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Offered: 2/16/84  
Referred: Rules

Original sponsor: Judiciary Committee

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2

CS FOR SENATE BILL NO. 394 (Judiciary)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the crime of terroristic

7

threatening; and providing for an effective date."

8

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9

\* Section 1. AS 11.56.810 is amended to read:

10

Sec. 11.56.810. TERRORISTIC THREATENING. (a) A person commits

11

the crime of terroristic threatening if the person

12

(1) knowingly makes a false report that a circumstance

13

dangerous to human life exists or is about to exist and

14

(A) [(1)] places a person in fear of physical injury

15

to any person;

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(B) [(2)] causes evacuation of a building; or

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(C) [(3)] causes serious ~~public~~ inconvenience; or

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(2) with intent to place another person in fear of death or

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serious physical injury to the person or the person's immediate

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family; <sup>or</sup> makes repeated threats to cause death or serious physical

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injury to another person.

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(b) Terroristic threatening is a class [C felony.] *A MISDEMEANOR*

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\* Sec. 2. This Act takes effect immediately in accordance with AS 01.-

24

10.070(c).

Offered: 2/16/84  
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IN THE SENATE

BY THE JUDICIARY COMMITTEE

HOUSE CS FOR CS FOR SENATE BILL NO. 394 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the crime of terroristic threatening;  
and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

\* Section 1. AS 11.56.810 is amended to read:

Sec. 11.56.810. TERRORISTIC THREATENING. (a) A person commits the  
crime of terroristic threatening by knowingly making a false report that a  
circumstance dangerous to human life exists or is about to exist and

(1) making a threat to cause death or  
physical injury to another person placing a person in fear of physical  
injury to any person;

(2) falsely causing evacuation of a building; or

(3) placing another person in fear of death or serious  
physical injury to the person or the person's immediate family.

(b) Terroristic threatening is a class A misdemeanor.

\* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-  
070(c).

Offered: 2/16/84  
Referred: Rules

Original sponsor: Judiciary Committee

1 IN THE SENATE BY THE JUDICIARY COMMITTEE  
2 CS FOR SENATE BILL NO. 394 (Judiciary)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 THIRTEENTH LEGISLATURE - SECOND SESSION  
5 A BILL

6 For an Act entitled: "An Act relating to the crime of terroristic  
7 threatening; and providing for an effective date."

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11 the crime of terroristic threatening if the person

12 (1) knowingly makes a false report that a circumstance  
13 dangerous to human life exists or is about to exist and

14 (A) [(1)] places a person in fear of physical injury  
15 to any person;

16 (B) [(2)] causes evacuation of a building; or

17 (C) [(3)] causes serious public inconvenience; or

18 (2) with intent to place another person in fear of death or  
19 serious physical injury to the person or the person's immediate  
20 family, <sup>(3)</sup> makes repeated threats to cause death or serious physical  
21 injury to another person.

22 (b) Terroristic threatening is a class ~~C~~ <sup>A Misdemeanor</sup> felony.

23 \* Sec. 2. This Act takes effect immediately in accordance with AS 01.-  
24 10.070(c).

Offered: 2/16/84

Referred: Rules

Original sponsor: Judiciary Committee

IN THE SENATE

BY THE JUDICIARY COMMITTEE

HOUSE CS FOR CS FOR SENATE BILL NO. 394 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the crime of terroristic threatening; and providing for an effective date."

*implying*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

\* Section 1. AS 11.56.810 is amended to read:

Sec. 11.56.810. TERRORISTIC THREATENING. (a) A person commits the crime of terroristic threatening by knowingly making a false report that a circumstance dangerous to human life exists or is about to exist and

(1) making a threat to cause death or physical injury to another person placing a person in fear of physical injury to any person;

(2) falsely causing evacuation of a building; or

(3) placing another person in fear of death or serious physical injury to the person or the person's immediate family. [CAVSES]

[SERIOUS PUBLIC INCONVE] (b) Terroristic threatening is a class A misdemeanor.

\* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-

070(c).

*DAMN. POLICE*

*By California*

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ing - (passive)  
ES - (active voice)*

§ 11.56.800

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§ 11.56.810

CRIMINAL LAW

§ 11.56.830

(b) Making a false report is a class A misdemeanor. (§ 6 ch 166 SLA 1978)

NOTES TO DECISIONS

Statements prohibited. — Defendant's statements concerning his oral accusation that a police officer had taken \$250 from the glove compartment of his truck, which the police officer authorized to be towed without operating lights or current regis-

tration, were prohibited by former AS 11.30.215, which made it a misdemeanor to give a false report of a crime to a peace officer. *Gottschalk v. State*, Sup. Ct. Op. No. 1566 (File No. 2916), 575 P.2d 289 (1978).

Sec. 11.56.810. Terroristic threatening. (a) A person commits the crime of terroristic threatening if the person knowingly makes a false report that a circumstance dangerous to human life exists or is about to exist and

- (1) places a person in fear of physical injury to any person;
- (2) causes evacuation of a building; or
- (3) causes serious public inconvenience.

(b) Terroristic threatening is a class C felony. (§ 6 ch 166 SLA 1978)

Collateral references. — Criminal offense of bomb hoax or making false report as to planting of explosive, 93 ALR2d 304. Possession of bomb, Molotov cocktail, or

similar device as criminal offense, 42 ALR3d 1230. Validity and construction of "terroristic threat" statutes, 58 ALR3d 533.

Sec. 11.56.820. Tampering with public records. (a) A person commits the crime of tampering with public records if the person knowingly

- (1) makes a false entry in or falsely alters a public record; or
- (2) destroys, mutilates, suppresses, conceals, removes, or otherwise impairs the verity, legibility, or availability of a public record, knowing that the person lacks the authority to do so.

(b) Tampering with public records is a class A misdemeanor. (§ 6 ch 166 SLA 1978)

NOTES TO DECISIONS

For case construing former AS 11.30.210 — 11.30.260, relating to mishandling of public records, see *Larson*

*v. State*, Sup. Ct. Op. No. 1430 (File No. 2439), 564 P.2d 365 (1977).

Sec. 11.56.830. Impersonating a public servant. (a) A person commits the crime of impersonating a public servant if the person pretends to be a public servant and does any act in that capacity.

- (b) It is not a defense to a prosecution under this section that
- (1) the office the defendant pretended to hold did not in fact exist; or

ANNOTATION

VALIDITY AND CONSTRUCTION OF "TERRORISTIC  
THREAT" STATUTES

by

*Jellrey F. Ghent, J.D.*

Section 211.3 of the American Law Institute's Model Penal Code, Proposed Official Draft (1962), makes it a felony of the third degree to threaten to commit any crime of violence with purpose to terrorize another or to cause evacuation of a building, place of assembly, or facility of public transportation, or otherwise to cause

serious public inconvenience, or to make such threats in reckless disregard of the risk of causing such terror or inconvenience.<sup>1</sup>

This annotation collects the cases in which the courts have construed or passed upon the validity of such statutes<sup>2</sup> expressly making "terroristic

1. The section entitled "Terroristic Threats" is distinguished in an official note from a related provision punishing "Criminal Coercion" (§ 212.5), the Institute explaining that the object of § 211.3 is to prevent serious alarm for personal safety, such as may arise from letters or anonymous telephone calls threatening death, kidnapping, or bombing, and that

in the case of terroristic threats, there is no occasion to exempt from criminal liability on the ground of the actor's possibly benign ultimate purpose, as is appropriate in connection with the offense of coercion.

2. Since the statutes are included only to the extent that they are reflected in the

**TOTAL CLIENT-SERVICE LIBRARY\* REFERENCES:**

- 16 AM JUR 2d, Constitutional Law § 319; 31 AM JUR 2d, Extortion, Blackmail, and Threats §§ 11-17
- 13 AM JUR TRATS 465, Defending Minor Felony Cases
- ALR DIGESTS, Constitutional Law § 792
- US L ED DIGEST, Constitutional Law § 935.5
- ALR QUICK INDEX, Explosions and Explosives; Freedom of Speech and Press; Threats
- FEDERAL QUICK INDEX, Bombs; Explosions and Explosives; Freedom of Speech and Press; Threats
- L ED INDEX TO ASSOS., Freedom of Speech, Press, Religion, and Assembly; Threats

Consult POCKET PART in this volume for later cases

threats" a separate and distinct criminal offense. Thus, the present annotation does not include cases involving the offense of extortion, blackmail, or threats generally.<sup>1</sup> Among other offenses involving, or often involving, threats but not designated in terms of "terroristic threats," and therefore beyond the scope of this annotation, are assault,<sup>2</sup> robbery,<sup>3</sup> sedition,<sup>4</sup> "night riding," and "whitecapping,"<sup>5</sup> "bomb hoax,"<sup>6</sup> and the specific federal offenses of racketeering,<sup>7</sup> extortionate credit transactions,<sup>8</sup> riots,<sup>9</sup> intimidating witnesses, jurors, or federal officers,<sup>10</sup> threatening the President,<sup>11</sup> extortion by federal officers or employees,<sup>12</sup> using violations of federal law to blackmail<sup>13</sup> inducing kickbacks from public works employees,<sup>14</sup> and mailing, or transmitting in interstate commerce, threatening communications.<sup>15</sup>

In the following cases, the validity of "terroristic threat" statutes, as construed by the courts, was upheld:

reported cases within the scope of this annotation, the reader is advised to consult the latest enactments in his jurisdiction.

3. See 51 Am Jur 2d, Extortion, Blackmail, and Threats.

4. See, generally, 6 Am Jur 2d, Assault and Battery §§ 28-31. As to assault with intent to murder or kill, see 40 Am Jur 2d, Homicide §§ 568-582. As to assault with intent to rob, see 67 Am Jur 2d, Robbery §§ 79-85.

5. See 67 Am Jur 2d, Robbery §§ 22-26.

6. See, generally, 70 Am Jur 2d, Sedition, Subversive Activities, and Treason.

7. See 31 Am Jur 2d, Extortion, Blackmail, and Threats § 16.

8. See the annotation, "Criminal offense of bomb hoax or making false report as to planting of explosive," at 93 ALR2d 394.

534

A Georgia statute punishing "terroristic threats and acts, and providing that a person commits a terrorist act if when he threatens to commit any crime of violence, or to cause or damage property, with the purpose of terrorizing another, or of causing the evacuation of a building, place of assembly, or facility of public transportation, or otherwise causing serious public inconvenience, or when he makes such threats in reckless disregard of the risk of causing such terror or inconvenience, was held neither violative of the First Amendment right to free speech nor unconstitutionally vague, at least in pertinent part, in *Mason v. State* (1979), 253 Ga 329, 530 P.2d 699, the court granting a defense motion for judgment on the pleadings in an action for injunctive and declaratory relief against enforcement of the statute. As to the contention that the statute proscribed constitutionally protected conduct by

9. See the annotations at 1 ALR Fed 898 and 1 ALR Fed 881. See also 51 Am Jur 2d, Extortion, Blackmail, and Threats § 18-28.

10. See the annotation, "Validity, constitution, and application of Consumer Protection Act provisions (18 USC §§ 891-896) prohibiting extortionate credit transactions," at 7 ALR Fed 950.

11. See the Federal Anti-Riot Act of 1963 (18 USC §§ 2101, 2102).

12. See 18 USCS § 1503.

13. See the annotation, "Validity and construction of federal statute (18 USC § 871) punishing threats against the President," at 22 L Ed 2d 988.

14. See 18 USCS § 872.

15. See 18 USCS § 873.

16. See 18 USCS § 874.

17. See 18 USCS §§ 875, 876.

making illegal bare statements without an overt act or attempt to carry out the threat, the court replied that statements alone can be without First Amendment protection; that although the right to free speech entitles an individual to advocate certain ideas regardless of their popularity, it does not extend to the threatening of terror, inciting of riots, or placing another's life or property in danger; and that the indictment against the plaintiff made just such an accusation—that he had threatened in the presence of a third party to burn and damage 11 automobiles owned by another for the purpose of terrorizing the owner. It was further contended that the statute was unconstitutionally vague because it required a man of ordinary intelligence to guess at its meaning, and because some portions of the statute were so ambiguous as to fail to give fair and adequate warning of the conduct proscribed. However, the court pointed out that it was only necessary to consider that portion of the statute under which the plaintiff had been indicted, namely, the provision that a person commits a terroristic threat when he threatens to burn or damage property with the purpose of terrorizing another. Concluding that there was nothing vague or indefinite in this provision, the court stated that no meaningful contention could be made that the provision failed to adequately inform the plaintiff of the conduct prohibited.

A Kansas statute making a terroristic threat a felony, and defining a terroristic threat as any threat to com-

mit violence communicated with intent to terrorize another, or to cause the evacuation of any building, place of assembly, or facility of transportation, or imparted in wanton disregard of the risk of causing such terror or evacuation, was held valid against a contention that it was unconstitutionally vague under both the Kansas Constitution and the Fourteenth Amendment to the United States Constitution, in *State v. Gunzelman* (1972) 210 Kan 431, 502 P2d 703, 38 ALR3d 522, the court reversing on other grounds a conviction for making a terroristic threat to a highway patrol officer. The patrolman had issued a traffic ticket to one of the defendant's truckdrivers, and the alleged terroristic threat, made at the patrolman's home, was apparently intended to prevent further tickets to the drivers.<sup>18</sup> Observing generally that the idea for the new statute, designed to fill a gap in the law, had been drawn from the American Law Institute's Model Penal Code § 211.3, *supra*, the court recognized that a statute creating a new offense must be sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties. However, characterizing the "main thrust" of the defendant's constitutional argument as based upon a failure by the legislature to define the words "threat" and "terroristic," the court pointed out that a general definition section of the Kansas Criminal Code defined a threat as "a communicated intent to inflict physical or other harm on any person or on property." The court also

18. Although not ruling on the sufficiency of the evidence to support the conviction, the court did state the language of the alleged threat as follows: "I am warning you for the last time that you are not pulling my drivers over for no

reason and arresting them. . . . You have a wife and family. You had better give some thought to that. You are gone a lot of nights. Where is your bedroom? I will be back."

noted that in a similar case<sup>19</sup> the word "terrorize" had been defined as "to reduce to terror by violence or threats," and the word "terror" as "an extreme fear or fear that agitates body and mind." Given existing definitions for the words "threat" and "terrorize," as those terms are understood by men of common intelligence, the court said, the statute prescribing terrorist threats survives any constitutional challenge for vagueness and uncertainty. Finally, the court observed that although the statute might have been directed at corrupt intent, fire and bomb threats to public buildings, and acts of mob violence, the main elements of the offense were threats communicated with a specific intent to terrorize another, and that the wording of the statute appeared sufficient to prescribe such threats whether directed generally against one or more persons, and regardless of the purpose which the terrorist had in mind to accomplish.

The following annotations may be of related interest:

Peaceful picketing of private residence. 42 ALR3d 1353.

Possession of bomb, Molotov cocktail, or similar device as criminal offense. 42 ALR3d 1230.

Validity of blasphemy statutes or ordinances. 41 ALR3d 519.

Attacks on judiciary as a whole as indirect contempt. 40 ALR3d 1291.

Participation of student in demonstration on or near campus as warranting imposition of criminal liability for breach of peace, disorderly con-

duct, trespass, unlawful assembly, or similar offense. 32 ALR3d 557.

Criminal offense of bomb hoax or making false report as to planting of explosive. 33 ALR2d 704.

Violations, directness, or materiality of threats as contempt of court. 52 ALR2d 1297.

Homicide causing one to retreat or flight, to leave or fail to meet. 42 ALR3d 1187.

Civil liability for insulting or abusive language not amounting to defamation. 15 ALR2d 408.

Validity of legislation directed against political, social, or industrial propaganda deemed to be of a dangerous tendency. 7 ALR 1494, supplementing 1 ALR 535 and 20 ALR 1535.

Opprobrious words addressed to policeman as breach of peace. 1 ALR 566.

Validity, construction, and application of Civil Obedience Act of 1950 (18 USC §§ 231-233) punishing certain acts in connection with civil disorders. 16 ALR Fed 906.

Validity, construction, and application of Consumer Credit Protection Act provisions (18 USC §§ 891-895) prohibiting extortionate credit transactions. 7 ALR Fed 959.

Elements of offense proscribed by the Hobbs Act (18 USC § 1951) against racketeering in interstate or foreign commerce. 4 ALR Fed 881.

Validity, construction, and effect of 18 USC § 1952, making it a federal offense to use interstate or foreign travel or transportation in aid of racketeering enterprises. 1 ALR Fed 854.

Validity and construction of federal

done for the purpose of terrorizing or, alternatively, for the purpose of causing, through threats, any citizen to do an unlawful thing.

19. *Armstrong v Ellington* (1970, DC Tenn) 312 F Supp 1119, involved a Tennessee statute which did not, strictly speaking, prohibit "terroristic threats," but rather enumerated various acts when

Consist POCKET PART in this volume for free cases

AS AMEND 538  
CONSTITUTION OF "LIBERALISTIC TREATY" STATE  
same (18 USC § 877) punishment of free speech and press, 21 L. Ed 2d  
threats against the President, 22 L. Ed 976, supplementing 93 L. Ed 1131, 2  
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L. Ed 2d 1700, 41 A. Ed 2d 1110, 10 L.  
the Supreme Court and the right. Ed 2d 1073.