

29.7 LOITERING OR PROWLING

§ 856.021, Fla.Stat.

To prove the crime of Loitering or Prowling, the State must prove the following two elements beyond a reasonable doubt:

1. (Defendant) loitered or prowled in a place, at a time, or in a manner not usual for law-abiding individuals.
2. Such loitering and prowling was under circumstances that warranted justifiable and reasonable alarm or immediate concern for safety of persons or property in the vicinity.

Circumstances

Among the circumstances which may be considered in determining whether such alarm or immediate concern is warranted is the fact that the person:

1. Takes flight upon appearance of a law enforcement officer.
2. Refuses to identify [himself] [herself].
3. Manifestly endeavors to conceal [himself] [herself] or any object.

Unless flight by the person or other circumstances makes it impracticable, a law enforcement officer shall afford the person an opportunity to dispel any alarm or immediate concern which would otherwise be warranted by requesting [him] [her] to identify [himself] [herself] and explain [his] [her] presence and conduct.

No person shall be convicted of an offense under this section if the law enforcement officer did not comply with this procedure or if it appears at trial that the explanation given by the person is true and, if believed by the officer at the time, would have dispelled the alarm or immediate concern.

Lesser Included Offenses

No lesser included offenses have been identified for this offense.

Comment

This instruction was adopted in 1981.