

GIVING FALSE NAME UPON ARREST

The defendant is charged with knowingly and willfully giving a false name to a police officer after being arrested. Section 34A of chapter 268 of our General Laws provides as follows:

“Whoever
knowingly and willfully furnishes a false name . . .
to a law enforcement officer or law enforcement official
following an arrest
shall be punished”

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

First: That the defendant was arrested;

Second: That the defendant then gave a false name to a police officer. A false name is one that a person has assumed for a dishonest purpose.

and *Third:* That the defendant did so knowingly and willfully; that is, he (she) intentionally gave the police a name that he (she) had assumed for a dishonest purpose.

The law permits a person to change his (her) name at will, without resort to legal proceedings, merely by adopting another name, as long as he (she) is not using that name for a dishonest purpose. For purposes of this charge, a false name is one that a person has assumed for a dishonest purpose.

Commonwealth v. Clark, 446 Mass. 620, 846 N.E.2d 765 (2006).

SUPPLEMENTAL INSTRUCTIONS

1. *Examples of dishonest purposes.* **Dishonest purposes include,**

but are not limited to, concealing one's criminal record to avoid being charged as a multiple offender, concealing one's criminal record to obtain more favorable bail consideration, concealing one's identity to avoid answering to an outstanding warrant, or creating a new identity in order to default and avoid prosecution on the charge for which one has been arrested.

Clark, supra.

2. *Prior identification to police using different name.* **If a person previously**

has identified himself (herself) to any police department under a

name that is different from the name he (she) used following this arrest and failed to disclose his (her) prior use of a different name, you are permitted to infer that his (her) failure to make such disclosure was for a dishonest purpose and that he (she) was using a false name. You do not have to draw this inference, but you may do so. It is entirely up to you.

Clark, supra.

3. *Proof of true name unnecessary.* The Commonwealth does not have to prove the defendant's true name. The Commonwealth is required to prove that he (she) used a false name, that is, that he (she) used a name for a dishonest purpose.

Clark, supra.