

N.C.P.I.—Criminal 208.90H
DISCHARGING A FIREARM INTO OCCUPIED DWELLING INFLECTING SERIOUS BODILY INJURY. FELONY.
G.S. 14-34.1(c)
General Criminal Volume
Replacement June 2011

The defendant has been charged with discharging a firearm into an occupied dwelling¹ inflicting serious bodily injury.

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

First, that the defendant willfully or wantonly discharged a firearm into a dwelling (without justification or excuse).² An act is willful or wanton when it is done intentionally with knowledge or a reasonable ground to believe that the act would endanger the rights or safety of others.

Second, that the dwelling was occupied by one or more persons at the time that the firearm was discharged.

Third, that the defendant [knew] [had reasonable grounds to believe] that the dwelling was occupied by one or more persons.

And Fourth, that the defendant's action resulted in serious bodily injury to the victim. Serious bodily injury is defined as bodily injury that creates or causes [a substantial risk of death] [serious permanent disfigurement] [coma] [a permanent or protracted condition that causes extreme pain] [permanent or protracted loss or impairment of the functions of any bodily member or organ] [prolonged hospitalization].

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant willfully or wantonly discharged a firearm into a dwelling (without justification

¹ A dwelling house is a house that is inhabited, that is, a house that is the permanent, temporary, or seasonal residence of some person. A dwelling house is occupied when some person is physically present in the dwelling house at that time.

² The parenthetical phrase should be used only where there is evidence of justification or excuse, such as self-defense.

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or excuse),³ while it was occupied by one or more persons, that defendant [knew] [had reasonable grounds to believe] that it was occupied by one or more persons and that the defendant inflicted serious bodily injury to the victim(s), 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

³ The parenthetical phrase should be used only where there is evidence of justification or excuse, such as self-defense.

⁴ If there is to be instruction on lesser included offenses, the last phrase should be: ‘...you will not return a verdict of guilty of discharging a firearm into an occupied dwelling inflicting serious bodily injury.’”