

204A.35 THREATS OF PUNISHMENT OR RETALIATION FOR CRIMINAL
STREET GANG WITHDRAWAL. FELONY.

*NOTE WELL: Use this instruction for offenses occurring before
December 1, 2017. For offenses occurring on or after December
1, 2017, use N.C.P.I.-Crim. 204A.35A.*

The defendant has been charged with communicating a threat of [injury to a person] [damage to another person's property] as [punishment] [retaliation] against a person for having withdrawn from a criminal street gang.

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

First, that the defendant threatened [injury to (name person)] [damage to (name person's) property].

And Second, that the defendant made the threat as [punishment] [retaliation] against (name person) for having withdrawn from membership in a criminal street gang.

A criminal street gang is defined as any ongoing organization, association, or group of three or more persons, whether formal or informal that has as one of its primary activities the commission of one or more felony¹ offenses, or delinquent acts that would be felonies if committed by an adult; (and) has three or more members individually or collectively engaged in, or who have engaged in, criminal street gang activity²; (and may have a common name, common identifying sign or symbol.)

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant threatened [injury to (name person)]

[damage to (name person's) property] as [punishment] [retaliation] against
(name person) for having withdrawn from membership in a criminal street
gang, 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 both of these things, it would be your
duty to return a verdict of not guilty.

1 A felony is a crime which:

- (1) Was a felony at common law;
- (2) Is or may be punishable by death;
- (3) Is or may be punishable by imprisonment in the State's prison; or
- (4) Is denominated as a felony by statute. N.C.G.S. 14-1.

2 For a definition of "criminal street gang activity", see G.S. 14-50.16(c).