

**PROPOSED REVISIONS TO THE UNIFORM JURY INSTRUCTIONS-CRIMINAL
PROPOSAL 2026-027**

March 6, 2026

The Uniform Jury Instructions-Criminal Committee has recommended amendments to Uniform Jury Instruction 14-5150 NMRA for the Supreme Court's consideration.

If you would like to comment on the proposed amendments set forth below before the Court takes final action, you may do so by either submitting a comment electronically through the Supreme Court's website at <https://supremecourt.nmcourts.gov/rules-forms-files/rules-forms/open-for-comment/> or sending your written comments by mail, email, or fax to:

Elizabeth A. Garcia, Chief Clerk of Court
New Mexico Supreme Court
P.O. Box 848
Santa Fe, New Mexico 87504-0848
rules.supremecourt@nmcourts.gov
505-827-4837 (fax)

Your comments must be received by the Clerk on or before April 5, 2026, to be considered by the Court. Please note that any submitted comments may be posted on the Supreme Court's website for public viewing.

14-5150. Alibi.

Evidence has been presented concerning whether or not the defendant was present at the time and place of the commission of the offense charged. The state has the burden of proving beyond a reasonable doubt that the defendant was present at that time and place. The defendant does not have the burden of proving an alibi defense or convincing you that the defendant was not present at the time and place of the commission of the offense charged. If, after a consideration of all the evidence, you have reasonable doubt that the defendant was present at the time the crime was committed, you must find the defendant not guilty.

USE NOTES

[No instruction on this subject shall be given.] Upon request, this instruction may be given whenever sufficient evidence is presented that could raise reasonable doubt in the minds of jurors as to whether or not the defendant was present at the time and place of the commission of the offense charged. The mere denial of the charges without presentation of substantive evidence to support an alibi defense is an insufficient basis to provide this instruction. Certain offenses may not require the defendant's physical presence to accomplish the commission of the offense, and in those circumstances, this instruction should not be given.

[As amended by Supreme Court Order No. S-1-RCR-2025-00126, effective for all cases pending or filed on or after December 31, 2025; as amended by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

Committee commentary. — [~~The language of this instruction is derived from California Jury Instructions Criminal, 4.50.~~] The New Mexico Supreme Court has held that the defendant’s alibi is a question for the jury. *State v. Garcia*, 1969-NMSC-017, 80 N.M. 21, 450 P.2d 621. The Court has also held that it is improper to instruct that the burden is on the defendant to prove an alibi. *State v. Smith*, 1915-NMSC-085, 21 N.M. 173, 153 P. 256. There are no New Mexico decisions holding that the jury must be instructed on the question of alibi. [~~Analytically, an alibi is not a technical or “legal” defense but it is used to cast doubt on the proof of elements of the crime. See, e.g., *People v. Williamson*, 168 Cal. App. 2d 735, 336 P.2d 214 (1959). Consequently, the committee believed that no instruction on alibi should be given since it merely comments on the evidence.~~]

However, in *State v. Stalter*, 2023-NMCA-054, ¶ 25, 534 P.3d 989, the New Mexico Court of Appeals expressed “reservations regarding the ... prohibition against giving the uniform alibi instruction at the district court’s discretion in appropriate circumstances.” *Stalter* noted that “New Mexico’s categorical denial of an alibi instruction is the minority approach among state and federal jurisdictions.” *Id.* ¶ 15. The court in *Stalter* disagreed with the previous committee commentary that characterized the alibi instruction as a comment on the evidence, reasoning that the instruction, “does not contextualize or hypothesize the facts or express an opinion about the evidence. The instruction does not ‘suggest to the jury that the evidence should lead them to any particular result.’” *Id.* ¶ 20 (internal citation omitted). Rather, the “instruction creates a framework for the jury to understand the State’s burden to prove beyond a reasonable doubt that Defendant was present when the crime took place when Defendant contends he was elsewhere.” *Id.* ¶ 24.

In light of *Stalter*, and the evolving national landscape regarding alibi instructions, the committee believes that this instruction may be given in appropriate cases. This instruction should only be given if there has been an affirmative presentation of substantive evidence to support an alibi defense, and failure to give this instruction may result in confusion regarding the State’s burden to prove beyond a reasonable doubt that Defendant was present when the crime took place. Additionally, a defendant’s presentation of alibi evidence must comply with Rule 5-508 NMRA (1998).

[As amended by Supreme Court Order No. S-1-RCR-2025-00126; as amended by Supreme Court Order No. _____.]