

N.C.P.I.—Crim. 233.95

POSSESSION OF [MOBILE TELEPHONE] [WIRELESS COMMUNICATION DEVICE] [COMPONENT OF A [MOBILE TELEPHONE] [WIRELESS COMMUNICATION DEVICE]] BY AN INMATE. FELONY.

GENERAL CRIMINAL VOLUME

REPLACEMENT JANUARY 2024

N.C. Gen. Stat. § 14-258.1(g)

233.95 POSSESSION OF [MOBILE TELEPHONE] [WIRELESS COMMUNICATION DEVICE] [COMPONENT OF A [MOBILE TELEPHONE] [WIRELESS COMMUNICATION DEVICE]] BY AN INMATE. FELONY.

The defendant has been charged with possession of a [mobile telephone] [wireless communication device] [component of a [mobile telephone] [wireless communication device]] by an inmate [of the Department of Adult Correction] [in the custody of a local confinement facility].

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

First, that the defendant was an inmate [of the Department of Adult Correction] [in the custody of a local confinement facility]. (*Name facility*) is [within the Department of Adult Correction] [a local confinement facility].

And Second, that while the defendant was an inmate of (*name facility*), the defendant possessed a [mobile telephone] [wireless communication device] [component of a [mobile telephone] [wireless communication device]]. A person possesses a [mobile telephone] [wireless communication device] [component of a [mobile telephone] [wireless communication device]] when the person is aware of its presence, and has both the power and intent to control its disposition or use.

NOTE WELL: If constructive possession is an issue, or if an amplified definition of actual possession is needed, the trial judge should refer to N.C.P.I.—Crim. 104.41 for further instructions.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant was an inmate at (*name facility*) within the Department of Adult Correction and that the defendant possessed a [mobile telephone] [wireless communication device] [component of a [mobile

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telephone] [wireless communication] device]], 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.