

N.C.P.I.-Crim. 206.00
FIRST DEGREE MURDER, PREMEDITATION AND DELIBERATION-SECOND
DEGREE MURDER AS LESSER INCLUDED OFFENSE.
GENERAL CRIMINAL VOLUME
DECEMBER 2001

206.00 FIRST DEGREE MURDER, PREMEDITATION AND DELIBERATION -
SECOND DEGREE MURDER AS LESSER INCLUDED OFFENSE.

State v. Strickland, 307 N.C. 274, at 289-91 (1983), in overruling *State v. Harris*, 290 N.C. 718 (1976), held that, when the indictment charges first degree murder by premeditation and deliberation, a trial judge is required to instruct on second degree murder only if the evidence tends to show a lack of premeditation and deliberation or would permit a jury rationally to find defendant guilty of the lesser offense and acquit him of the greater.