

1 **14-703. Negligent use of a deadly weapon.**

2 For you to find the defendant guilty of negligent use of a deadly weapon [as charged in
3 Count _____]¹, the state must prove to your satisfaction beyond a reasonable doubt each
4 of the following elements of the crime:

5 1. [The defendant discharged a firearm into a [building]² [vehicle];]

6 [OR]²

7 [The defendant discharged a firearm [~~knowing that he was~~] knowingly endangering [a
8 person]² [property];]

9 [OR]

10 [The defendant was carrying a firearm while under the influence of [alcohol]² [narcotics];]

11 [OR]

12 [The defendant endangered the safety of another, by handling or using a [deadly weapon³]
13 [firearm] in a negligent⁴ manner;]

14 [OR]

15 [The defendant discharged a firearm within one hundred and fifty yards of a [dwelling⁵]
16 [or] [building] without permission of the owner or lessee. [The state must also prove that either:

17 A. the weapon was discharged on non-public lands; or

18 B. the discharge did not occur during hunting season; or

19 C. that the [dwelling] [or] [building] was not an abandoned or vacated building;]⁶

20 [2. The defendant was not a peace officer⁷ or other public employee who is required or
21 authorized by law to carry or use a firearm in the course of employment and who carries, handles,
22 uses or discharges a firearm while lawfully engaged in carrying out the duties of such office or
23 employment;]

1 Supreme Court's opinions construing "negligence" as used in the criminal code to mean "criminal
2 negligence. *See State v. Yarborough*, 1996-NMSC-068, 122 N.M. 596, 930 P.2d 131 (1996) and
3 *Santillanes v. State*, 115 N.M. 215, 849 P.2d 358 (1993). If the issue is whether or not the defendant
4 handled a firearm or deadly weapon in a negligent manner, UJI 14-133 is to be given.
5 The committee also deleted the requirement that the definition set forth in UJI 14-704 NMRA be
6 used with this instruction. UJI 14-704 NMRA is based on the definitions in Section 30-7-16(C)
7 NMSA 1978, which was enacted eighteen years after 30-7-4, does not refer to it and specifically
8 recites that the definition applies only to the term "as used in this section". The definitions in
9 Section 30-7-16 NMSA 1978 may be limited to Section 30-7-16 NMSA 1978 offenses.
10 [Amended November 12, 1998.]