**T.P.I. – CRIM. 7.03(a)**

**FIRST DEGREE MURDER**

**(KILLING IN PERPETRATION OR ATTEMPTED PERPETRATION OF AN ACT OF TERRORISM)**

Any person who commits first degree murder is guilty of a crime.

For you to find the defendant guilty of this offense, the state must have proven beyond a reasonable doubt the existence of the following essential elements:

(1) that the defendant *[, or one for whom the defendant is criminally responsible,]* unlawfully killed the alleged victim;

and

(2) that the killing was committed in the perpetration of or the attempt to perpetrate an alleged act of terrorism; that is, that the killing was closely connected to the alleged act of terrorism and was not a separate, distinct and independent event;

and

(3) that the defendant intended to commit the alleged act of terrorism.

The essential elements of committing an act of terrorism are as follows:

(1) that the defendant committed *[ ]*, a criminal offense;

and

(2) that the defendant intended by this act, directly or indirectly, to

(a) intimidate or coerce a civilian population;

or

(b) influence the policy of a unit of government by intimidation or coercion;

or

(c) affect the conduct of a unit of government by *[murder] [assassination] [torture] [kidnapping] [mass destruction];*

or

(d) serve as a premeditated, politically motivated act of violence, or violence in pursuit of religious, ideological, or social objectives, perpetrated against first responders, including law enforcement officers, correctional officers, department of correction employees, probation or parole officers, paramedics, firefighters, or other emergency medical rescue workers acting in their official capacity, which results in loss of life.

[The essential elements necessary to constitute *[ ]* are (here set out the essential elements).]

or

[The essential elements necessary to constitute *[ ]* have been previously set out in these instructions.]

The intent to commit the act or terrorism must exist prior to or concurrent with the commission of the act causing the death of the victim. Proof that such intent to commit the act or terrorism existed before, or concurrent with, the act of killing is a question of fact to be decided by the jury after consideration of all the facts and circumstances. [Consideration of such factors as time, place and causation is helpful in determining whether a killing was committed in the perpetration of the alleged act or terrorism. The killing may precede, coincide with, or follow the act of terrorism and still be considered as occurring in the perpetration of the act of terrorism, so long as there is a connection in time, place and continuity of action.]

[When one enters into a scheme with another to commit an act of terrorism, and death ensues, *[both] [all]* defendants are responsible for the death regardless of who actually committed the killing and whether the killing was specifically contemplated by the other.]

["Coerce" means to make a threat, however communicated, to:

[(A) commit any offense;]

[(B) wrongfully accuse any person of any offense;]

[(C) expose any person to hatred, contempt or ridicule;]

[(D) harm the credit or business repute of any person;] or

[(E) take or withhold action as a public servant or cause a public servant to take or withhold action].]

[“Intimidate” means to use unlawful coercion, duress; to put in fear.]

“Intended” and "Intentionally" means that a person acts intentionally with respect to the nature of the conduct or to a result of the conduct when it is the person's conscious objective or desire to engage in the conduct or cause the result.

[Any alleged victim includes a human embryo or fetus at any stage of gestation in utero.]

[It is not a defense that the defendant felt justified in committing these acts for religious reasons.]

[If you find from the proof beyond a reasonable doubt that the defendant is guilty of murder in the first degree, then it shall be your duty after a separate sentencing hearing to determine whether the defendant will be sentenced to death or life imprisonment without the possibility of parole, but you will not consider punishment for this offense at this time.]