

**SOLICITING OR PROVIDING SUPPORT
FOR AN ACT OF TERRORISM
SECOND DEGREE
(D Felony)
PENAL LAW 490.10
(Committed on or after September 17, 2001)**

The _____ count is Soliciting or Providing Support for an Act of Terrorism in the Second Degree.

Under our law, a person commits Soliciting or Providing Support for an Act of Terrorism in the Second Degree when, with intent that 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, he or she raises, solicits, collects, or provides material support or resources.

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of the following terms: “act of terrorism,” “material support or resources” and “intent”.

An ACT OF TERRORISM means an act or acts constituting (*specify the offense*¹)² that is intended to:

¹ Here, insert appropriate Class A felony offense (other than an offense defined in Penal Law article 220), violent felony offense, manslaughter in the second degree, criminal tampering in the first degree, or an attempt or conspiracy to commit same. See Penal Law § 490.05(3).

² At this point, the statutory definition of “Act of terrorism” [Penal Law §490.05(1)] states: “[a specified offense] for which a person may be convicted in the criminal courts of this state pursuant to article twenty of the criminal procedure law, or an act or acts constituting an offense in any other jurisdiction within or outside the territorial boundaries of the united states which contains all of the essential elements of a specified offense.” This portion of the statutory definition is excised at this point but included at the end of the definition.

- (I) intimidate or coerce a civilian population;
- (ii) influence the policy of a unit of government by intimidation or coercion; or
- (iii) affect the conduct of a unit of government by murder, assassination or kidnapping.³

[Select appropriate alternative:

I

The act or acts must constitute an offense for which the actor can be convicted in the criminal courts of this state.⁴

NOTE: If there is an issue as to whether a person may be convicted in the criminal courts of this state for the alleged specified offense, the Court must charge the applicable provision of CPL article 20. If there is no such issue, the Court may charge as follows:

Under our law, with certain exceptions not applicable here, a person may be convicted in the criminal courts of this state for (specify).

II

The act or acts must constitute (specify the offense) in (specify the jurisdiction in which the offense was allegedly committed) and must contain all of the essential elements of (specify) as defined by the law of New York.

NOTE: If there is an issue as to whether the acts constitute an

³ Penal Law §490.05(1).

⁴ At this point the statutory definition adds: “pursuant to article twenty of the criminal procedure law.”

offense in the subject jurisdiction and contain all the essential elements of the specified offense, then the Court must define the elements of both offenses. If there is no such issue, the Court may charge as follows:

The act or acts alleged here constitute an offense in (*specify subject jurisdiction*) and contain all the essential elements of (*specify the offense*) as defined by the law of New York.]⁵

Under our law, a person commits (*name and define the specified offense*).

MATERIAL SUPPORT OR RESOURCES means currency or other financial securities, financial services, lodging, training, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.⁶

INTENT means conscious objective or purpose. Thus, a person acts with intent that 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 concealment of, or an escape from, an act of terrorism, when his or her conscious objective or purpose is that such material support or resources will be used for that purpose.⁷

In order for you to find the defendant guilty of this crime, the People are required to prove, from all of the evidence in the case, beyond a reasonable doubt, both of the following two elements:

1. That on or about (*date*), in the county of (*county*), the

⁵ See Penal Law §490.05(1).

⁶ See Penal Law §490.05(2).

⁷ See Penal Law §15.05(1).

defendant (*defendant's name*), raised, solicited, collected or provided material support or resources; and

2. That the defendant did so with the intent that such material support or resources 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.

Therefore, if you find that the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of the crime of Soliciting or Providing Support for an Act of Terrorism in the Second Degree as charged in the _____ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of the crime of Soliciting or Providing Support for an Act of Terrorism in the Second Degree as charged in the _____ count.