

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

NOTE WELL: For offenses involving discharge of a barreled weapon which is not a firearm, use N.C.P.I.—Crim. 208.90A.

The defendant has been charged with discharging a firearm into occupied property¹ 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(n) [building] [structure] [vehicle] [aircraft] [watercraft] [(describe other conveyance)] [device] [equipment] [erection] [enclosure]² (without justification or excuse).³ 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 or others.

Second, that the [building] [structure] [vehicle] [aircraft] [watercraft] [(describe other conveyance)] [device] [equipment] [erection] [enclosure] was occupied by one or more persons at by one or more persons the time that the firearm was discharged.

Third, that the defendant [knew] [had reasonable grounds to believe] that the [building] [structure] [vehicle] [aircraft] [watercraft] [other conveyance] [device] [equipment] [erection] [enclosure] 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]

¹ For purposes of this statute, property is described as any building, structure, vehicle, aircraft, watercraft, or other conveyance, device, equipment, erection, or enclosure.

² G.S. 14-34.1 forbids attempting to discharge a firearm into occupied property as well as the actual discharge. If only an "attempt" is charged and the judge believes that it is a type covered by the statute, the instruction may be modified accordingly. If an instruction explaining "attempt" is required, see N.C.P.I.—Crim. 201.10.

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

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[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(n) [building] [structure] [vehicle] [aircraft] [watercraft] [(*describe other conveyance*)] [device] [equipment] [erection] [enclosure] (without justification or excuse),⁴ 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 (or 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.⁵

⁴ The parenthetical phrase should be used only where there is evidence of justification or excuse, such as self-defense.

⁵ 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 occupied property inflicting serious bodily injury."