

## Going Armed to the Terror of the People

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After I eliminated this offense from the 7<sup>th</sup> edition of *North Carolina Crimes*, a few people asked me to add it back in. A statistics report from the N.C. Administrative Office of the Courts shows that in 2011 this crime was charged in 340 cases. That's not a huge number, but it probably justifies including the offense in *Crimes*. In any event, since the book has been printed I can't make any changes until the 8<sup>th</sup> edition is produced (note: even thinking about that gives me a migraine). In the meantime, here's what you need to know about this crime.

### Statute

This is a common law offense. *State v. Dawson*, 272 N.C. 535, 541-42 (1968); *State v. Huntly*, 25 N.C. 418, 418 (1843); *State v. Staten*, 32 N.C. App. 495, 496-97 (1977) (citing *Dawson*).

### Elements

A person guilty of this offense

- (1) arms himself or herself with an unusual and dangerous weapon
- (2) for the purpose of terrifying others *and*
- (3) goes about on public highways
- (4) in a manner to cause terror to the people.

### Punishment

Class 1 misdemeanor. G.S. 14-3(a).

### Notes

**Generally.** For the elements of this offense, see *Dawson*, 272 N.C. at 549, and *Staten*, 32 N.C. App. at 497.

For a case in which the evidence was sufficient to establish this offense, see, for example, *Dawson*, 272 N.C. at 549 (armed with a carbine and four pistols, the defendant and three others drove on the public highways at night, firing bullets into a store and two homes).

**Element (1).** In *Huntly*, the court held that any gun is an unusual and dangerous weapon for purposes of this offense. *Huntly*, 25 N.C. at 422. In that case it was argued that a gun cannot constitute an unusual weapon, "for there is scarcely a man in the community who does not own and occasionally use a gun of some sort." *Id.* The court rejected that argument, concluding: "A gun is an 'unusual weapon,' wherewith to be armed and clad. No man amongst us carries it about with him, as one of his every day accoutrements--as a part of his dress--and never we trust will the day

come when any deadly weapon will be worn or wielded in our peace loving and law-abiding State, as an appendage of manly equipment.” *Id.*

In *State v. Lanier*, 71 N.C. 288, 289 (1874), the defendant was charged with going armed to the terror of the people after riding a horse, at a canter, through a courthouse. Witnesses saw no arms of any kind. The North Carolina Supreme Court “attach[ed] no importance to the fact that the defendant had no arms” stating, “we think it may be conceded that the driving or riding without arms through a court house or a crowded street at such a rate or in such a manner as to endanger the safety of the inhabitants amounts to a breach of the peace and is an indictable offence at common law.” *Id.* at 290.

**Element (3).** It appears that the offense would not occur if the defendant remained on private property.

**Element (4).** The offense of affray involves fighting in public to the terror of the people. For purposes of that offense, cases hold that if members of the public experience fear, the “to the terror of the people” element is satisfied. *In re May*, 357 N.C. 423, 428 (2003). In an unpublished case involving a charge of going armed to the terror of the people, the North Carolina Court of Appeals found this element satisfied where the defendant shot his gun while driving closely behind another vehicle on a public highway. *State v. Toler*, 716 S.E.2d 875 (N.C. App. 2011) (unpublished) (rejecting the defendant’s argument that his actions were not “to the terror of the people” where the only people involved were those in the victim’s car, and stating: “We find this to be substantial evidence that this behavior was intended to be to the terror of the people and was in fact to the terror of the people. The fact that a limited number of witnesses testified regarding Defendant’s actions does not change the character of those actions.”).

**Charging issues.** Although it is proper to enumerate the acts or threats of violence that the defendant undertakes while armed, such allegations are not required. *Dawson*, 272 N.C. at 549 (indictment upheld absent such allegations).