

ASSAULT WITH A FIREARM OR OTHER DEADLY WEAPON UPON AN OFFICER OR EMPLOYEE OF THE STATE OR OF ANY POLITICAL SUBDIVISION OF THE STATE, COMPANY POLICE OFFICER, OR CAMPUS POLICE OFFICER. FELONY. G.S. 14-34.2.

NOTE WELL: Where the victim is a law enforcement, probation, or parole officer or a person employed at a state or local detention center use N.C.P.I.--Crim. 208.95. Where the victim is a law enforcement officer and the state contends only that he was making or attempting to make an arrest, use N.C.P.I.--Crim. 208.81 series, where no deadly weapon was used.

The defendant has been charged with assault with a [firearm] [deadly weapon] upon a(n)

[(a) [officer] [employee] of [the State] [a political subdivision of the State]]

[(b) [company] [campus] police officer]¹ while such [officer] [employee] was in the performance of his duties.

Now I charge that for you to find the defendant guilty of this offense, the State must prove four things beyond a reasonable doubt.

First, that the defendant assaulted the victim by intentionally² (and without justification or excuse)³ (describe assault).

¹G.S. 14-34.2 makes it a Class F felony to assault with a firearm or other deadly weapon a company police officer certified pursuant to the provisions of Chapter 74E of the General Statutes or a campus police officer certified pursuant to the provisions of Chapter 17C or Chapter 116 of the General Statutes.

²If a definition of intent is required, see N.C.P.I.--Crim. 120.10.

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Second, that the defendant used a [firearm. (*Describe firearm*) is a firearm.] [deadly weapon. A deadly weapon is a weapon which is likely to cause death or serious bodily injury. In determining whether (*name object*) is a deadly weapon, you should consider the nature of (*name object*), the manner in which it was used, and the size and strength of the defendant as compared to the victim].

Third, that the victim was a(n)

[(a)[officer] [employee] of [the State] [a political subdivision of the State]]

[(b) [company] [campus] police officer] and the defendant knew or had reasonable grounds to know that the victim was such a [governmental [officer] [employee] [[company] [campus] police officer]. A(n) (*state victim's title, e.g., magistrate*) is an [[officer] [employee] of [the State] [a political subdivision of the State]] [[company] [campus] police officer].

And Fourth, that the victim was performing a duty of his office. (*Describe what victim was doing, e.g., issuing a warrant*) is a duty of a (*state victim's title*).

NOTE WELL: *If self-defense is an issue, use N.C.P.I.--Crim. 308.45.*

³The parenthetical phrase should be used only where there is evidence of justification or excuse. If the justification is self-defense, use N.C.P.I.--Crim. 308.45.

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So I charge that if you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant intentionally (and without justification or excuse) assaulted the victim with a [firearm] [(name object) and that (name object) was a deadly weapon], and that the victim was a (state victim's title) and that the defendant knew or had reasonable grounds to know that the victim was a (state victim's title), and that the victim was performing a duty of his office, it would be your duty to return a verdict of guilty. However, if you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.⁴

⁴If there is to be instruction on lesser included offenses, the last phrase should be: ". . . you will not return a verdict of guilty of assault with a [firearm] [deadly weapon] upon an [officer] [employee] of [the State] [a political subdivision of the State] while such [officer] [employee] was in the performance of his duties."

