

- VEST FIRST RESPONDER -

HELP FOR HEROES

NEW MEXICO

Self-Defense Law Reference Guide

Stand Your Ground (Case Law) | Castle Doctrine | No Duty to Retreat | First Responder Protections | Police Use of Force

CERTIFIED TRAINER SUPPLEMENTAL DOCUMENT

Intended exclusively for VEST Certified Trainers. Not a substitute for legal counsel.

New Mexico is an effective Stand Your Ground state through judicial interpretation rather than statute. While New Mexico does not have a formal Stand Your Ground law codified like Texas, Alabama, or Kansas, the New Mexico Supreme Court definitively established in *State v. Couch* (1957) and reaffirmed in subsequent decisions that there is NO duty to retreat before using deadly force in self-defense when lawfully present at a location. Jury instructions in New Mexico explicitly inform jurors that a person who acts in justified self-defense has no obligation to retreat. New Mexico's self-defense law is primarily codified in NMSA 1978, Section 30-2-7, supplemented by a robust body of case law.

LEGAL SOURCE	SUBJECT MATTER
NMSA 1978, S. 30-2-7	Justifiable Homicide by a Citizen - Core Self-Defense Standard
NMSA 1978, S. 30-2-8	Excusable Homicide
<i>State v. Couch</i> (1957)	New Mexico Supreme Court - No Duty to Retreat
<i>State v. Horton</i> (1982)	Reaffirmation - No Retreat Required When Lawfully Present
UJI 14-5181, 14-5183	Uniform Jury Instructions - Self-Defense, No Retreat Required
NMSA 1978, S. 30-3-9	Assault/Battery on Peace Officers and Health Care Workers
NMSA 1978, S. 30-3-9.1	Assault/Battery on Emergency Medical Technicians - Enhanced Penalty
NM Law Enforcement Reform Act	Police Accountability; Use of Force Standards (2021)

PART I: THE NEW MEXICO SELF-DEFENSE FRAMEWORK

NMSA 1978, S. 30-2-7 - Justifiable Homicide by a Citizen

New Mexico's core self-defense statute defines justifiable homicide and establishes when a citizen may use deadly force. The statute codifies the right to use deadly force in defense of life, in defense of one's habitation, and to prevent the commission of certain felonies. Courts have consistently interpreted this statute to require: (1) an apparent need or necessity for the killing; (2) imminent danger of death or great bodily harm; and (3) a reasonable person in the defendant's position would have acted similarly.

"Homicide is justifiable when committed by any person in any of the following cases: A. when committed in the necessary defense of his life, his family or his property, or in necessarily defending against any unlawful action directed against himself, his wife or family; B. when committed in the lawful defense of himself or of another, when there is reasonable ground to apprehend a design to commit a felony or to do some great personal injury, and there is imminent danger that the design will be accomplished; or C. when necessarily committed in attempting, by lawful ways and means, to apprehend any person for any felony committed, or in lawfully suppressing any riot, or in lawfully keeping and preserving the peace." - NMSA 1978, S. 30-2-7

State v. Couch (1957) and Subsequent Case Law - No Duty to Retreat

"A man is not obliged to retreat. He may stand his ground and resist attack." - State v. Couch, 1957-NMSC-011, 63 N.M. 63 (New Mexico Supreme Court, 1957)

The New Mexico Supreme Court established over 60 years ago that there is no duty to retreat before using deadly force in self-defense in New Mexico. This principle has been consistently reaffirmed and is reflected directly in New Mexico's Uniform Jury Instructions (UJI 14-5181 and 14-5183). When self-defense is raised as a justification in New Mexico courts, the jury is explicitly instructed that the defendant was NOT required to retreat before using force. This jury instruction protection is functionally equivalent to the statutory Stand Your Ground protections in other states.

KEY ELEMENTS FROM NEW MEXICO CASE LAW:

- No duty to retreat - established by the New Mexico Supreme Court; reflected in jury instructions.
- Reasonable belief of imminent danger - both subjective (the actor believed it) and objective (a reasonable person would have believed it) standards apply.
- Proportionality - force must match the threat; deadly force only justified against deadly threats.
- Not the initial aggressor - persons who provoke or initiate confrontations may not claim justified self-defense.
- The prosecution bears the burden to disprove self-defense beyond a reasonable doubt once it is raised.

IMPORTANT DISTINCTION - CASE LAW VS. STATUTE:

New Mexico's no-retreat rule exists through judicial interpretation rather than statute. While the practical effect is the same as in statutory Stand Your Ground states, the absence of a statute means: (1) the rule has not been codified with explicit immunity provisions like Kansas's S. 21-5230 or Florida's S. 776.032; (2) civil liability protections are less explicit; and (3) a future court decision could theoretically modify the rule without a legislative vote, though this is highly unlikely given 60+ years of consistent precedent. VEST trainers should address this distinction when delivering New Mexico curriculum.

Castle Doctrine - NMSA 1978, S. 30-2-7 and Case Law

New Mexico's Castle Doctrine derives from S. 30-2-7(A)'s authorization to use deadly force 'in necessarily defending against any unlawful action directed against himself' and from the state Supreme Court's recognition in *State v. Couch* that 'a man is not obliged to retreat... in his home.' New Mexico's Castle Doctrine applies to the dwelling. The no-retreat rule from case law applies both inside the dwelling and in any lawful public location - making the Castle Doctrine distinction primarily relevant to the presumption of necessity that attaches inside the home.

PART II: DUTY TO RETREAT - NEW MEXICO'S POSITION

New Mexico has NO duty to retreat - established by the New Mexico Supreme Court over 60 years ago and consistently reaffirmed. New Mexico jury instructions explicitly inform jurors that a person in justified self-defense has no obligation to retreat.

- No duty to retreat - established in *State v. Couch* (1957) and reaffirmed repeatedly.
- Applies at any lawful location - home, vehicle, workplace, or public space.
- Jury instruction protection - jurors are explicitly told they cannot hold failure to retreat against the defendant.
- The prosecution must disprove self-defense beyond a reasonable doubt once it is properly raised.
- Exception: Initial aggressors cannot claim self-defense without clearly withdrawing.
- Note: New Mexico lacks the explicit statutory immunity provisions (civil and criminal) found in Florida, Kansas, Iowa, and Kentucky. Documentation is therefore especially important.

PART III: FIRST RESPONDER ASSAULT - ENHANCED CRIMINAL PROTECTIONS

NMSA 1978, S. 30-3-9 - Assault/Battery on Peace Officers and Emergency Personnel

New Mexico provides enhanced penalties when the victim of assault or battery is a peace officer, emergency worker, or health care provider engaged in official duties. Aggravated assault against a peace officer is a 3rd degree felony (3 years). Battery against a peace officer is a 4th degree felony (18 months). These enhancements convert what would be misdemeanor offenses into felonies based on the victim's protected status.

NMSA 1978, S. 30-3-9.1 - Assault/Battery on Emergency Medical Technicians

New Mexico has a specific statute addressing assaults on emergency medical technicians. Battery of an EMT in the performance of their duties is a 4th degree felony, carrying up to 18 months imprisonment. Aggravated assault - placing an EMT in fear of imminent battery using a deadly weapon - is a 3rd degree felony (up to 3 years). The statute requires that the offender know or have reason to know the victim is an EMT performing their duties - satisfied by uniform, marked vehicle, or any visible identification.

- EMT-specific statute (S. 30-3-9.1) creates standalone felony offenses for attacks on EMS providers.
- Battery on EMT in performance of duties: 4th degree felony, up to 18 months.
- Aggravated assault on EMT with deadly weapon: 3rd degree felony, up to 3 years.
- 'Knows or has reason to know' - uniform, marked vehicle, or visible identification satisfies this standard.

TRAINER EMPHASIS:

New Mexico's EMT-specific assault statute (S. 30-3-9.1) is a targeted protection that creates standalone felony offenses for attacks on on-duty EMS providers. Combined with the general peace officer/emergency personnel enhancement in S. 30-3-9, New Mexico provides layered felony-level protection for first responders. Trainers should communicate that attackers face felony consequences for any physical attack on an on-duty New Mexico EMS provider.

PART IV: POLICE USE OF FORCE - NEW MEXICO LAW ENFORCEMENT REFORM ACT (2021)

New Mexico Law Enforcement Reform Act (2021) and Use of Force Standards

New Mexico enacted significant police accountability legislation in 2021. The New Mexico Law Enforcement Reform Act established new statewide use-of-force standards applicable to all New Mexico law enforcement agencies. Key provisions include requirements for de-escalation before using force, duty-to-intervene requirements, and restrictions on excessive force.

- De-escalation required: Officers must use de-escalation techniques before resorting to force when reasonably safe to do so.
- Neck restraints: Classified as high-risk force techniques; authorized only when deadly force is otherwise justified under statewide standards.
- NO standalone chokehold statute: New Mexico has not enacted a dedicated statute explicitly banning chokeholds by name comparable to New York's Eric Garner Act or Delaware's HB 350.

- New Mexico Law Enforcement Academy (NMLEA) standards reflect these changes in training.
- Duty to intervene: Officers must intervene when witnessing unlawful use of force by colleagues.

FIRST RESPONDERS VS. LAW ENFORCEMENT:

New Mexico's Law Enforcement Reform Act applies to peace officers only. EMS and fire personnel in personal self-defense are evaluated under NMSA S. 30-2-7 and the case-law no-retreat framework. There is no statutory restriction on civilian New Mexico first responders using any defensive technique in genuine life-safety self-defense.

PART V: APPLYING VEST PRINCIPLES UNDER NEW MEXICO LAW

1. No Retreat - Jury Instructions Protect You

New Mexico's no-retreat rule from case law is operationally equivalent to statutory Stand Your Ground, with one key difference: there is no explicit statutory immunity from civil lawsuits. VEST training reinforces the no-retreat right through scenario-based decision making and the graduated force continuum.

2. The Prosecution Bears the Burden - Raise Self-Defense Properly

Once self-defense is properly raised in New Mexico, the prosecution must disprove it beyond a reasonable doubt. Documentation - PCR narratives, incident reports, partner statements - creates the evidentiary record that makes this burden difficult to meet. VEST trainers should reinforce: document every pre-incident threat indicator, every de-escalation attempt, and every factor that made force immediately necessary.

3. No Statutory Civil Immunity - Document for Civil Protection

Unlike Kansas, Iowa, Florida, and several other states, New Mexico does not have an explicit statutory immunity from civil lawsuits for justified use of force. Documentation is therefore especially important in New Mexico - it provides the factual foundation for defending against civil litigation as well as any criminal proceeding.

4. EMT-Specific Statute Protects Your Crew

NMSA S. 30-3-9.1 creates standalone felony offenses for attacks on on-duty EMTs. Operating in uniform and in a marked vehicle satisfies the knowledge element. VEST trainers should ensure EMS providers in New Mexico know they are specifically named in their own protective statute.

5. Partner Defense and De-Escalation Are Legally Sound

New Mexico self-defense law covers defense of others as well as self-defense, with the same no-retreat principle applying. VEST Level III partner defense training and Level I de-escalation curriculum both serve legal functions in New Mexico.

LEGAL DISCLAIMER

This document is produced by VEST First Responder LLC for educational and trainer development purposes only. It does not constitute legal advice. New Mexico Statutes Annotated 1978 Chapter 30; State v. Couch (1957); New Mexico Law Enforcement Reform Act (2021) are subject to legislative amendment, and individual incidents are always fact-specific. VEST Certified Trainers and their agencies should consult with a licensed attorney, their medical director, and agency legal counsel before developing or delivering formal use-of-force or defensive tactics policies.

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