

## REFUSAL TO OBEY POLICE OFFICER

The defendant is charged with the offense that is commonly referred to as refusing to obey a police officer. Section 25 of chapter 90 of our General Laws provides as follows:

- “Any person who,  
while operating or in charge of a motor vehicle,  
(shall refuse, when requested by a police officer, to give his  
name and address or the name and address of the owner  
of such motor vehicle, or who shall give a false name or  
address,)  
(or) (. . . shall refuse or neglect to stop when signaled to stop by  
any police officer who is in uniform or who displays his  
badge conspicuously on the outside of his outer coat or  
garment,)  
(or) (. . . refuses, on demand of [any police] officer [who is in  
uniform or who displays his badge conspicuously on the  
outside of his outer coat or garment], to produce his  
license to operate such vehicle or his certificate of

registration . . .)

(or) (. . . refuses, on demand of [any police] officer [who is in uniform or who displays his badge conspicuously on the outside of his outer coat or garment], to sign his name in the presence of such officer . . .)

shall be punished . . . .”

In order to prove that the defendant is guilty of this offense, the Commonwealth must prove four things beyond a reasonable doubt:

*First:* That the defendant was operating or in charge of a motor vehicle;

*Second:* That the police officer was either in uniform or had his (her) badge conspicuously displayed on the outside of his clothing;

*Third:* That the defendant (refused to give his [her] name and address to the officer upon request) (refused to give the name and address of the owner of the motor vehicle to the officer upon request) (gave the officer a false name and address) (refused or neglected to stop when signaled to do so by the officer) (refused to produce his [her] license and registration upon the officer’s request) (refused to sign his [her] name in the presence of the officer); and

***Fourth:* That the defendant realized that the police officer had made such a command, and the defendant intentionally disobeyed it.**

*Commonwealth v. Schiller*, 377 Mass. 10, 12, 384 N.E.2d 624, 626 (1979) (statute applies only to person in active control of a vehicle, either in it or in physical proximity to it); *Commonwealth v. Materia*, 350 Mass. 785, 785, 218 N.E.2d 122, 123 (1966); *Commonwealth v. Sullivan*, 311 Mass. 177, 178, 40 N.E.2d 261, 262 (1942) (badge requirement is to inform driver that person making demand has authority to do so). For the definition of “police officer,” see G.L. c. 90, § 1; for a definition of “operation of a motor vehicle,” see Instruction 3.200. A violation of G.L. c. 90, § 25 is a criminal offense and not a civil motor vehicle infraction. See G.L. c. 90C, § 3(A), first par.

Despite the statute’s literal requirement that the police officer either be in uniform or “display[] his badge conspicuously on the outside of his outer coat or garment,” it is sufficient if in some other manner “the defendant was effectively notified that he was being told to stop by a police officer.” *Commonwealth v. Gray*, 423 Mass. 293, 295, 667 N.E.2d 1125 (1996) (sufficient for officer in unmarked cruiser pulling alongside motorist to flash strobe lights and hold up badge); *Commonwealth v. Ross*, 73 Mass. App. Ct. 181, — N.E.2d — (2008) (where motorist was attempting to hit unmarked cruiser pulling alongside, sufficient for officer to use siren, blue lights and strobe lights and shout “pull over,” without displaying badge).

The statute also penalizes anyone who refuses “to permit such officer to take the license or certificate in hand for the purpose of examination,” anyone who without reasonable excuse fails to surrender his license, registration or number plate on demand, and anyone who “refuses or neglects to produce his license when requested by a court . . . .” The model instruction may be appropriately adapted for such situations.