

14-2211. Battery upon a peace officer; essential elements.

For you to find the defendant guilty of a battery upon a peace officer [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 intentionally touched or applied force to _____
(*name of peace officer*) by _____²;

[2. The defendant=s act was unlawful;]³

3. At the time, _____ (*name of peace officer*) was a peace officer and was performing the duties of a peace officer;

4. The defendant knew _____ (*name of peace officer*) was a peace officer⁴;

5. The defendant=s conduct caused
[an actual injury to _____ (*name of peace officer*)]⁵;

[or]

[an actual threat to the safety of _____ (*name of peace officer*)];

[or]

[a meaningful challenge to the authority of _____ (*name of peace officer*)];

6. The defendant acted in a rude, insolent, or angry manner;

7. 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. In addition to the harm component of Element 5, the underlying battery must also be unlawful.[©] If the unlawfulness of the act is at issue, add unlawfulness as an element as provided by Use Note 1 of UJI 14-132 NMRA. 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 NMRA.

4. Peace officer[©] is defined in NMSA 1978, Section 30-1-12(C). If there is an issue as to whether or not the victim was a peace officer, give UJI 14-2216 NMRA, which defines peace officer.[©] If there is an issue as to whether the officer was within the lawful discharge of the officer=s duties, an instruction may need to be drafted. The mistake of fact referred to in prior UJI 14-2216 has been incorporated into this instruction as an element. If some other mistake of fact is raised as a defense, see UJI 14-5120 NMRA.

5. Use only applicable alternative or alternatives.

[Adopted, effective October 1, 1976; UJI Criminal Rule 22.10 NMSA 1978; UJI 14-2211 SCRA; as amended, effective January 15, 1998; November 1, 2001; as amended by Supreme Court Order No. 10-8300-039, effective December 31, 2010; as amended by Supreme Court Order No. 19-8300-016, effective for all cases pending or filed on or after December 31, 2019.]