

* Definition of 422 p.c.

THREATS & TERRORIZING

****SUPPLEMENT****

2 Witkin, Cal. Crim. Law 4th (2015 supp.) Crimes—Public, § 29, p. 69

6. [§ 29] Attempted Threat.

(1) *Nature of Crime.* The offense of attempted criminal threat requires proof that the defendant had a subjective intent to threaten and that the intended threat under the circumstances was sufficient to cause a reasonable person to be in sustained fear. (*People v. Chandler* (2014) 60 C.4th 508, 525, 176 C.R.3d 548, 552 P.3d 538) [approving requirement in *People v. Jackson* (2009) 178 C.A.4th 590, 100 C.R.3d 539, text, p. 657, of instruction on reasonableness element].

(2) *Examples.* See *People v. Chandler*, supra, 60 C.4th 525 [conviction for attempted criminal threat affirmed where defendant, neighbor of two victims, made explicit threats that he was going to kill each of them, and threats were made while defendant was face-to-face with them on street where they lived; defendant's threats were sufficient to cause reasonable person to be in sustained fear, and no reasonable juror could have concluded otherwise].

7. [§ 30] Threat Against Academic Researcher.

(1) *Nature of Crime.* It is a misdemeanor for a person to publish information describing or depicting an academic researcher or a member of the researcher's immediate family, or the location where an academic researcher or a member of the researcher's immediate family may be found, with the intent that another use that information to commit a crime against the researcher or immediate family member, where the information is likely to produce the imminent commission of the crime. (P.C. 422.4(a), P.C. 422.4(a)) P.C. 422.4(a) does not preclude prosecution under another provision of law. (P.C. 422.4(a)) <-- p.658-->

(2) *Definitions.* The following terms are defined:

(a) "Publishes" means to make information available to another through any medium, including the Internet, the World Wide Web, or e-mail. (P.C. 422.4(b)(1))

(b) "Academic researcher" has the same meaning as in P.C. 602.12 (see 2 Cal. Crim. Law (4th), *Crimes Against Property*, §295). (P.C. 422.4(b)(2))

(c) "Immediate family" includes a spouse, whether by marriage or not, domestic partner, parent, child, a person related by consanguinity or affinity within the second degree, or a person who regularly resides in the household, or has done so within the past 6 months. (P.C. 422.4(b)(3))

(d) "Information" includes (but is not limited to) an image, film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, or other computer-generated image. (P.C. 422.4(b)(4))

(3) *Punishment.* A violation of P.C. 422.4(a) is punishable by imprisonment in a county jail for not more than 1 year, a fine of not more than \$1,000, or by both. (P.C. 422.4(a))

(4) *Exemption.* P.C. 422.4 does not apply to a person lawfully engaged in labor union activities protected under state or federal law. (P.C. 422.4(d))

(5) *Injunction.* An academic researcher about whom information is published in violation of P.C. 422.4(a) may seek a preliminary injunction prohibiting further publication of that information. This provision does not apply to a person or entity protected under Ev.C. 1070 (see 2 Cal. Evidence (5th), *Witnesses*, §349 et seq.). (P.C. 422.4(e))

THREATS & TERRORIZING

KeyCite Yellow Flag - Negative Treatment
Unconstitutional or Preempted/Limited on Constitutional Grounds by *People v. Chandler*, Cdt., Aug. 28, 2014
KeyCite Yellow Flag - Negative Treatment/Proposed Legislation

West's Annotated California Codes
Penal Code (Refs & Annos)
Part 1. Of Crimes and Punishments (Refs & Annos)
Title 11.5. Criminal Threats (Refs & Annos)

West's Ann. Cal. Penal Code § 422
§ 422. Elements of offense; punishment
Effective: October 1, 2011
CURRENTNESS

(a) Any person who willfully threatens to commit a crime which will result in death or great bodily injury to another person, with the specific intent that the statement, made verbally, in writing, or by means of an electronic communication device, is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety, shall be punished by imprisonment in the county jail not to exceed one year, or by imprisonment in the state prison.

(b) For purposes of this section, "immediate family" means any spouse, whether by marriage or not, parent, child, any person related by consanguinity or affinity within the second degree, or any other person who regularly resides in the household, or who, within the prior six months, regularly resided in the household.

(c) "Electronic communication device" includes, but is not limited to, telephones, cellular telephones, computers, video recorders, fax machines, or pagers. "Electronic communication" has the same meaning as the term defined in Subsection 12 of Section 2510 of Title 18 of the United States Code.

West's Ann. Cal. Penal Code § 422.1
§ 422.1. Payment of restitution for violation of §§ 148.1 or 11418.1
Effective: January 1, 2003
CURRENTNESS

Every person who is convicted of a felony violation of Section 148.1 or 11418.1, under circumstances in which the defendant knew the underlying report was false, in addition to being ordered to comply with all other applicable restitution requirements and fine and fee provisions, shall also be ordered to pay full restitution to each of the following:

(a) Any person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency or instrumentality, or any other legal or commercial entity for any personnel, equipment, material, or clean up costs, and for any property damage, caused by the violation directly, or stemming from any emergency response to the violation or its aftermath.

(b) Any public or private entity incurring any costs for actual emergency response, for all costs of that response and for any clean up costs, including any overtime paid to uninvolved personnel made necessary by the allocation of resources to the emergency response and clean up.

(c) Restitution for the costs of response by a government entity under this section shall be determined in a hearing separate from the determination of guilt. The court shall order restitution in an amount no greater than the reasonable costs of the response. The burden shall be on the people to prove the reasonable costs of the response.