

**PROPOSED REVISIONS TO THE UNIFORM JURY INSTRUCTIONS - CRIMINAL  
PROPOSAL 2020-020**

**March 3, 2020**

The Uniform Jury Instructions – Criminal Committee has recommended amendments to UJI 14-1701 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 web site at <http://supremecourt.nmcourts.gov/open-for-comment.aspx> or sending your written comments by mail, email, or fax to:

Joey D. Moya, Clerk  
New Mexico Supreme Court  
P.O. Box 848  
Santa Fe, New Mexico 87504-0848  
[nmsupremecourtclerk@nmcourts.gov](mailto:nmsupremecourtclerk@nmcourts.gov)  
505-827-4837 (fax)

**Your comments must be received by the Clerk on or before April 2, 2020**, to be considered by the Court. Please note that any submitted comments may be posted on the Supreme Court’s web site for public viewing.

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**14-1701. Arson; with purpose of destroying or damaging property; essential elements.**

For you to find the defendant guilty of arson [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 intentionally or maliciously [started a fire] [or] [caused an explosion]<sup>2</sup>;
2. The defendant did so with the intent to destroy or damage \_\_\_\_\_  
(*identify property*), which belonged to another; [~~and which had a [market]<sup>3</sup> value of over \$\_\_\_\_\_~~]
3. The defendant caused over \$ \_\_\_\_\_<sup>3</sup> in damage to the property; and  
[3-]4. 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 applicable bracketed phrase.
3. [~~Unless the property has no market value, this bracketed word should be used and UJI 14-1707 also given.~~] If the charge is a second degree felony (over \$20,000), use “\$20,000” in the blank. If the charge is a third degree felony (over \$2,500), use “\$2,500” in the blank. If the charge is a fourth degree felony (over \$500), use “\$500” in the blank. If the charge is a

misdemeanor (over \$250), use “\$250” in the blank.

[As amended by Supreme Court Order No. 10-8300-039, effective December 31, 2010, as amended by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

**Committee commentary.** — *See* § 30-17-5 NMSA 1978. The prior statute, N.M. Laws 1963, ch. 303, § 17-5, which made criminal the “intentional damaging by any explosive substance or setting fire to” certain structures, was held unconstitutional in *State v. Dennis*, 80 N.M. 262, 454 P.2d 276 (Ct. App. 1969). Since both the New Mexico statute prior to 1963 (N.M. Laws 1927, ch. 61, § 1) and common-law arson required a willful and malicious state of mind, the court concluded that the legislature intended to eliminate that element. The court held that to eliminate this mental element was not a reasonable exercise of the police power by the legislature since the statute then made criminal what could be a burning for innocent and beneficial purposes.

[As amended by Supreme Court Order No. 10-8300-039, effective December 31, 2010.]