

**FALSELY REPORTING AN INCIDENT
IN THE THIRD DEGREE
(Falsely reporting incident to law enforcement)
Penal Law § 240.50 (3)
(Committed on or after Sept. 17, 2001)**

The (specify) count is Falsely Reporting an Incident in the Third Degree.

Under our law, a person is guilty of Falsely Reporting an Incident in the Third Degree when, knowing the information reported, conveyed or circulated to be false or baseless, he or she gratuitously¹ reports to a law enforcement officer or agency

Select appropriate alternative:

the alleged occurrence of an offense or incident which did not in fact occur; or

an allegedly impending occurrence of an offense or incident which in fact is not about to occur; or

false information relating to an actual offense or incident or to the alleged implication of some person therein

¹ See *People v Clairborne*, 36 AD2d 500, 501 (2d Dept 1971) ("Since the defendant did not initiate the conversation with the police officer, but merely responded to his inquiry, it cannot be said that the defendant 'gratuitously' reported false information to a law enforcement officer."), *rev'd on other grounds* 29 NY2d 950 (1972); *People ex rel. Morris v Skinner*, 67 Misc 2d 221, 224 (Sup Ct, Monroe County 1971) ("By the use of the word 'gratuitously' the Legislature seemingly intended to make the giving of such false information a crime only where that information is volunteered and is unsolicited."). Compare *People v Oliver*, 193 Misc 2d 250, 251 (Auburn City Ct 2002) ("[T]he defendant started a chain of events resulting in police questioning and therefore was responsible for initiating police contact. Under these circumstances the initial statements by the defendant were made gratuitously and were not the product of solicitation by law enforcement [citation omitted].").

In order for you to find the defendant guilty of this crime, the People are required to prove, from all of the evidence in the case, beyond a reasonable doubt, each of the following two elements:

1. That on or about (date), in the county of (County), the defendant, (defendant's name), gratuitously reported to a law enforcement officer or agency

Select appropriate alternative:

the alleged occurrence of an offense or incident which did not in fact occur; or

an allegedly impending occurrence of an offense or incident which in fact is not about to occur; or

false information relating to an actual offense or incident or to the alleged implication of some person therein; and

2. That the defendant knew that the information reported, conveyed or circulated was false or baseless.

If you find the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of this crime.