

CHAPTER 16: CRIMES AGAINST THE STATE

The text mentions a number of crimes against the government, including 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 typically provide for the death penalty for those who assassinate the governor, lieutenant governor, or anyone 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 three terrorism laws in 2002. These offenses – supporting terrorism, making terroristic threats, and terrorism – are located in the arson chapter of the Ohio Revised Code.

Terrorism

The statute simply entitled “Terrorism” provides that:

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, available at <http://codes.ohio.gov/orc/2909.24>).

“Specified offense” is elsewhere defined as any felony other than a drug offense, disruption of public services, or contaminating substances for human consumption (Ohio Revised Code, §2909.21(E), 2002, <http://codes.ohio.gov/orc/2909.21>).

Generally, terrorism is considered an offense that is one degree higher than the underlying felony. 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 “supporting terrorism” statute provides that:

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), available at <http://codes.ohio.gov/orc/2909.22>).

“Material support or resources” is elsewhere defined to include financial support, training, lodging, personnel, transportation, and the like (see <http://codes.ohio.gov/orc/2909.21>). Supporting terrorism is considered a third-degree felony.

Terroristic Threats

The statute entitled “making terroristic threat” statute is perhaps the broadest of the three. It is used to prosecute people for threatening to commit any felonies (aside from a few exceptions discussed above) 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, §2909.23, 2002, available at <http://codes.ohio.gov/orc/2909.23>)

In order to be found guilty of making terroristic threats, a defendant 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.

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 of aggravated menacing and one count of making terroristic threats. But the latter charge was dismissed by the trial court, because the indictment failed to specify what felony the defendant had threatened to commit.

The state appealed, claiming that other formal documents filed in the case, (specifically, a bill of particulars) indicated that the underlying specified offense was “aggravated menacing.” The state claimed that just because the offense was not included in the formal indictment the charges need not be dropped as the defendant still had adequate notice of what he was being charged with. Ohio’s Fifth District Court of Appeals agreed.

The resolution of the appeal in this case turned on a procedural point as opposed to a substantive issue of law. However, the facts demonstrate a shift that took place after September 11, 2001. It appears that the defendant was simply a disgruntled man who wanted his unemployment benefits. Before September 11, 2001, stating that someone was going to get hurt if he didn’t receive those benefits, while vulgar and tasteless, and perhaps even menacing, probably would not have been perceived as terroristic. Maybe the defendant would have been charged with felonious assault or aggravated menacing. However, any mention of September 11 during the course of any kind of rant may well be taken quite seriously.

REFERENCES

Ohio Revised Code, <http://codes.ohio.gov/orc>

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 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 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 almost any felony. Is this a good practice? Why or why not? Are there better alternatives?

WEB RESOURCES

- <http://homelandsecurity.ohio.gov/> - website of Ohio’s Office of Homeland Security provides information about the agency and the latest news and cases