

## CHAPTER 16: CRIMES AGAINST THE STATE

The text mentions a number of crimes against government, among them treason, espionage, sabotage, and terrorism. Other crimes, such as assassination of government officials, are also considered crimes against the government. Most of these offenses are found in federal law and are handled by the federal courts. A handful of offenses, however, are defined in state law. For example, states with the death penalty provide for the death penalty for those who assassinate the governor, lieutenant governor, or any one who is a candidate for those positions. Additionally, as noted in the text, most states have passed terrorism laws, many of which were passed after the events on September 11, 2001. Ohio passed a number of terrorism laws in 2002 and these are discussed here. In particular, three Ohio terrorism laws were passed in 2002, all arising out of the same set of legislation. These offenses – supporting terrorism, making terroristic threats, and terrorism – are located in the arson chapter of the Ohio Revised Code.

### Terrorism

Although “terrorism” is the third terrorism statute listed in the Ohio Revised Code, it is discussed first here because it is necessary to understand what terrorism is before discussing the other terrorism statutes.

Terrorism is defined as,

no person shall commit a specified offense with purpose to do any of the following: (1) intimidate or coerce a civilian population; (2) influence the policy of any government by the specified offense; (3) affect the conduct of any government by the specified offense (Ohio Revised Code, §2909.24, 2002).

By “specified offense,” the Code means any felony other than a drug offense, disruption of public services, or contaminating substances for human consumption (Ohio Revised Code, §2909.21(E), 2002).

The definition of terrorism appears to be quite broad and could be interpreted as inducing panic, menacing, or bribery or corruption. However, the state interprets the statute based on the circumstances of the crime at hand. Generally, terrorism is considered an offense that is one degree higher than the underlying crime. For example, if an individual engages in felonious assault (a second-degree felony) during an act of terrorism, the terrorism offense would be considered a first-degree felony, as it is one degree higher than the underlying offense.

Additionally, if the underlying offense is a first-degree felony or murder, the offender’s punishment is life imprisonment without parole. Finally, if the underlying offense is aggravated murder, the offender’s punishment is either life imprisonment without parole or the death penalty.

### Supporting terrorism

The next terrorism statute is “supporting terrorism.” It is defined as,

no person shall raise, solicit, collect, donate, or provide any material support or resources, with purpose that the material support or resources will be used in whole or in part to plan, prepare, carry out, or aid in either an act of terrorism or the concealment of, or an escape from, an act of terrorism (Ohio Revised Code, §2909.22, (2002).

“Material support” in this definition includes financial support, training, lodging, personnel, transportation, and the like. Supporting terrorism is considered a third-degree felony.

The statute also notes that individuals can be prosecuted for other offenses in addition to supporting terrorism, including conspiracy, complicity, and others.

### **Terroristic Threats**

Making terroristic threats is the final terrorism statute discussed here. This statute is perhaps the broadest of the three, in that it is used to prosecute people for uttering a threat that is probably not meant as a true terroristic threat, but is construed to be, especially after September 11, 2001. Making terroristic threats contains the “specified offense” element of the terrorism statute and a person cannot threaten to commit that offense in an attempt to

- intimidate or coerce a civilian population
- influence the policy of any government by intimidation or coercion
- affect the conduct of any government by the threat or by the specified offense

(Ohio Revised Code, §2903.23, 2002)

Additionally, the threat must create a reasonable expectation that the specific offense is about to be committed. Making terroristic threats is considered a third-degree felony.

The following case is an example of an individual who threatens a government agency, invoking September 11, 2001 as a reference. This case is *State v. Roach*, 165 Ohio App 3d. 167 (2005) from Ohio’s Fifth District Court of Appeal.

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### ***State v. Roach***

The defendant engaged in repeated calls to Ohio’s Department of Job and Family Services regarding an unemployment claim. The defendant felt that his case was not being taken seriously and, during the course of the calls, engaged in profanity-laced arguments. Additionally, the defendant made threatening statements. In one call, he stated that, “if he did not get his benefits, he would engage in actions that make 9/11 look tame.” The defendant then made sounds like gunshots, asked the employee of the department if he heard the shots, and then exclaimed, “that’s someone getting hurt, do you know what I mean?”

The defendant was indicted on one count aggravated menacing and one count of making terroristic threats, but this charge was dismissed by the trial court because it stated that, in the indictment, the state did not specify what the specific offense was that the defendant threatened to commit. The trial court indicated that the state simply reiterated the words of the terrorism statute and did not offer what the underlying “specific offense” was. Since the formal charges in the indictment did not contain the specified offense, the charge was dropped

The state appealed, claiming that other, informal documents in the case (i.e., bill of particulars, discovery motions, etc.) indicated that the underlying specified offense was “aggravated menacing.” The state claimed that just because the offense was not included in the formal indictment does not mean that the charges should be dropped. The specific offense was indicated in other documents in the case. The Ohio Fifth District Court of Appeal agreed with the state,

claiming that, since other documents in the case included the underlying specific offense, that was enough to sustain the charge of making terroristic threats. The case was then sent back to the trial court for further charging.

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This case perhaps illustrates the intent of the criminal justice system after September 11, 2001. Based on the facts listed, it appears that the defendant was simply a disgruntled man who wanted his unemployment benefits. Before September 11, 2001, the threatening remarks about hurting someone would probably have not been construed by the courts as terroristic; the defendant would probably have been charged with felonious assault or aggravated menacing. However, in light of 9/11, any invocation of that day during the course of making threats is taken quite seriously by the courts and, thus, the courts have a new statute at their disposal to deal with such threats. As a result, a defendant can now be charged with a terrorism offense as well as the underlying specified offense.

### REFERENCES

Ohio Revised Code, [www.ohio.gov/ohio/ohiolaws.html](http://www.ohio.gov/ohio/ohiolaws.html)

*State v. Roach* 165 Ohio App 3d. 167 (2005)

### REVIEW QUESTIONS

1. Most crimes against the government are handled by
  - a. federal courts
  - b. state courts
  - c. international court
  - d. the United Nations
  
2. The crime of “supporting terrorism” is considered a
  - a. fifth-degree misdemeanor
  - b. fifth-degree felony
  - c. fourth-degree felony
  - d. third-degree felony
  
3. Which of the following is true regarding the terrorism statutes in Ohio?
  - a. they were passed after the Oklahoma City bombing in 1995
  - b. they are all considered felonies
  - c. they were enacted before the attacks on September 11, 2001
  - d. they only apply if an offender threatens the governor

### DISCUSSION QUESTION

As mentioned in the case above, the terrorism statutes in Ohio allow for prosecutors to charge offenders with an act of terrorism (or supporting terrorism or making terroristic threats) in addition to the underlying “specific offense” noted in the statute. What do you think of this practice and why? Also, what are some alternatives to this practice?

### **WEB RESOURCES**

- [www.homelandsecurity.ohio.gov/hls.asp](http://www.homelandsecurity.ohio.gov/hls.asp) - website of Ohio's Office of Homeland Security provides information about the agency and the latest news and cases