

MALICIOUS CONDUCT BY A PRISONER—THROWING OF [BODILY FLUIDS] [EXCREMENT] [UNKNOWN SUBSTANCE] BY A PRISONER AT A [STATE] [LOCAL GOVERNMENT] EMPLOYEE IN THE PERFORMANCE OF EMPLOYEE'S DUTIES. FELONY.

GENERAL CRIMINAL VOLUME

REPLACEMENT JUNE 2019

N.C. Gen. Stat. § 14-258.4

208.67 MALICIOUS CONDUCT BY A PRISONER—THROWING OF [BODILY FLUIDS] [EXCREMENT] [UNKNOWN SUBSTANCE] BY A PRISONER AT A [STATE] [LOCAL GOVERNMENT] EMPLOYEE IN THE PERFORMANCE OF EMPLOYEE'S DUTIES. FELONY.

The defendant has been charged with [[throwing] [emitting] [causing to be used as a projectile]] [[bodily fluids] [excrement] [unknown substance]] at a [State] [local government] employee in the performance of the employee's duties.

For you to find the defendant guilty of this offense, the State must prove four things beyond a reasonable doubt:

First, that the defendant [[threw] [emitted] [caused to be used as a projectile]] [[bodily fluids] [excrement] [unknown substance]] at the alleged victim.

Second, that the alleged victim was a [State] [local government] employee¹ in the performance of the employee's duties.

Third, that the defendant acted knowingly and willfully.

And Fourth, that at that time the defendant was in the custody of [the Division of Adult Correction and Juvenile Justice of the Department of Public Safety] [any law enforcement officer²] [any local confinement facility³]. (*Name facility or custodial officer*) is [within the Division of Adult Correction and Juvenile Justice of the Department of Public Safety] [a law enforcement officer] [a local confinement facility].

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant knowingly and willfully [[threw]

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[emitted] [caused to be used as a projectile]] [[bodily fluids] [excrement] [unknown substance]] at the alleged victim, that the alleged victim was a [State] [local government] employee in the performance of the employee's duties, and that the defendant was in the custody of [the Division of Adult Correction and Juvenile Justice of the Department of Public Safety] [any law enforcement officer] [any local confinement facility], 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.

1 N.C. Gen. Stat. § 14-254.5.

2 N.C. Gen. Stat. §§ 153A-217 and 153A-230.1.

3 This section applies to any person in the custody of the identified individuals and institutions, including persons pending trial, appellate review, or presentence diagnostic evaluation. It also applies to violations committed inside or outside of the prison, jail, detention center, or other confinement facility.