

NM Jury Instructions Crim. 14-133 "Negligence" and
"recklessness"; defined.1 (New Mexico Criminal Jury Instructions (2020
Edition))

14-133. "Negligence" and "recklessness"; defined.

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For you to find that the defendant [acted]2 [recklessly] [with reckless disregard] [negligently] [was negligent] [_____]3 in this case, you must find that the defendant acted with willful disregard of the rights or safety of others and in a manner which endangered any person or property4.

USE NOTES

1. For use when "negligence", "reckless", "recklessly", "knew or should have known" or similar term or phrase is an element of the crime charged. This instruction should not be given with any elements instruction which already adequately defines the concept of a defendant's criminal negligence set forth by the Supreme Court. See for example *State v. Yarborough*, 1996-NMSC-068, 122 N.M. 596, 930 P.2d 131 and *Santillanes v. State*, 115 N.M. 215, 849 P.2d 358 (1993).

2. Use only applicable alternative.

3. Set forth the term or terms used in the elements instruction (or statute if no elements instruction exists) for criminal negligence if the previous alternatives are not used in the essential elements instruction of a "criminal negligence" offense.

4. If the statutory offense identifies some injury other than to a person or the property of others, set forth statutory language.

[Adopted, effective January 1, 1999.]

Committee commentary. — This instruction was taken from the definition set forth in *State v. Yarborough*, 1996-NMSC-068, P20, 122 N.M. 596, 930 P.2d 131 and predecessor cases. This instruction should be used when the offense involves criminal negligence and the essential elements instruction, or other instruction to be used with the essential elements instruction, does not define the term "reckless", "negligence" or

similar term. See *Santillanes v. State*, 115 N.M. 215, 220, 849 P.2d 358, 363 (1993)

citing with approval *Raton v. Rice*, 52 N.M. 326, 365, 199 P.2d 986, 987 (1949) (involuntary manslaughter) as follows:

When a crime is punishable as a felony, civil negligence ordinarily is an inappropriate predicate by which to define such criminal conduct.

Various courts have defined criminal negligence in slightly different ways. This instruction simplifies and standardizes the definition of criminal negligence.