

ASSAULT BY A PRISONER WITH A DEADLY WEAPON INFLICTING BODILY
INJURY. FELONY. G.S. 14-258.2.

The defendant has been charged with assault with a weapon capable of inflicting serious bodily injuries or death, thereby inflicting bodily injury, while he was a prisoner.¹

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 intentionally (and without justification or excuse) (*describe assault*).

Second, that the defendant used a weapon capable of inflicting serious bodily injuries or death. In determining whether (*name object*) was capable of inflicting serious bodily injuries or death, you should consider the nature of (*name object*) and the manner in which it could be used.

Third, that the defendant thereby inflicted bodily injury upon the victim.

And Fourth, at that time the defendant was [In the custody of the Division of Prisons.]²

[Under the custody of a local confinement facility.³ (*Name detention facility*) is a local confinement facility.]

¹This instruction varies somewhat from the terminology normally used in "deadly weapon" instructions, because of the language employed in G.S. 14-258.2. In this charge the weapon must be capable of inflicting serious bodily injuries, but the injury thereby inflicted need not be serious.

²See G.S. 148-4.

³See G.S. 153A-217(5) for a definition of "local confinement facility."

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

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, while the defendant was in the custody of (*name local confinement facility e.g., Tyrrell County jail*), the defendant assaulted the victim with a weapon capable of inflicting serious bodily injuries or death, and that the defendant did inflict bodily injury upon the victim, it would be your duty to return a verdict of guilty. 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

NOTE WELL: *If self-defense is an issue, use mandate
from N.C.P.I.--Crim. 308.45.⁵*

⁴If there is to be an instruction on lesser included offenses, the last phrase should be ". . . you will not return a verdict of guilty of assault while a prisoner with a weapon capable of inflicting serious bodily injuries or death, thereby inflicting bodily injury.

⁵Including self-defense in the mandate is required by S. v. Dooley, 285 N.C. 158 (1974).