

**WILLFUL AND MALICIOUS COMMUNICATION OF FALSE  
INFORMATION TO PUBLIC SAFETY ANSWERING POINTS**

**G.L. c. 269, § 14B(a)**

**The defendant is charged with willful and malicious communication of false information to a facility responsible for receiving or relaying 911 calls.**

**To prove the defendant guilty of this offense, the Commonwealth must prove the following six things beyond a reasonable doubt.**

***First:* that the defendant communicated with, or caused a communication to be made to another;**

***Second:* that the communication was to a facility responsible for receiving or relaying 911 calls;**

***Third:* that the defendant did so willfully;**

***Fourth:* that the defendant did so with malice;**

***Fifth:* that the communication contained information which the defendant knew or had reason to know was false; and**

***Sixth:* that the communication resulted in the dispatch of emergency services to a nonexistent emergency or to the wrong location of an actual emergency.**

**To prove the first element, the Commonwealth must prove beyond a reasonable doubt that the defendant either communicated or caused a communication to be made to another. The communication may be made in person, by phone, or by electronic device or other method.**

**To prove the second element, the Commonwealth must prove beyond a reasonable doubt that the defendant communicated or caused a communication to be made to a facility responsible for receiving or relaying 911 calls. The facility must be one assigned the responsibility of receiving 911 calls or directly dispatching emergency services or transferring or relaying emergency 911 calls to other public or private safety agencies or other public safety answering points.**

**To prove the third element, the Commonwealth must prove beyond a reasonable doubt that the defendant acted willfully. An act is “willful” if it is done intentionally and by design, in contrast to an act which is done thoughtlessly or accidentally. A person acts willfully if they intend the conduct and its harmful consequences.**

**To prove the fourth element, the Commonwealth must prove beyond a reasonable doubt that the defendant did so maliciously. An act is done with “malice” if it is done out of cruelty, hostility or revenge. To act with malice, one must act not only deliberately, but out of cruelty, hostility or revenge toward another.**

**To prove the fifth element, the Commonwealth must prove beyond a reasonable doubt that the communication transmitted information which the defendant actually knew or had reason to know was false. You may examine the defendant’s actions and words, and all of the surrounding circumstances, to help you determine the extent of the defendant’s knowledge. You should consider all of the evidence, and any reasonable inferences you draw from the evidence, in determining whether the Commonwealth has proved beyond a reasonable doubt, as it must, that the defendant acted with the knowledge that the communication transmitted false information.**

**To prove the sixth element, the Commonwealth must prove beyond a reasonable doubt that the communication resulted in the dispatch of emergency services to a nonexistent emergency or to the wrong location of an actual emergency.**

**If the Commonwealth has proved all of the elements beyond a reasonable doubt, you should return a verdict of guilty. If the Commonwealth has failed to prove one or more elements beyond a reasonable doubt, you must find the defendant not guilty.**

**WILLFUL AND MALICIOUS COMMUNICATION OF SILENT CALLS TO  
PUBLIC SAFETY ANSWERING POINTS**

**G.L. c. 269, § 14B(b)**

The defendant is charged with willful and malicious communication of three or more silent calls to a facility responsible for receiving or relaying 911 calls.

To prove the defendant guilty of this offense, the Commonwealth must prove the following five things beyond a reasonable doubt.

*First:* that the defendant made, or caused to be made, three or more silent calls;

*Second:* that the defendant made those calls, or caused those calls to be made, to a facility responsible for receiving or relaying 911 calls;

*Third:* that the defendant did so willfully;

*Fourth:* that the defendant did so with malice; and

*Fifth:* that the communication caused the dispatch of emergency services three or more times.

To prove the first element, the Commonwealth must prove beyond a reasonable doubt that the defendant made, or caused to be

**made, three or more silent calls. A “silent call” is a call or other communication made to a facility responsible for receiving or relaying 911 calls in which the calling party fails to provide information regarding their identity or location or the nature of the emergency.**

Note: The automatic transmission of information does not constitute the providing of information; thus, it falls within the definition of a silent call. See G.L. c. 269, § 14B (“The initiating party shall not be considered to have provided any information that is automatically transmitted by a communication device or network upon connection with a PSAP including, but not be limited to, automatic location information and automatic number information.”)

**To prove the second element, the Commonwealth must prove beyond a reasonable doubt that the defendant made those calls or caused those calls to be made to a facility assigned the responsibility of receiving or relaying 911 calls. The facility must be one assigned the responsibility of receiving 911 calls or directly dispatching emergency services or transferring or relaying emergency 911 calls to other public or private safety agencies or other public safety answering points.**

**To prove the third element, the Commonwealth must prove beyond a reasonable doubt that the defendant did so willfully. An act is “willful” if it is done intentionally and by design, in contrast to an**

**act which is done thoughtlessly or accidentally. A person acts willfully if they intend the conduct and its harmful consequences.**

**To prove the fourth element, the Commonwealth must prove beyond a reasonable doubt that the defendant did so maliciously. An act is done with “malice” if it is done out of cruelty, hostility or revenge. To act with malice, one must act not only deliberately, but out of cruelty, hostility or revenge toward another.**

**To prove the fifth element, the Commonwealth must prove beyond a reasonable doubt that the communication caused the dispatch of emergency services three or more times.**

**If the Commonwealth has proved all of the elements beyond a reasonable doubt, you should return a verdict of guilty. If the Commonwealth has failed to prove one or more elements beyond a reasonable doubt, you must find the defendant not guilty.**

**NOTE**

**1. Restitution determination.** Upon a conviction under c. 269, § 14B(a), the court shall conduct a hearing under § 14B(b), “to ascertain the extent of costs incurred, and damages and financial loss sustained by any emergency response services provider as a result of the violation and shall order the defendant to make restitution to the emergency response services provider or providers for any such costs, damages or loss. The court shall consider the defendant’s present and future ability to pay restitution in its determinations relative to the imposition of a fine. In determining the amount, time and method of payment of restitution, the court shall consider the defendant’s employment status, earning ability, financial resources, living expenses, dependents and any special circumstances that may have bearing on their ability to pay. The court may waive restitution or modify the amount, time or method of payment if such restitution payment would cause a substantial financial hardship to the defendant or the defendant’s immediate family or the defendant’s dependents.”