

HINDERING APPREHENSION OR PROSECUTION FOR TERRORISM
(N.J.S.A. 2C:38-4)

The defendant is charged with the crime of hindering apprehension or prosecution of another for the crime of terrorism, in that he/she is alleged to have (**summarize appropriate portions of indictment**).

This charge is based upon a statute which provides that:

A person commits a crime if, with purpose to hinder the detention, apprehension, investigation, prosecution, conviction or punishment of another for the crime of terrorism, he [refer to appropriate portion of N.J.S.A. 2C:38-4a(1) thru (7)].

For you to find the defendant guilty, the State must prove each of the essential elements of the offense beyond a reasonable doubt. Those elements are:

- (1) that the defendant knew that (Name) had been or was likely to be charged with the crime of terrorism;
- (2) that the defendant (**read appropriate subsection of N.J.S.A. 2C:38-4a(1) to (7)**); and
- (3) that the defendant acted with purpose to hinder the detention, apprehension, investigation, prosecution, conviction or punishment of (Name).

The first element that the State must prove beyond a reasonable doubt is that the defendant must have known that (Name) had been charged or was likely to be charged with the crime of terrorism. A person is guilty of the crime of terrorism if he/she commits or attempts, conspires or threatens to commit [choose crime(s)¹ from those enumerated in N.J.S.A. 2C:38-1c.] with the purpose [**CHOOSE APPROPRIATE ALTERNATIVE**]:

¹ After stating which purpose(s) the defendant allegedly had in aiding (Name), instruct the jury on the elements of the crime listed in N.J.S.A. 2C:38-1c. that (Name) is alleged to have committed, along with the model instructions for attempt or conspiracy if they are applicable.

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- (1) to promote an act of terror.² “Terror” means to convey the menace or fear of death or serious bodily injury.³ “Serious bodily injury” means bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.⁴
- (2) to terrorize five or more persons.⁵ “Terrorize” means to convey the menace of fear of death or serious bodily injury by words or actions. “Serious bodily injury” means bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.⁶
- (3) to influence the policy or affect the conduct of government by terror.⁷ “Terror” means to convey the menace or fear of death or serious bodily injury.⁸ “Serious bodily injury” means bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.⁹
- (4) to cause by an act of terror the impairment or interruption of public communications, public transportation, public or private buildings, common carriers, public utilities or other public services.¹⁰ “Terror” means to convey the menace or fear of death or serious bodily injury.¹¹ “Serious bodily injury” means bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.¹²

This does not mean that the State must prove that (defendant) had actual personal knowledge that (Name) had committed the crime of terrorism, but rather that he/she knew such facts either by his/her own observations or by information given to him/her as would reasonably alert someone that

² N.J.S.A. 2C:38-2a(1).

³ N.J.S.A. 2C:38-2d.

⁴ N.J.S.A. 2C:11-1b.

⁵ N.J.S.A. 2C:38-2a(2).

⁶ N.J.S.A. 2C:11-1b.

⁷ N.J.S.A. 2C:38-2a(3).

⁸ N.J.S.A. 2C:38-2d.

⁹ N.J.S.A. 2C:11-1b.

¹⁰ N.J.S.A. 2C:38-2a(4).

¹¹ N.J.S.A. 2C:38-2d.

¹² N.J.S.A. 2C:11-1b.

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(Name) had been or was likely to be charged with the crime of terrorism.¹³

A person acts knowingly with respect to the nature of his/her conduct or the attendant circumstances if he/she is aware that his/her conduct is of that nature, or that such circumstances exist, or he/she is aware of a high probability of their existence. A person acts knowingly with respect to a result of his/her conduct if he/she is aware that it is practically certain that his/her conduct will cause such a result. “Knowing,” “with knowledge,” or equivalent terms have the same meaning.¹⁴

The second element that the State must prove beyond a reasonable doubt is that on (date), the defendant:

- (1) harbored or concealed (Name).

Here, the State must prove that the defendant hid, or protected, or sheltered or secreted (Name) from the authorities.

OR

- (2) provided (or aided in providing) a weapon (or money, transportation, disguise or other means of avoiding discovery or apprehension or affecting escape) to (Name).¹⁵

OR

- (3) (suppressed, by way of concealment or destruction, any evidence of the crime) **OR** (tampered with a witness [or informant, document or other source of information]), which (evidence, witness, etc.) might aid in the discovery or apprehension of (Name) or in the lodging of a charge against (him/her).

OR

- (4) warned (Name) of impending or imminent discovery or apprehension. [CHARGE WHEN APPROPRIATE: You have heard evidence from which you may find that

¹³ Cf. State v. Lynch, 79 N.J. 327, 339 (1979).

¹⁴ N.J.S.A. 2C:2-2b(2).

¹⁵ See notation in II Commentary: Final Report of the New Jersey Criminal Law Review Commission 284-5 (1971), pertaining to N.J.S.A. 2C:29-3: “Providing a fugitive with funds is an act of equivocal significance. He may use it to escape or hide, to pay debts or go into business, or to support himself or his dependents, or to hire a lawyer. Paragraph b [now 3a(2)] is intended to require proof that money was furnished not merely pursuant to a general desire to promote the offender’s plan to remain at large, but specifically to facilitate escape efforts.”

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defendant gave the warning in connection with an effort to bring [Name] into compliance with the law.¹⁶ You cannot convict defendant under this provision unless the State has proven beyond a reasonable doubt that defendant did not give the warning in connection with such an effort.]

OR

- (5) prevented or obstructed, by means of force, intimidation or deception, (Name) from performing an act which might aid in the discovery or apprehension of (other) or in the lodging of a charge against (him/her).

OR

- (6) aided (Name) to protect or expeditiously profit from an advantage derived from such crime. This means that after the crime was committed, the defendant assisted (Name) in carrying out his unlawful objective for a share in the proceeds or some other reason.¹⁷

OR

- (7) gave false information to a law enforcement officer. A law enforcement officer is a person whose public duties include the power to act as an officer for the detection, apprehension, arrest and conviction of offenders against the laws of the State.¹⁸

The third element that the State must prove beyond a reasonable doubt is that the defendant acted with the purpose of hindering (Name)'s detention, apprehension, investigation, prosecution, conviction or punishment for the crime of terrorism. A person acts purposely with respect to the nature of his/her conduct or a result thereof if it is his/her conscious object to engage in conduct of that nature or to cause such a result. A person acts purposely with respect to attendant circumstances if he/she is aware of the existence of such circumstances or he/she believes or hopes that they exist. Someone acts purposely if he/she acts with design, with a purpose, with a particular objective in mind, if he/she really means to do what he/she does. "With purpose," "designed," "with design," or

¹⁶ N.J.S.A. 2C:38-4a(4).

¹⁷ For example, one might act as custodian of the proceeds of a bank robbery until the robbers should agree on a distribution, or help a thief to collect a reward for the return of stolen goods, or to exchange marked ransom money. Commentary, supra at 285.

¹⁸ N.J.S.A. 2C:25-19c.

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equivalent terms have the same meaning.¹⁹

A purpose to aid another to avoid arrest is not proved merely by showing that the defendant helped someone who was a fugitive, for such help may be provided with motivations having nothing to do with impeding law enforcement. The objective of the defendant must have been to obstruct, to prevent, to hinder the authorities from arresting, prosecuting, convicting or punishing (Name) for an offense.

Purpose and knowledge are conditions of the mind which cannot be seen and can only be determined by inferences from conduct, words or acts. A state of mind is rarely susceptible of direct proof, but must ordinarily be inferred from the facts. Therefore, it is not necessary that the State produce witnesses to testify that an accused said that he/she had a certain state of mind when he/she engaged in a particular act. It is within your power to find that such proof has been furnished beyond a reasonable doubt by inference which may arise from the nature of his/her acts and his/her conduct, and from all he/she said and did at the particular time and place, and from all of the surrounding circumstances.

If after considering all of the evidence you conclude that the State has provided each of these elements beyond a reasonable doubt, then your verdict must be guilty. On the other hand, if you find that the State has failed to prove any of these elements beyond a reasonable doubt, then your verdict must be not guilty.

DEGREE [WHERE APPROPRIATE]

If you find the defendant guilty of the crime of hindering apprehension or prosecution for terrorism, you must go on to decide whether the State has proven that the crime of terrorism that

¹⁹ N.J.S.A. 2C:2-2(b)(1).

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[Name] committed resulted in death.²⁰

If the State has proven each of the elements of hindering beyond a reasonable doubt, and you further conclude that the State has proven beyond a reasonable doubt that the crime of terrorism resulted in death, then your verdict must be guilty of hindering apprehension or prosecution for a crime of terrorism that resulted in death.

If the State has proven each of the elements of hindering beyond a reasonable doubt, but you conclude that the State has not proven beyond a reasonable doubt that the crime of terrorism resulted in death, then your verdict must be guilty of hindering apprehension or prosecution of terrorism.

²⁰ If the issue arises from the evidence, the jury should be charged on the issue of causation within the meaning of N.J.S.A. 2C:2-3.