

29.16 DISTURBING A MILITARY FUNERAL

871.01(2), Fla. Stat.

To prove the crime of Disturbing a Military Funeral, the State must prove the following three elements beyond a reasonable doubt:

1. (Defendant) **willfully** [interrupted] [disturbed] an assembly of people meeting for the purpose of acknowledging the death of an individual.
2. The deceased individual was a member of the armed forces of the United States.
3. The assembly was attended by a military funeral honors detail.

Definition.

“Willfully” means knowingly, intentionally and purposely.

A “military funeral honors detail” consists of at least two persons from the armed forces in proper uniform, at least one of whom was from the deceaseds branch of the military, and the funeral ceremony includes the playing of “Taps,” followed by the folding and presentation of the United States flag to the family of the deceased.

Lesser Included Offenses

Disturbing a Military Funeral – 871.01(2)

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
Disturbing a school, religious or lawful assembly	None	871.01(1)	29.15

Comment

See Title 10 U.S.C. § 1491 for further details.

To commit an offense under § 871.02 a person must have deliberately acted to create a disturbance. That is, he must act with the intention that his behavior impedes the successful functioning of the assembly in which he has intervened, or with reckless disregard of the effect of his behavior. The acts complained of must be such that a reasonable person would expect them to be disruptive. Finally, the acts must, in fact, significantly disturb the assembly. These elements are inherent in the statute as drafted. See *S.H.B. v State*, 355 So.2d 1176, 1178 (Fla. 1977).

This instruction was adopted in 2008.