

**1925A INTENTIONAL TERRORIST THREATS — § 947.019(1)(a) - (d)****Statutory Definition of the Crime**

Making a terrorist threat, as defined in § 947.019 of the Criminal Code of Wisconsin, is committed by any person who threatens to cause the death of or bodily harm to any person or to damage any person's property and who intends to (prevent the occupation of or cause the evacuation of a building)<sup>1</sup> (cause public inconvenience) (cause public panic or fear) (cause an interruption or impairment of governmental operations).<sup>2</sup>

**State's Burden of Proof**

Before you may find the defendant guilty of this offense, the State must prove by evidence which satisfies you beyond a reasonable doubt that the following two elements were present.

**Elements of the Crime That the State Must Prove**

1. The defendant threatened to cause the death of or bodily harm to any person or to damage any person's property.

A "threat" is an expression of intention to do harm and may be communicated orally, in writing, or by conduct. This requires a true threat. "True threat" means that a reasonable person would interpret the threat as a serious expression of intent to do harm, and the person making the statement is aware that others could regard the statement as a threat and delivers it anyway. It is not necessary that the person making the threat have the ability to carry out the threat. You must consider all the

circumstances in determining whether a threat is a true threat.<sup>3</sup>

2. The defendant intended to (prevent the occupation of or cause the evacuation of a building) (cause public inconvenience) (cause public panic or fear) (cause an interruption or impairment of governmental operations).

### **Jury's Decision**

If you are satisfied beyond a reasonable doubt that both elements of this offense have been proved, you should find the defendant guilty.

If you are not so satisfied, you must find the defendant not guilty.

### **COMMENT**

Wis JI-Criminal 1925A was approved by the Committee in December 2016. This revision was approved by the Committee in October 2023. It amended the definition of a “true threat” according to Counterman v. Colorado, 600 US --- (2023), to clarify that the assessment of the threat requires consideration of both the speaker’s perspective (recklessness standard) and the victim’s perspective (reasonable person standard).

This instruction is drafted for violations of sec. 947.019(1)(a) - (d), created by 2015 Wisconsin Act 311 [effective date: April 1, 2016]. Each subsection requires intent to cause the specified result. Violations of sub. (1)(e), which involve recklessness instead of intent, are addressed by Wis JI Criminal 1925B.

The offense is a Class I felony unless the violation “contributes to any individual’s death,” in which case the penalty increases to a Class G felony. Sec. 947.019(2).

1. In addition to applying to a “building,” the statute also applies to “dwelling, school premises, vehicle, facility of public transportation, or place of public assembly or any room within a building, dwelling, or school.” The instruction is drafted for “building” because that appears to be the most comprehensive term. If one of the more specific terms applies, it should be substituted here and in the second element.

2. The statute also applies to causing an interruption or impairment of “public communication, of transportation, or of a supply of water, gas, or other public service.” The instruction is drafted for

impairment of “governmental operations” because that appears to be the most comprehensive term. If one of the more specific terms applies, it should be substituted here and in the second element.

3. Other Wisconsin statutes prohibiting a “threat” have been interpreted to require a “true threat.” The definition of “true threat” is based on the one used for the other criminal offenses involving threats and is derived from State v. Perkins, 2001 WI 46, ¶28, 243 Wis.2d 141, 626 N.W.2d 762. For a complete explanation of the definition, see footnote 3, Wis JI-Criminal 1240B Threat To A Judge.