employee of the support of a foreign government against the United States in the event of hostilities between said foreign government and the United States.*

*Any employee who fails or refuses to appear or to answer under oath on any ground whatsoever any such questions so propounded shall be guilty of insubordination and guilty of violating this section and shall be suspended and dismissed from his employment in the manner provided by law.*

**PC 11460. Participating in Paramilitary Organization**

*(a) Any two or more persons who assemble as a paramilitary organization for the purpose of practicing with weapons shall be punished by imprisonment in a county jail for not more than one year or by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment.*

*As used in this subdivision, "paramilitary organization" means an organization which is not an agency of the United States government or of the State of California, or which is not a private school meeting the requirements set forth in Section 48222 of the Education Code, but which engages in instruction or training in guerrilla warfare or sabotage, or which, as an organization, engages in rioting or the violent disruption of, or the violent interference with, school activities.*

*(b)(1) Any person who teaches or demonstrates to any other person the use, application, or making of any firearm, explosive, or destructive device, or technique capable of causing injury or death to persons, knowing or having reason to know or intending that these objects or techniques will be unlawfully employed for use in, or in the furtherance of a civil disorder, or any person who assembles with one or more other persons for the purpose of training with, practicing with, or being instructed in the use of any firearm, explosive, or destructive device, or technique capable of causing injury or death to persons, with the intent to cause or further a civil disorder, shall be punished by imprisonment in the county jail for not more than one year or by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment.*

*Nothing in this subdivision shall make unlawful any act of any peace officer or a member of the military forces of this state or of the United States, performed in the lawful course of his or her official duties.*

**SABOTAGE**

Sabotage is the intentional injury, destruction, or contamination of war material with the intent to impede or knowledge that acts may impede the carrying out or preparation for war or national defense by the United States or an allied nation. Sabotage in peacetime is the intentional injury, destruction, or contamination of national defense material with the intent to impede the national defense.

**ESPIONAGE**

Espionage is the giving of information to a foreign government with the intent or reason to believe that it will to be used to injure the United States or to the advantage of a foreign country. A mere intent to convey information is sufficient in wartime. Today, the term is also heard in conjunction with "Industrial Espionage"

**TERRORISM**

Federal law defines international and domestic terrorism. Such acts must be intended to intimidate or to coerce a civilian population, influence government policy, or to affect the conduct of government. Various criminal acts committed abroad against a national of the United States are punished under federal law. Criminal acts transcending national boundaries (committed partially abroad and partially in the United States) are punishable under federal law. The threat, use, or conspiracy to use weapons of mass destruction within the United States or against an American citizen abroad is punishable under federal law. Various criminal acts directed against mass transportation systems and the harboring and concealing of terrorists are federal offenses. Federal law makes it a crime to intentionally knowingly provide material support for acts of criminal violence or to foreign terrorist organizations.

**CALIFORNIA'S STATE TERRORISM STATUTES**

## Crimes Against the State

Virtually every state has adopted terrorism statutes. Interestingly, street gangs are included in the statutes, but the common reference to terrorism is of domestic, international or transnational terrorism.

***PC 186.32. Criminal Street Gang Registration California Street Terrorism Enforcement and Prevention Act*** -notification which shall include, where applicable, that the adult belongs to a gang whose members engage in or have engaged in a pattern of criminal gang activity as described in subdivision (e) of Section 186.22.

### ***PC 186.22. Criminal Street Gang Activity***

*(a) Any person who actively participates in any criminal street gang with knowledge that its members engage in or have engaged in a pattern of criminal gang activity, and who willfully promotes, furthers, or assists in any felonious criminal conduct by members of that gang, shall be punished by imprisonment in a county jail for a period not to exceed one year, or by imprisonment in the state prison for 16 months, or two or three years.*

*"Terrorizing" means to cause a person of ordinary emotions and sensibilities to fear for personal safety.*

### ***PC 11411. Terrorizing***

*(a) Any person who places or displays a sign, mark, symbol, emblem, or other physical impression, including, but not limited to, a Nazi swastika on the private property of another, without authorization, for the purpose of terrorizing the owner or occupant of that private property or in reckless disregard of the risk of terrorizing the owner or occupant of that private property shall be punished by imprisonment in the county jail not to exceed one year, by a fine not to exceed five thousand dollars (\$5,000), or by both the fine and imprisonment for the first conviction and by imprisonment in the county jail not to exceed one year, by a fine not to exceed fifteen thousand dollars (\$15,000), or by both the fine and imprisonment for any subsequent conviction.*

*(b) Any person who engages in a pattern of conduct for the purpose of terrorizing the owner or occupant of private property or in reckless disregard of terrorizing the owner or occupant of that private property, by placing or displaying a sign, mark, symbol, emblem, or other physical impression, including, but not limited to, a Nazi swastika, on the private property of another on*

### ***PC 11412. Religious Terrorism***

*Any person who, with intent to cause, attempts to cause or causes another to refrain from exercising his or her religion or from engaging in a religious service by means of a threat, directly communicated to such person, to inflict an unlawful injury upon any person or property, and it reasonably appears to the recipient of the threat that such threat could be carried out is guilty of a felony.*

### ***PC 11413. Use of Explosives in Acts of Terrorism in Specified Places***

*(a) Any person who explodes, ignites, or attempts to explode or ignite any destructive device or any explosive, or who commits arson, in or about any of the places listed in subdivision (b), for the purpose of terrorizing another or in reckless disregard of terrorizing another is guilty of a felony,*

## **Article 4.6. The Hertzberg-Alarcon California Prevention of Terrorism Act**

### **PC 11415. Article Title**

This article shall be known and may be cited as the Hertzberg-Alarcon California Prevention of Terrorism Act. This was enacted in 1999, well before 9/11 occurred.

### ***PC 11416. Legislative Finding and Declaration***

*The Legislature hereby finds and declares that the threat of terrorism involving weapons of mass destruction, including, but not limited to, chemical, biological, nuclear, or radiological agents, is a significant public safety concern. The Legislature also recognizes that terrorism involving weapons of mass destruction could result in an intentional disaster placing residents of California in great peril. The Legislature also finds it necessary to sanction the possession, manufacture, use, or threatened use of chemical, biological, nuclear, or radiological weapons, as well as the intentional use or threatened use of industrial or commercial chemicals as weapons against persons or animals.*

### ***PC 11417. Weapons of Mass Destruction; Definitions***

(a) *For the purposes of this article, the following terms have the following meanings:*

(1) *"Weapon of mass destruction" includes chemical warfare agents, weaponized biological or biologic*

*warfare agents, restricted biological agents, nuclear agents, radiological agents, or the intentional release of industrial agents as a weapon, or an aircraft, vessel, or vehicle, as described in Section 34500 of the Vehicle Code, which is used as a destructive weapon.*

(2) *"Chemical Warfare Agents" includes, but is not limited to, the following weaponized agents, or any analog of these agents:*

(A) *Nerve agents, including Tabun (GA), Sarin (GB), Soman (GD), GF, and VX.*

(B) *Choking agents, including Phosgene (CG) and Diphosgene (DP).*

(C) *Blood agents, including Hydrogen Cyanide (AC), Cyanogen Chloride (CK), and Arsine (SA).*

(D) *Blister agents, including mustards (H, HD (sulfur mustard), HN-1, HN-2, HN-3 (nitrogen mustard)), arsenicals, such as Lewisite (L), urticants, such as CX; and incapacitating agents, such as BZ.*

(3) *"Weaponized biological or biologic warfare agents" include weaponized pathogens, such as bacteria, viruses, rickettsia, yeasts, fungi, or genetically engineered pathogens, toxins, vectors, and endogenous biological regulators (EBRs).*

(4) *"Nuclear or radiological agents" includes any improvised nuclear device (IND) which is any explosive device designed to cause a nuclear yield; any radiological dispersal device (RDD) which is any explosive device utilized to spread radioactive material; or a simple radiological dispersal device (SRDD) which is any act or container designed to release radiological material as a weapon without an explosion.*

(5) *"Vector" means a living organism or a molecule, including a recombinant molecule, or a biological product that may be engineered as a result of biotechnology, that is capable of carrying a biological agent or toxin to a host.*

(6) *"Weaponization" is the deliberate processing, preparation, packaging, or synthesis of any substance for use as a weapon or munition. "Weaponized agents" are those agents or substances prepared for dissemination through any explosive, thermal, pneumatic, or mechanical means.*

(7) *For purposes of this section, "used as a destructive weapon" means to use with the intent of causing widespread great bodily injury or death by causing a fire or explosion or the release of a chemical, biological, or radioactive agent.*

(b) *The intentional release of a dangerous chemical or hazardous material generally utilized in an industrial or commercial process shall be considered use of a weapon of mass destruction when a person knowingly utilizes those agents with the intent to cause harm and the use places persons or animals at risk of serious injury, illness, or death, or endangers the environment.*

## Crimes Against the State

*(c) The lawful use of chemicals for legitimate mineral extraction, industrial, agricultural, or commercial purposes is not proscribed by this article.*

*(d) No university, research institution, private company, individual, or hospital engaged in scientific or public health research and, as required, registered with the Centers for Disease Control and Prevention (CDC) pursuant to Part 113 (commencing with Section 113.1) of Subchapter E of Chapter 1 of Title 9 or pursuant to Part 72 (commencing with Section 72.1) of Subchapter E of Chapter 1 of Title 42 of the Code of Federal Regulations, or any successor provisions, shall be subject to this article.*

### **PC 11418. Weapon of Mass Destruction; Possession, Development, Production, etc.; Punishment**

*(a) (1) Any person, without lawful authority, who possesses, develops, manufactures, produces, transfers, acquires, or retains any weapon of mass destruction, shall be punished by imprisonment in the state prison for 4, 8, or 12 years.*

*(2) Any person who commits a violation of paragraph (1) and who has been previously convicted of Section 11411, 11412, 11413, 11418, 11418.1, 11418.5, 11419, 11460, 12303.1, 12303.2, or 12303.3 shall be punished by imprisonment in the state prison for 5, 10, or 15 years.*

*(b) (1) Any person who uses or directly employs against another person a weapon of mass destruction in a form that may cause widespread, disabling illness or injury in human beings shall be punished by imprisonment in the state prison for life.*

*(2) Any person who uses or directly employs against another person a weapon of mass destruction in a form that may cause widespread great bodily injury or death and causes the death of any human being shall be punished by imprisonment in the state prison for life without the possibility of parole. Nothing in this paragraph shall prevent punishment instead under Section 190.2.*

*(3) Any person who uses a weapon of mass destruction in a form that may cause widespread damage to or disruption of the food supply or "source of drinking water" as defined in subdivision (d) of Section 25249.11 of the Health and Safety Code shall be punished by imprisonment in the state prison for 5, 8, or 12 years and by a fine of not more than one hundred thousand dollars (\$100,000).*

*(4) Any person who maliciously uses against animals, crops, or seed and seed stock, a weapon of mass destruction in a form that may cause widespread damage to or substantial diminution in the value of stock animals or crops, including seeds used for crops or product of the crops, shall be punished by imprisonment in the state prison for 4, 8, or 12 years and by a fine of not more than one hundred thousand dollars (\$100,000).*

*(c) Any person who uses a weapon of mass destruction in a form that may cause widespread and significant damage to public natural resources, including coastal waterways and beaches, public parkland, surface waters, ground water, and wildlife, shall be punished by imprisonment in the state prison for 3, 4, or 6 years.*

*(d) (1) Any person who uses recombinant technology or any other biological advance to create new pathogens or more virulent forms of existing pathogens for use in any crime described in subdivision (b) shall be punished by imprisonment in the state prison for 4, 8, or 12 years and by a fine of not more than two hundred fifty thousand dollars (\$250,000).*

*(2) Any person who uses recombinant technology or any other biological advance to create new pathogens or more virulent forms of existing pathogens for use in any crime described in subdivision (c) shall be punished by imprisonment in the state prison for three, six, or nine years and by a fine of not more than two hundred fifty thousand dollars (\$250,000).*

*(e) Nothing in this section shall be construed to prevent punishment instead pursuant to any other provision of law that imposes a greater or more severe punishment.*

### **11418.1. Give, Mail, Send False or Facsimile Weapon of Mass Destruction**

*Any person who gives, mails, sends, or causes to be sent any false or facsimile of a weapon of mass destruction to another person, or places, causes to be placed, or possesses any false or facsimile of a weapon of mass destruction, with the intent to cause another person to fear for his or her own safety, or*

for the personal safety of others, is guilty of a misdemeanor. If the person's conduct causes another person to be placed in sustained fear, the person shall be punished by imprisonment in a county jail for not more than one year or in the state prison for 16 months, or two or three years and by a fine of not more than two hundred fifty thousand dollars (\$250,000). For purposes of this section, "sustained fear" has the same meaning as in Section 11418.5.

**PC 11418.5. Weapon of Mass Destruction; Threaten to Use; Sustained Fear Defined**

(a) Any person who knowingly threatens to use a weapon of mass destruction, with the specific intent that the statement as defined in Section 225 of the Evidence Code or a statement made by means of an electronic communication device, is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety, or for his or her immediate family's safety shall be punished by imprisonment in a county jail for up to one year or in the state prison for 3, 4, or 6 years, and by a fine of not more than two hundred fifty thousand dollars (\$250,000).

(b) For the purposes of this section, "sustained fear" can be established by, but is not limited to, conduct such as evacuation of any building by any occupant, evacuation of any school by any employee or student, evacuation of any home by any resident or occupant, any isolation, quarantine, or decontamination effort.

(c) The fact that the person who allegedly violated this section did not actually possess a biological agent, toxin, or chemical weapon does not constitute a defense to the crime specified in this section.

(d) Nothing in this section shall be construed to prevent punishment instead pursuant to any other provision of law that imposes a greater or more severe punishment.

**PC 11419. Possession of Restricted Biological Agents; Penalty**

(a) Any person or entity possessing any of the restricted biological agents enumerated in subdivision (b) shall be punished by imprisonment in the state prison for 4, 8, or 12 years, and by a fine of not more than two hundred fifty thousand dollars (\$250,000).

(b) For the purposes of this section, "restricted biological agents" means the following:

(1) *Viruses*: Crimean-Congo hemorrhagic fever virus, eastern equine encephalitis virus, ebola viruses, equine morbilli virus, lassa fever virus, marburg virus, Rift Valley fever virus, South African hemorrhagic fever viruses (Junin, Machupo, Sabia, Flexal, Guanarito), tick-borne encephalitis complex viruses, variola major virus (smallpox virus), Venezuelan equine encephalitis virus, viruses causing hantavirus pulmonary syndrome, yellow fever virus.

(2) *Bacteria*: bacillus anthracis (commonly known as anthrax), brucella abortus, brucella melitensis, brucella suis, burkholderia (pseudomonas) mallei, burkholderia (pseudomonas) pseudomallei, clostridium botulinum, francisella tularensis, yersinia pestis (commonly known as plague).

(3) *Rickettsiae*: coxiella burnetii, rickettsia prowazekii, rickettsia rickettsii.

(4) *Fungi*: coccidioides immitis.

(5) *Toxins*: abrin, aflatoxins, botulinum toxins, clostridium perfringens epsilon toxin, conotoxins, diacetoxyscirpenol, ricin, saxitoxin, shigatoxin, staphylococcal enterotoxins, tabtoxin, tetrodotoxin, T-2 toxin.

(6) Any other microorganism, virus, infectious substance, or biological product that has the same characteristics as, or is substantially similar to, the substances prohibited in this section.

(c) (1) This section shall not apply to any physician, veterinarian, pharmacist, or licensed medical practitioner authorized to dispense a prescription under Section 11026 of the Health and Safety Code, or universities, research institutions, or pharmaceutical corporations, or any person possessing the agents pursuant to a lawful prescription issued by a person defined in Section 11026 of the Health and Safety Code, if the person possesses vaccine strains of the viral agents Junin virus strain #1, Rift Valley fever virus strain MP-12, Venezuelan equine encephalitis virus strain TC-83 and yellow fever virus strain 17-

## Crimes Against the State

*D; any vaccine strain described in Section 78.1 of Subpart A of Part 78 of Subchapter C of Chapter 1 of Title 9 of the Code of Federal Regulations, or any successor provisions, and any toxin for medical use, inactivated for use as vaccines, or toxin preparation for biomedical research use at a median lethal dose for vertebrates of more than 100 ng/kg, as well as any national standard toxin required for biologic potency testing as described in Part 113 (commencing with Section 113.1) of Subchapter E of Chapter 1 of Title 9 of the Code of Federal Regulations, or any successor provisions.*

*(2) For the purposes of this section, no person shall be deemed to be in possession of an agent if the person is naturally exposed to, or innocently infected or contaminated with, the agent.*

*(d) Any peace officer who encounters any of the restricted agents mentioned above shall immediately notify and consult with a local public health officer to ensure proper consideration of any public health risk.*

*(e) Nothing in this section shall be construed to prevent punishment instead pursuant to any other provision of law that imposes a greater or more severe punishment.*

### Review Questions:

1. What is a “paramilitary organization,” and why are they illegal in California?
2. What is “misprision” of treason?
3. Would possession of restricted biological agents be considered illegal under state terrorism statutes?
4. Could one be in violation of the law to commit treason against the State of California?

### Web Resources

Anti-Defamation League: Law Enforcement Agency Resource Network

[http://www.adl.org/learn/adl\\_law\\_enforcement/default.htm](http://www.adl.org/learn/adl_law_enforcement/default.htm)

Biological Terrorism – Center for Disease Control

<http://www.bt.cdc.gov/>

<http://www.bt.cdc.gov/bioterrorism/overview.asp>

Department of Homeland Security – Bioterrorism Information and Preparedness

[www.ready.gov/america/biological.html](http://www.ready.gov/america/biological.html)

Department of Homeland Security –National Response Plan

[www.dhs.gov/dhspublic/interapp/editorial/editorial\\_0566.xml](http://www.dhs.gov/dhspublic/interapp/editorial/editorial_0566.xml)

American Red Cross –Terrorism Preparedness

[www.redcross.org/services/disaster/0,1082,0\\_589\\_,00.html](http://www.redcross.org/services/disaster/0,1082,0_589_,00.html)

The American Medical Association ’s –Bioterrorism:Frequently Asked Questions

[www.ama-assn.org/ama/pub/category/6667.html](http://www.ama-assn.org/ama/pub/category/6667.html)

The Food and Drug Administration –Drug Preparedness and Response to Bioterrorism  
(Information on antibiotics and dosage)

[www.fda.gov/cder/drugprepare](http://www.fda.gov/cder/drugprepare)

Environmental Protection Agency – Water Security

<http://cfpub.epa.gov/safewater/watersecurity>

National Library of Medicine/National Institutes of Health Medline Plus – Biodefense and Bioterrorism

[www.nlm.nih.gov/medlineplus/biodefenseandbioterrorism.html](http://www.nlm.nih.gov/medlineplus/biodefenseandbioterrorism.html)



California Attorney General – Anti-Terrorism Center

<http://ag.ca.gov/antiterrorism/index.htm>

New California Anti-Terrorism Center launched

<http://safestate.org/index.cfm?navid=235>

California Office of Emergency Services: Terrorism Readiness

<http://www.oes.ca.gov/Operational/OESHome.nsf/0/69536325906fe56488256bbf005f6a1d?OpenDocument>

California State Association of Counties

<http://www.csac.counties.org/default.asp?id=281>

(California OES) Radiological Terrorism:

<http://www.oes.ca.gov/Operational/OESHome.nsf/Content/1AAFD7D4994CE1428825711E0076BC76?OpenDocument>

Department of Justice report on California Terrorism Suspects:

[http://www.usdoj.gov/opa/pr/2005/August/05\\_crm\\_453.html](http://www.usdoj.gov/opa/pr/2005/August/05_crm_453.html)

**Case Study #1 : People v. Burnell (2005) , 132 Cal. App. 4th 938**

**Discussion Question.** In this case, California uses the term “street terrorism” to define gang actions. “Joe Baby” Burnell, a gang member of the Crips, claims the prosecution, among other issues, could not prove the allegations of his gang affiliation and thus not eligible for the gang enhancements. What do you think after reading the case? Also, do you think the term “street terrorism” is an accurate depiction of this type of crime, vs terrorism due to political, ideology or religious reasons?

**Facts**

James Earhart was the owner and sole employee of a Garden Grove business known as Holly's Coin and Collectibles (Holly's Coin). On June 13, 2002, defendant entered the store and sold some coins to Earhart. As he was leaving, defendant told Earhart he had some more coins and asked if he could bring them back the next day. While defendant was in Holly's Coin, another black man was seen walking the perimeter of the shopping center while still another waited for defendant in a silver Toyota.

At about 4:30 p.m. the next day, defendant returned in a stolen maroon GMC minivan in the company of Marquis Iben Alashanti and DeAngelo Clay. Defendant entered Holly's Coin. Alashanti entered a nearby store that had a view of Holly's Coin, but left after observing the store's employee watching television at the rear of the store. After Earhart finished with another customer, defendant approached the counter and laid out three rows of coins. As Earhart began looking at the coins, defendant came around the counter and grabbed Earhart from behind, put a gun to the back of his head, and said " I'm going to kill you, you mother fucker." Earhart struggled, but defendant put the gun to Earhart's right temple near the right eye and pulled the trigger. The bullet exited Earhart's left temple near the left eye. Earhart fell to the floor, still alert, but in pain and shock. He pretended he was dead, and felt someone go through his pockets. Earhart heard the sound of the buzzer on the store's security door, heard someone else come into the store, heard whispering, and then heard things being moved around in the direction of a corner safe. When Earhart heard the security door buzzer again, and it became silent in the store, he was able to crawl to the door, unlatch it, and crawl outside where he yelled for help. Earhart lost both eyes, and his senses of smell and taste.

Defendant and his accomplices took merchandise worth, by Earhart's estimate, \$ 16,000 to \$ 20,000, some currency, and some personal mortgage refinancing papers. The stolen maroon GMC minivan was recovered shortly after 8:00 o'clock that evening in a parking lot half a mile from Holly's Coin. The steering wheel was stained with blood and Earhart's refinancing papers were found within the vehicle. Investigators also recovered a black plastic bag containing three duffle bags, black gloves, and a cardboard box. One of the duffle bags contained a small pry bar.

Clay's palm print was found on the front passenger door of the minivan. Alashanti's fingerprints were found on the black plastic bag recovered from the vehicle. Defendant's fingerprints were found on the same black plastic bag, the cardboard box, and Earhart's papers. Inside Holly's Coin's premises, defendant's fingerprints were found on the display case.

Deputy Sheriff William Pickett of the Los Angeles County Sheriff's Department testified as an expert on the 11 Deuce Hoover Crips gang (11 Deuce Hoover). He opined 11 Deuce Hoover was a criminal street gang of about 160 members whose primary activities were narcotic sales, shootings, assaults with deadly weapons, murders, car thefts, residential burglaries and weapons violations, and that defendant was an active member of the 11 Deuce Hoover gang on June 14, 2002. Pickett based his opinion on defendant's tattoos, various field information cards generated in the course of several contacts with law enforcement in 1999, and his opinion defendant's tattoos were "earned," not "given." It was also Pickett's opinion that the Earhart robbery was committed for the benefit of, and in association with, both the Rolling 30's Harlem Crips (Rolling 30's) and the 11 Deuce Hoover gangs. 11 Deuce Hoover is shorthand for 112th

## Street Hoover Crips.

Officer Jamie Smerdel of the Los Angeles Police Department gave expert testimony about the Rolling 30's gang. Smerdel opined the Rolling 30's gang was an active criminal street gang whose primary activities were robberies, drive-by shootings, murders and attempted murders, carjacking, narcotics sales, and weapons violations. Smerdel also opined Alashanti was a member and an active participant in the Rolling 30's gang as of the date of the Earhart robbery, June 14, 2002. Smerdel based her opinion on Alashanti's admission of his membership in 1999 when a weapon was found in a car in which he was a passenger, the numerous tattoos on Alashanti's body associating himself with the Rolling 30's, and contacts with police during investigations of criminal activities in 1990 and 1994.

Alashanti also admitted membership in the Rolling 30's while being interrogated after his arrest in connection with the Earhart robbery.

Answering a hypothetical question based on facts in evidence, Smerdel opined the Earhart robbery was committed for the benefit of, and in association with both the Rolling 30's and the 11 Deuce Hoover gangs, and that an alliance between the Rolling 30's and the 11 Deuce Hoovers had been affirmatively documented in August 2002, two months after the Earhart robbery. Specifically, Smerdel had learned the Rolling 30's, the 11 Deuce Hoovers, and Nothing But Trouble, a gang having its origins on Haldale Street, had formed an alliance called the Triple H (Thirties, Hoover, and Haldale).

A jury found defendant Joe Baby Burnell guilty of attempted premeditated murder (Pen. Code, §§ 664, 187, subd. (a)) (count 1), second degree robbery (§§ 211, 212.5, subd. (c), & 213, subd. (a)(2)) (count 2), unlawful taking or driving a vehicle (Veh. Code, § 10851, subd. (a)) (count 3), receiving stolen property (§ 496, subd. (a)) (count 4), mayhem (§ 203) (lesser included offense of count 6), and street terrorism (§ 186.22, subd. (a)) (count 9, renumbered count 7). The jury also found true allegations that defendant personally discharged a firearm causing great bodily injury (§ 12022.53, subd. (d)) (attached to counts 1, 2, and 6), and counts 1, 2, 3, 4, and 6 were committed for the benefit of, at the direction of, and in association with a criminal street gang with the specific intent to promote, further and assist in criminal conduct by gang members (§ 186.22, subd. (b)(1)). The defendant admitted allegations he had served a prior prison term (§ 667.5, subd. (b)), had a serious felony conviction (§ 667, subd. (a)(1)), and two strikes (§ 667, subds. (d) & (e)(2)).

Defendant was sentenced to an indeterminate prison term of life on count 1, with a minimum parole eligibility date of 45 years, to which was added a consecutive 25-years-to-life firearm enhancement, an enhanced consecutive 29-years-to-life prison term for count 3, and a consecutive 25-years-to-life prison term for street terrorism. To that was added five more years for the serious felony enhancement pursuant to section 667, subdivision (a)(1). Execution of all other sentences was stayed pursuant to section 654.

**Issue(s)**

On appeal, defendant asserts: (1) he cannot be convicted of both taking and receiving the same vehicle; (2) he cannot be convicted of both attempted murder and mayhem; (3) counts 1, 2, 3, 4, and 6 are necessarily included offenses of the street terrorism conviction on count 7; (4) counsel was ineffective for a variety of reasons; (5) the court committed several sentencing errors; (6) the street terrorism count and gang enhancements were not supported by substantial evidence; and (7) the 25-years-to-life firearm enhancements constitute cruel and unusual punishment. We reject all of defendant's contentions and affirm the judgment.

The Dual Conviction under Vehicle Code Section 10851 and Section 496 \*[NOT CERTIFIED FOR

PUBLICATION]

The People Did Not Improperly "Splinter" Its Prosecution\*[NOT CERTIFIED FOR PUBLICATION]

Attempted Murder, Robbery, Vehicle Theft, Receiving Stolen Property, and Mayhem Are Not Necessarily Included Offenses of Street Terrorism

Defendant next contends that counts 1 (attempted murder), 2 (robbery), 3 (vehicle theft), 4 (receiving stolen property), and 6 (mayhem) are necessarily included in the street terrorism offense and conviction of these counts must therefore be stricken. Defendant's argument is without merit.

(1) "Under California law, a lesser offense is necessarily included in a greater offense if either the statutory elements of the greater offense, or the facts actually alleged in the accusatory pleading, include all elements of the lesser offense, such that the greater cannot be committed without also committing the lesser." ( *People v. Birks* (1998) 19 Cal.4th 108, 117 [77 Cal. Rptr. 2d 848, 960 P.2d 1073].) (2) Manifestly, the statutory elements of street terrorism do not include all elements of attempted murder, robbery, vehicle theft, receiving stolen property and mayhem. Section 186.22, subdivision (a) provides: "Any person who actively participates in any criminal street gang with knowledge that its members engage in or have engaged in a pattern of criminal gang activity, and who willfully promotes, furthers, or assists in any felonious criminal conduct by members of that gang, shall be punished ... ." Thus, utilizing the statutory elements, we see that one can be convicted of street terrorism without ever committing an attempted murder, a robbery, a vehicle theft, receiving stolen property, or mayhem. Promoting or furthering any felonious criminal conduct will do. Since the elements of the purportedly included offenses are not common to street terrorism, they are not necessarily included offenses under the statutory test.

Recognizing the inherent problem in using the statutory test to determine what constitutes a necessarily included offense of street terrorism, defendant bases his argument on the so-called "pleadings test." Defendant begins by correctly quoting the allegations of the operative information: "On or about June 14, 2002, JOE BABY BURNELL, in violation of Section 186.22(a) of the Penal Code (STREET TERRORISM), a FELONY, did willfully, unlawfully and actively participate in a criminal street gang, to wit: 112TH STREET HOOVER CRIPS, with knowledge that its members engage in and have engaged in a pattern of criminal gang activity and did willfully promote, further and assist in Felony criminal conduct by gang members." The recitation of the street terrorism charge as alleged in the information defeats defendant's argument under the pleadings test. The allegation does not allege any particular felony that was promoted, furthered, or assisted, and specifically does not mention attempted murder, robbery, vehicle theft, receiving stolen property, or mayhem.

(3) Defendant glosses over this problem and bases his argument on events occurring at trial, viz., the court's instructions to the jury, and the prosecutor's arguments, both of which referenced these five offenses as satisfying the necessary felonious conduct under the street terrorism charge. But the pleadings test does not permit the use of events at trial to add to the language of the information. ( *People v. Ortega* (1998) 19 Cal.4th 686, 698 [80 Cal. Rptr. 2d 489, 968 P.2d 48].) "There are several practical reasons for not considering the evidence adduced at trial in determining whether one offense is necessarily included within another. Limiting consideration to the elements of the offenses and the language of the accusatory pleading informs a defendant, prior to trial, of what included offenses he or she must be prepared to defend against. If the foregoing determination were to be based upon the evidence adduced at trial, a defendant would not know for certain, until each party had rested its respective case, the full range of offenses of which the defendant might be convicted. Basing the determination of whether an offense is necessarily included within another offense solely upon the elements of the offenses and the language of the accusatory pleading promotes consistency in application of the rule precluding multiple convictions of

necessarily included offenses, and eases the burden on both the trial courts and the reviewing courts in applying that rule." (Ibid.) Limiting our review to the face of the information, as directed by Ortega, compels us to conclude the offenses of attempted murder, robbery, vehicle theft, receiving stolen property, and mayhem are not necessarily included in the offense of street terrorism under either the statutory test or the pleadings test.

Defendant also argues the jury should have been instructed with CALJIC No. 17.03 to advise the jury that conviction of street terrorism was an alternative to conviction of attempted murder, robbery, vehicle theft, receiving stolen property, and mayhem. But having reached our conclusion that none of these offenses are necessarily included in the others, defendant's contention regarding the jury instruction must necessarily fail. These counts were not alternative. Defendant could lawfully be convicted of all six.

#### Defense Counsel's Failure to Request Bifurcation of the Gang Count and Enhancements Caused No Prejudice to Defendant

(4) Defendant claims his trial counsel provided ineffective assistance by not asking the court to sever the trial of the street terrorism count and to bifurcate the gang enhancements. n5 "To establish ineffective assistance, defendant bears the burden of showing, first, that counsel's performance was deficient, falling below an objective standard of reasonableness under prevailing professional norms. Second, a defendant must establish that, absent counsel's error, it is reasonably probable that the verdict would have been more favorable to him." ( *People v. Hawkins* (1995) 10 Cal.4th 920, 940 [42 Cal. Rptr. 2d 636, 897 P.2d 574]; see also *Strickland v. Washington* (1984) 466 U.S. 668, 687-694 [80 L. Ed. 2d 674, 104 S. Ct. 2052].) Defendant fails to sustain his burden under both prongs. Tellingly, defendant fails to cite any case in which the court found prejudicial error for joining the trial of a street terrorism charge with the trial of other offenses committed at the same time, and we have not found any. It appears highly unlikely a motion to sever would have been granted had it been made.

(5) First, section 954 permitted the joinder. All of the crimes charged against defendant arose out of a single course of conduct. "An accusatory pleading may charge two or more different offenses connected together in their commission ... ." (§ 954.) "The burden is on the party seeking severance to clearly establish that there is a substantial danger of prejudice requiring that the charges be separately tried." ( *People v. Bean* (1988) 46 Cal.3d 919, 938 [251 Cal. Rptr. 467, 760 P.2d 996], italics added.)

(6) Second, the factors the court would have considered had the motion to sever been made were these: "(1) would the evidence of the crimes be cross-admissible in separate trials; (2) are some of the charges unusually likely to inflame the jury against the defendant; (3) has a weak case been joined with a strong case or another weak case so that the total evidence on the joined charges may alter the outcome of some or all of the charged offenses; and (4) is any one of the charges a death penalty offense, or does joinder of the charges convert the matter into a capital case." ( *People v. Marshall* (1997) 15 Cal.4th 1, 27-28 [61 Cal. Rptr. 2d 84, 931 P.2d 262].) The fourth factor is not relevant to the instant case. And while the gang evidence may not have been admissible against defendant if the street terrorism count had been severed and the gang enhancements bifurcated, it was nevertheless relevant to the charges against Alashanti in which the prosecution proceeded on aiding and abetting and conspiracy theories. ( *People v. Superior Court (Quinteros)* (1993) 13 Cal.App.4th 12, 20 [16 Cal. Rptr. 2d 462] ["common gang membership may be part of circumstantial evidence supporting the inference of a conspiracy"].) Thus to entirely eliminate the gang evidence would have required a severance not only of the street terrorism count and the bifurcation of the gang enhancements. A severance of the entire case against Alashanti would also have been required. "The benefits to the state of joinder [are] significant. Foremost among these benefits is the conservation of judicial resources and public funds. A unitary trial requires a single courtroom, judge, and court attaches. Only one group of jurors need serve, and the expenditure of time for jury voir dire is

greatly reduced over that required were the cases separately tried. In addition, the public is served by the reduced delay on disposition of criminal charges both in trial and through the appellate process. These considerations outweigh the minimal likelihood of prejudice through joinder of the charges in this case." ( *People v. Bean*, supra, 46 Cal.3d at p. 939.) Given these considerations, we believe it unlikely the court would have granted a motion to sever the gang evidence had it been made.

Moreover, with respect to the third factor--the coupling of a weak case with a strong case--the strong case here was the robbery and attempted murder of Earhart. The impact of the relatively benign gang evidence paled in comparison to the direct evidence of the depraved, senseless, and brutal acts committed by defendant. If anything, the brutal nature of the attempted murder, robbery, and mayhem would more likely prejudice defendant in their consideration of the street terrorism charge. But a separate prosecution of street terrorism would have required proof defendant "willfully, promote[d], further[ed], or assist[ed] ... felonious criminal conduct ... ." (§ 186.22, subd. (a).) And to establish this element of street terrorism, the People relied upon the crimes charged in the other counts of the information. Thus, defendant would not have benefited by having the street terrorism charge tried separately.

If a severance of the street terrorism charge was highly unlikely, the bifurcation of the gang enhancements was even more unlikely. Virtually all of the gang evidence which would be admissible on the gang enhancements would also be admissible on the street terrorism charge. Thus the jury would hear the evidence during trial of the substantive gang offense. Further, "[a]ny evidence admitted solely to prove the gang enhancement was not so minimally probative on the charged offense, and so inflammatory in comparison, that it threatened to sway the jury to convict regardless of defendants' actual guilt." ( *People v. Hernandez* (2004) 33 Cal.4th 1040, 1051 [16 Cal. Rptr. 3d 880, 94 P.3d 1080].) Accordingly, a consideration of the above factors weigh against the probability the court would have granted a severance and bifurcation motion in this case. We cannot say counsel's failure to make these motions fell "below an objective standard of reasonableness under prevailing professional norms." ( *People v. Hawkins*, supra, 10 Cal.4th at p. 940.)

**Decision:**

Finally, even were we to assume counsel was deficient, there was no prejudice. The evidence against defendant was overwhelming. Without again reciting the evidence in detail, suffice it to note that defendant's fingerprints were found both on the display case inside Holly's Coin and on Earhart's personal papers found inside the stolen van. It is not reasonably probable the verdict would have been more favorable to defendant had a motion to sever and bifurcate been successful.

Counsel Was Not Deficient For Failing to Object to "Gang Profile" Evidence\*[NOT CERTIFIED FOR PUBLICATION]

The verdict was affirmed

**Case Study #2: Terrorism suspects in California Indicted**

[http://www.usdoj.gov/opa/pr/2005/August/05\\_crm\\_453.html](http://www.usdoj.gov/opa/pr/2005/August/05_crm_453.html)

**Discussion Question**

While not a case citation, after reading the article, which do you think should take precedence and why? State charges or Federal Charges?

**Department of Justice release, AUGUST 31, 2005**

**Four Men Indicted on Terrorism Charges Related to Conspiracy to Attack Military Facilities, Other Targets**

*Alleged Conspiracy Targeted U.S. Military Facilities, Israeli And Jewish Targets In California*

WASHINGTON, D.C. - Four men have been indicted by a federal grand jury in Santa Ana, California, for their alleged roles in a terrorist plot to attack U.S. military facilities, Israeli government facilities and Jewish synagogues in the Los Angeles area, the Department of Justice announced today.

The seditious conspiracy charged in the indictment, which also included nearly a dozen gas station robberies intended to raise money for the terrorist operation, was allegedly run by an inmate at California State Prison-Sacramento who founded a radical Islamic organization known as Jam'iyyat Ul-Islam Is-Saheeh, or JIS. Recruitment of participants in the conspiracy began in prison, according to the indictment. Upon being released from prison, defendant Levar Washington then allegedly recruited other co-conspirators to plot terrorist acts and commit armed robberies.

The six-count indictment returned today charges the following individuals:

- Kevin James, 29, a/k/a "Shakyh Shahaab Murshid" and other aliases. James, a U.S. national, allegedly founded JIS in 1997 while in prison;
- Levar Washington, 25, a/k/a "Abdur Rahman" and other aliases, a U.S. national;
- Gregory Patterson, 21, a/k/a "Bilal," a U.S. national;
- Hammad Samana, 21, a lawful permanent U.S. resident originally from Pakistan.

The indictment charges all four defendants with conspiracy to levy war against the United States government through terrorism and conspiracy to possess and discharge firearms in furtherance of crimes of violence. Washington, Patterson and Samana are charged with conspiracy to kill members of the U.S. government uniformed services and conspiracy to kill foreign officials. Washington and Patterson are further charged with interference with commerce by robbery and using and carrying a firearm in connection with a crime of violence.

All four defendants are currently in custody on federal, state or local charges.

"Today's indictment alleges that these defendants turned their terrorist plans and actions against locations in their own country, targeting American military facilities, religious institutions, and other facilities right here in the United States," said Attorney General Alberto R. Gonzales. "Thanks to the work of able investigators at all levels of government, any further acts of violence arising from this dangerous conspiracy -- a conspiracy which included identification of target locations, procurement of weapons, firearms and physical training, recruitment efforts, and financing operations through armed robberies - were prevented."

"This case illustrates the importance of law enforcement partnerships and the cooperation we see every day in our terrorism task forces," said FBI Director Robert S.

Mueller III. "Sharing intelligence about criminal elements in our communities gives all of us a better understanding of individuals who may be supporting terrorist organizations or plotting terrorist activity."

U.S. Attorney Debra Wong Yang of the Central District of California said, "This case demonstrates the value of the Joint Terrorism Task Force. Diligent work by the local police led to the disruption of a terrorist plot that had the potential to cause significant bloodshed. They reported their findings to the FBI and all levels of law enforcement worked together to protect the United States and her people. Terrorist organizations have so far been unsuccessful in executing their devious plots in Southern California, and I promise that we will all work as hard as possible to continue to keep you safe."

The indictment alleges that James recruited fellow prison inmates to join JIS and preached the duty of members to target for violent attack any enemies of Islam, or "infidels," including the U.S. government and Jewish and non-Jewish supporters of Israel. James allegedly distributed a document in prison that justified the killing of "infidels," and made members take an oath not to talk about the existence of JIS. He also allegedly sought to establish groups or "cells" of JIS members outside of prison to carry out violent attacks against "perceived infidels," including the U.S. government, the government of Israel, and Jewish people.

Washington, also an inmate at the Sacramento prison, joined JIS in about November 2004, and was paroled at the end of the month, according to the indictment. In December 2004, James allegedly instructed Washington to recruit five people to train in covert operations, acquire firearms with silencers, and find contacts with explosives expertise or learn to make bombs that could be activated from a distance.

The indictment alleges that beginning in about December 2004, Washington, Patterson and Samana targeted and conducted Internet research on and surveillance of U.S. military facilities - such as recruitment centers and military bases - in the Los Angeles area, as part of their plot to kill U.S. military personnel. In July 2005, Patterson and Samana allegedly used computers to research military targets in the Los Angeles area, while Samana drafted a document listing Israeli and U.S. targets in Los Angeles. In addition to the U.S. military targets, the co-conspirators specifically targeted Israeli and Jewish facilities in the Los Angeles area, including the Israeli Consulate, El Al (the national airline of Israel) and synagogues. They also allegedly engaged in firearms and physical training, in preparation for attacks.

According to the indictment, the defendants purchased weapons or otherwise tried to acquire weapons in furtherance of their terrorist conspiracy and made efforts to raise money by robbing gas stations. The indictment alleges that 11 times beginning May 30, 2005, the defendants - armed with shotguns - robbed or attempted to rob gas stations in the several cities and towns in Southern California, including Los Angeles, Torrance, Playa Del Ray, Bellflower, Pico Rivera, Walnut, Orange, Playa Vista and Fullerton. The indictment alleges that during the gas station robbery spree, Patterson updated James on the progress of the planned war of terrorism against the U.S. government.

If convicted of all of the charges, the defendants face life in prison.

These criminal charges are being prosecuted by Assistant U.S. Attorneys Kevin E. Smith, Deirdre Eliot and Greg Staples of the U.S. Attorney's Office in the Central District of California. The criminal investigation into the alleged terrorist conspiracy was conducted by the Long Beach Joint Terrorism Task Force. The lead investigative



agencies in this investigation were the Federal Bureau of Investigation, the Los Angeles Police Department, the Torrance Police Department, the California Department of Corrections and Rehabilitation, and the California Department of Justice. Substantial assistance was provided by the Counterterrorism Section of the Criminal Division, U.S. Department of Justice; the Los Angeles Sheriff's Department; U.S. Immigration and Customs Enforcement and U.S. Customs and Border Patrol at the Department of Homeland Security; the Drug Enforcement Administration; the Bureau of Alcohol, Tobacco, Firearms and Explosives; and the United States Coast Guard. Participating in the Long Beach Joint Terrorism Task Force and providing support during the investigation were the Long Beach Police Department, the Los Angeles Port Police, the Redondo Beach Police Department, and the United States Environmental Protection Agency. The Los Angeles County District Attorney's Office work collaboratively with federal prosecutors during the investigation.

The charges contained in this indictment are allegations only and the defendants are presumed innocent until and unless convicted at trial.

### Answers to Review Questions

#### Chapter 16

1. What is a "paramilitary organization," and why are they illegal in California?

*A. Any two or more persons who assemble as a paramilitary organization for the purpose of practicing with weapons ... of an organization ...but which engages in instruction or training in guerrilla warfare or sabotage, or which, as an organization, engages in rioting or the violent disruption of, or violent interference.. with the intent to cause civil disorder They illegal since they promote civil disorder. However, it remains to be seen if this section is enhanced or enforced.*

2. What is "misprision" of treason?

*A. It is the knowledge and concealment of treason, without otherwise assenting to or participating in the crime.(of treason)*

3. Would possession of restricted biological agents be considered illegal under state terrorism statutes?

*A. Yes, they are. PC 11419. Possession of Restricted Biological Agents*

4. Could one be in violation of the law to commit treason against the State of California?

*A. Yes, one could be in violation of the law, since PC 37.Treason, states that:*

*(a) Treason against this state consists only in levying war against it, adhering to its enemies, or giving them aid and comfort, and can be committed only by persons owing allegiance to the state. Interestingly, note that the offender must owe allegiance to the state. Had the question been, "Could a resident of another state be held for committing treason in California," the answer would be no.*