



**FROM THE COMMITTEE  
ON MODEL CRIMINAL  
JURY INSTRUCTIONS**

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The Committee on Model Criminal Jury Instructions solicits comment on the following proposal by March 1, 2025. Comments may be sent in writing to Christopher M. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to [MCrimJI@courts.mi.gov](mailto:MCrimJI@courts.mi.gov).

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**PROPOSED**

The Committee proposes amending two jury instructions, M Crim JI 7.3 (Lesser Offenses of Murder) and M Crim 16.11 (Involuntary Manslaughter-Firearm Intentionally Aimed), to reflect the repeal of the negligent homicide statute, former MCL 750.324, and statutory involuntary manslaughter’s status as a cognate lesser included offense of murder, see MCL 750.329; *People v Smith*, 478 Mich 64 (2007). Deletions are in ~~strike-through~~, and new language is underlined.

**[AMENDED]      M Crim JI 7.3      Lesser Offenses: Involuntary  
Manslaughter; ~~Intentional Aiming of  
Firearm; Careless Discharge of a  
Firearm; Negligent Homicide~~**

- ~~(1)      However, even if the defendant is not guilty of murder, [he / she] may be guilty of a less serious offense. [If [he / she] willingly did something that was grossly negligent toward human life or if [he / she] intended to cause injury / If the gun went off as (he / she) purposely pointed or aimed it at someone], [he / she] may be guilty of involuntary manslaughter.~~
- ~~(2)      Even if the defendant is not guilty of murder or involuntary manslaughter, you may decide that the defendant did something careless, reckless, or ordinarily negligent that caused the death. In that case, [he / she] may be guilty of [careless, reckless or negligent use of a firearm / negligent homicide].~~
- ~~(3)      To sum up, when you consider the charge of murder, you should also consider whether the defendant is guilty~~

of \_\_\_\_\_ or \_\_\_\_\_  
\_\_\_\_\_. In a few moments, I will

describe this these crimes in detail, and I will tell you what terms like “gross negligence” mean.

*Use Note*

Use (1) or (1) and (2) as applicable.

**[AMENDED] M Crim JI 16.11 Involuntary Manslaughter-Firearm Intentionally Aimed**

- (1) {The defendant is charged with the crime of \_\_\_\_\_/ ~~You may also consider the lesser charge of~~ involuntary manslaughter. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:
- (2) First, that the defendant caused the death of [*name deceased*], ~~that is, [*name deceased*] died as a result of [*state alleged act causing death*].~~
- (3) Second, that death resulted from the discharge of a firearm.<sup>1</sup> ~~[A firearm is an instrument from which (shot / a bullet) is propelled by the explosion of gunpowder.]~~
- (4) Third, at the time the firearm discharged ~~went off~~, the defendant was intentionally aiming or pointing it at [*name deceased*].
- ~~(5) Fourth, at that time, the defendant intended to point the firearm at [*name deceased*].<sup>+</sup>~~
- [(~~6~~ 5) ~~Fifth~~ Fourth, that the defendant caused the death without lawful excuse or justification.]<sup>2</sup>

*Use Note*

1. ~~This is a specific intent crime.~~ *Firearm* is defined in MCL 750.222(e) as “any weapon which will, is designed to, or may readily be converted to expel a projectile by action of an explosive.”
2. Paragraph (~~6~~ 5) should be given only if there is a claim by the defense that the killing was excused or justified.