

10.10 FALSE REPORT CONCERNING [THE PLACING OR PLANTING OF A BOMB, DYNAMITE, OTHER DEADLY EXPLOSIVE, OR A WEAPON OF MASS DESTRUCTION] [AN ACT OF ARSON OR OTHER VIOLENCE] TO PROPERTY OWNED BY THE STATE [OR ANY POLITICAL SUBDIVISION]

§ 790.164(1), Fla. Stat.

To prove the crime of False Report Concerning [the Placing or Planting of a Bomb, Dynamite, Other Deadly Explosive or a Weapon of Mass Destruction] [an Act of Arson or Other Violence] to Property Owned by the State [or any Political Subdivision], the State must prove the following four elements beyond a reasonable doubt:

- 1. (Defendant) made a false report to any person concerning [the placing or planting of a bomb, dynamite, other deadly explosive, or a weapon of mass destruction] [an act of arson or other violence] to property.**
- 2. The property was owned by the State [or any political subdivision].**
- 3. (Defendant) knew the report was false.**
- 4. The report was made with the intent to deceive, mislead, or otherwise misinform any person.**

§ 790.164(3), Fla. Stat.

You may infer that a person who knowingly made a false report had the intent to deceive, mislead, or otherwise misinform any person.

Definitions. Give if applicable.

§ 790.166(1)(a), Fla. Stat.

“Weapon of mass destruction” means:

- 1. Any device or object that is designed or intended to cause death or serious bodily injury to any human or animal, or severe emotional or mental harm to any human, through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;**
- 2. Any device or object involving a biological agent;**
- 3. Any device or object that is designed or intended to release radiation or radioactivity at a level dangerous to human or animal life; or**
- 4. Any biological agent, toxin, vector, or delivery system.**

§ 1.01(8), Fla. Stat.

“Political subdivision” means counties, cities, towns, villages, special tax school districts, special road and bridge districts, bridge districts, and all other districts in this state.

Lesser Included Offenses

FALSE REPORT CONCERNING THE [PLACING OR PLANTING OF A BOMB, DYNAMITE, OTHER DEADLY EXPLOSIVE, OR A WEAPON OF MASS DESTRUCTION] [AN ACT OF ARSON OR OTHER VIOLENCE] TO PROPERTY OWNED BY THE STATE [OR ANY POLITICAL SUBDIVISION] — 790.164(1)

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
False report concerning the placing or planting of a bomb, dynamite, other deadly explosive, or a weapon of mass destruction (if charged)		790.163(1)	10.9
	Attempt	777.04(1)	5.1
	False report concerning the use of firearms in a violent manner against a person*	790.163(1)*	10.9*

Comments

*Although the crime set forth in § 790.164(1), Fla. Stat., includes language covering a false report concerning the use of firearms in a violent manner against a person, that part of the statute does not pertain to a threat against property owned by the state or a political subdivision. For an allegation involving a false report concerning the use of firearms in a violent manner against a person, the trial judge should refer to Instruction 10.9

There are no definitions for “bomb,” “dynamite,” or “deadly explosive” in the statutes or case law, although there is a definition of “explosive” in § 790.001, Fla. Stat.

A special instruction may be necessary in cases where there is a dispute about whether the report pertained to a present threat or a threat of future action. A threat of future action is not covered by § 790.164(1), Fla. Stat. *See J.A.W. v. State*, 283 So. 3d 896 (Fla. 1st DCA 2019).

This instruction was adopted in 1981 and was amended in 1985, 2017 [217 So. 3d 965], and on July 9, 2021.