

N.C.P.I.-Crim. 208.82  
ASSAULT UPON AN OFFICER OR EMPLOYEE OF THE STATE OR OF ANY  
POLITICAL SUBDIVISION OF THE STATE OR PUBLIC TRANSIT OPERATOR.  
MISDEMEANOR.  
GENERAL CRIMINAL VOLUME  
JUNE 2011  
N.C. Gen. Stat. § 14-33(c)(4)  
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208.82 ASSAULT UPON AN OFFICER OR EMPLOYEE OF THE STATE OR OF  
ANY POLITICAL SUBDIVISION OF THE STATE OR PUBLIC TRANSIT  
OPERATOR. MISDEMEANOR.

*NOTE WELL: Where there is evidence of justification or  
excuse (such as self defense or resisting unlawful  
arrest) use N.C.P.I.-Crim. 208.81 series and not this  
instruction.*

The defendant has been charged with assault<sup>1</sup> upon a(n)

- a) [officer] [employee] of [the State] [a political subdivision of  
the State] while such [officer] [employee] was [discharging]  
[attempting to discharge] a duty of *his* office.
- b) public transit operator<sup>2</sup> while such public transit operator was  
[discharging] [attempting to discharge] a duty of that office.

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<sup>3</sup>  
(describe assault).

Second, that the victim was

- a) an [officer] [employee] of [the State] [a political subdivision  
of the State]
- b) a public transit operator.

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Third, that the victim was [discharging] [attempting to discharge] a duty of the victim's office. (*Describe duty, e.g., magistrate issuing a warrant*) is a duty of that office.<sup>4</sup>

And Fourth, that the defendant knew or had reasonable grounds to know that the victim was

- a) an [officer] [employee] of [the State] [a political subdivision of the State]
- b) a public transit operator.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant intentionally assaulted the victim, that the victim was a(n) (*state victim's title*) and was [discharging] [attempting to discharge] a duty of *his* office, and that the defendant knew or had reasonable grounds to know that the victim was a(n) (*state victim's title*), it would be your duty to return a verdict of guilty.<sup>5</sup> 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.

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1. If a definition of assault is needed, see N.C.P.I.-Crim. 120.20.

2. A public transit operator includes a public employee or a private contractor employed as a public transit operator.

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

4. When the State contends that the victim was doing one thing that would be a duty of his office, but the evidence is that he may have been doing something else that would not be a duty of his office, describe what would and what would not be a duty of the victim's office.

5. If there is to be an instruction on lesser included offenses, the last phrase should

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be: ". . . you will not return a verdict of guilty of assault upon an [officer] [employee] of  
[the State] [a political subdivision of the State]."