14-304. Aggravated assault; attempted battery with a deadly weapon; essential elements.

For you to find the defendant guilty of aggravated assault by use of a deadly weapon [as charged in Count _____][1], the state must prove to your satisfaction beyond a reasonable doubt each of the following elements of the crime:

1. The defendant intended to commit the crime of battery against _____ (*name of victim*) by _____[2];

A battery consists of intentionally touching or applying force in a rude, insolent, or angry manner[3].

2. The defendant began to do an act which constituted a substantial part of the battery but failed to commit the battery;

3. The defendant used a [_____;][4] [deadly weapon. The defendant used a _____ (*name of object*). A _____ (*name of object*) is a deadly weapon only if you find that a _____ (*name of object*), when used as a weapon, could cause death or great bodily harm[5]][6];

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 ordinary language to describe the touching or application of force.
3. If the "unlawfulness" of the act is in issue, add unlawfulness as an element as provided by Use Note 1 of UJI 14-132. In addition, UJI 14-132 is given. If the issue of "lawfulness" involves self-defense or defense of another, *see* UJI 14-5181 to UJI 14-5184.
4. Insert the name of the weapon. Use this alternative only if the deadly weapon is specifically listed in Section 30-1-12B NMSA 1978.
5. UJI 14-131, the definition of "great bodily harm", must also be given.
6. This alternative is given only if the object used is not specifically listed in Section 30-1-12B NMSA 1978.

[Adopted effective October 1, 1976; UJI Criminal Rule 3.03 NMSA 1978; UJI 14-304 SCRA; as amended, effective January 15, 1998; February 1, 2000; as amended by Supreme Court Order No. 16-8300-008, effective for all cases pending or filed on or after December 31, 2016.]