

## 21.2 RESISTING AN OFFICER WITHOUT VIOLENCE

§ 843.02, Fla. Stat.

**To prove the crime of Resisting an Officer Without Violence, the State must prove the following four elements beyond a reasonable doubt:**

1. (Defendant) **[resisted] [obstructed] [opposed]** (victim).
2. **At the time**, (victim) **was engaged in the [execution of legal process] [lawful execution of a legal duty]**.
3. **At the time**, (victim) **was [an officer] [a person legally authorized to execute process]**.
4. **At the time**, (defendant) **knew** (victim) **was [an officer] [a person legally authorized to execute process]**.

*In giving the instruction below, insert the class of officer to which the victim belongs, e.g., law enforcement officer, correctional officer. Wright v. State, 586 So. 2d 1024 (Fla. 1991). See § 843.02 Fla. Stat. for the type of officer covered by this statute.\**

**The Court instructs you that every** (name of official position of victim designated in charge) **is an officer within the meaning of this law.**

### Lesser Included Offense

#### RESISTING AN OFFICER WITHOUT VIOLENCE — 843.02

| CATEGORY ONE | CATEGORY TWO | FLA. STAT. | INS. NO. |
|--------------|--------------|------------|----------|
| None         |              |            |          |
|              | Attempt      | 777.04(1)  | 5.1      |

### Comments

An issue arises when the State charges the defendant resisted Officer X or Officer Y in one count. Under the current law, a defendant can commit only one count of Resisting an Officer Without Violence even if several officers are involved in the same event. *See Wallace v. State*, 724 So. 2d 1176 (Fla. 1998). One remedy for this problem would be for the judge to instruct the following as the initial paragraph: To prove the crime of Resisting an Officer Without Violence, the State must prove all of the following four elements beyond a reasonable doubt as to at least one of the alleged victims named below.

\*Any person who resists or obstructs an animal control authority in enforcing § 767.12, Fla. Stat., commits a misdemeanor of the first degree. A special instruction will be needed if the State charged the defendant under § 767.12(7), Fla. Stat.

This instruction was adopted in 1981 [431 So. 2d 594] and amended in 1989 [543 So. 2d 1205], 1995 [657 So.2d 1152], 2008 [996 So. 2d 851], 2014 [143 So. 3d 893], and on September 5, 2025.