

### 14-703. Negligent use of a deadly weapon.

For you to find the defendant guilty of negligent use of a deadly weapon [as charged in Count \_\_\_\_\_]<sup>1</sup>, the state must prove to your satisfaction beyond a reasonable doubt each of the following elements of the crime:

1. [The defendant discharged a firearm into a [building]<sup>2</sup> [vehicle];]  
[OR]<sup>2</sup>  
[The defendant discharged a firearm knowing that he was endangering [a person]<sup>2</sup> [property];]  
[OR]  
[The defendant was carrying a firearm while under the influence of [alcohol]<sup>2</sup> [narcotics];]  
[OR]  
[The defendant endangered the safety of another, by handling or using a [deadly weapon]<sup>3</sup> [firearm] in a negligent<sup>4</sup> manner;]  
[OR]  
[The defendant discharged a firearm within one hundred and fifty yards of a [dwelling]<sup>5</sup> [or] [building] without permission of the owner or lessee. [The state must also prove that either:  
A. the weapon was discharged on non-public lands; or  
B. the discharge did not occur during hunting season; or  
C. that the [dwelling] [or] [building] was not an abandoned or vacated building];]<sup>6</sup>  
[2. The defendant was not a peace officer<sup>7</sup> or other public employee who is required or authorized by law to carry or use a firearm in the course of employment and who carries, handles, uses or discharges a firearm while lawfully engaged in carrying out the duties of such office or employment;]  
3. This happened in New Mexico on or about the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

#### USE NOTES

1. Insert the count number if more than one count is charged.
2. Use only the applicable alternative.
3. If this alternative is used, Subsection B of Section 30-1-12 NMSA 1978, the definition of "deadly weapon", is given immediately after this instruction.
4. If this alternative is used, UJI 14-133, the definition of criminal negligence, is given immediately after this instruction.
5. If this alternative is given, Instruction 14-1631, definition of "dwelling house" is given as the definition of "dwelling".
6. This alternative is to be given only if the court finds that the evidence presents issues on whether: (1) the building was an abandoned or vacated building; (2) the building was located on public lands; and (3) the defendant discharged the firearm during hunting season.
7. This alternative may be given if there is an issue as to whether the

defendant was a peace officer or public employee in the lawful discharge of duty. This alternative is not to be given if the defendant is charged with carrying a firearm while under the influence of an intoxicant or narcotic.

[Adopted, effective May 1, 1986; as amended, effective January 1, 1999.]