

204A.20A SOLICITATION OF PARTICIPATION IN CRIMINAL GANG ACTIVITY.
FELONY.

NOTE WELL: Use this instruction for offenses occurring on or after December 1, 2017. For offenses occurring before December 1, 2017, use N.C.P.I.-Crim 204A.20.

The defendant has been charged with [causing] [encouraging] [soliciting] [coercing] a person 16 years of age (or older) to participate in criminal gang activity.

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

First, that the defendant [caused] [encouraged] [solicited] [coerced] (*name individual*) to participate in criminal gang activity by committing the offense of (*name crime*). (*Define crime.*)¹

Second, that the defendant had the specific intent that the (*name crime*) was committed in furtherance of the defendant's involvement in a criminal gang.

A criminal 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 criminal or delinquent acts and shares a common name, identification, signs, symbols, tattoos, graffiti, attire, or other distinguishing characteristics, including common activities, customs, or behaviors. This term shall not include three or more persons associated in fact, whether formal or informal, who are not engaged in criminal gang activity.²

And Third, that (*name individual*) who was [caused] [encouraged] [solicited] [coerced] was 16 years of age (or older) when the defendant

[caused] [encouraged] [solicited] [coerced] (*name individual*) to participate in criminal gang activity. Criminal gang activity is defined as the commission of, attempted commission of, or solicitation, coercion, or intimidation of another person to commit (name offense and describe the elements of the offense) and either of the following conditions is met: the offense is committed with the intent to benefit, promote, or further the interests of a criminal gang for the purpose of increasing a person's own standing or position within a criminal gang or the participants in the offense are identified as criminal gang members acting individually or collectively to further any criminal purpose of a criminal gang.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant [caused] [encouraged] [solicited] [coerced] (*name individual*), who was 16 years of age (or older) at the time, to participate in criminal gang activity by committing (*name crime*), and that the defendant had the specific intent that (*name crime*) was committed in furtherance of the defendant's involvement in a criminal 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 more of these things, it would be your duty to return a verdict of not guilty.

1 For a definition of "criminal gang activity," see N.C. Gen. Stat. § 14-50.16A(2). For offenses that qualify as criminal gang activity, see Article 5 of Chapter 90 of the General Statutes or Chapter 14 of the General Statutes except Article 9, 22A, 40, 46, or 59 and G.S. 14-82, 14-145, 14-183, 14-184, 14-186, 14-190.9, 14-247, 14-248, or 14-313.

2 For a definition of "criminal gang activity," see N.C. Gen. Stat. § 14-50.16A(2). For offenses that qualify as criminal gang activity, see Article 5 of Chapter 90 of the General Statutes or Chapter 14 of the General Statutes except Article 9, 22A, 40, 46, or 59 and G.S. 14-82, 14-145, 14-183, 14-184, 14-186, 14-190.9, 14-247, 14-248, or 14-313.