**14-951. Criminal sexual penetration in the second degree; threats of force or coercion; aided or abetted by another; essential elements.**

For you to find the defendant guilty of criminal sexual penetration when aided or abetted by another [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 defendant2

[caused \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of victim*) to engage in \_\_\_\_\_\_\_\_\_\_3;]

[OR]

[caused the insertion, to any extent, of a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_4 into the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_5 of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of victim*);]

2. The defendant

[used threats of physical force or physical violence against \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of victim or other person*);]2

[OR]

[threatened to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_6;]

3. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of victim*) believed the defendant would carry out the threat;

4. The defendant acted with the help or encouragement of one or more persons;

[5. The defendant's act was unlawful;]7

6. 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 only the applicable alternatives.

3. Name the sexual act or acts: i.e., "sexual intercourse", "anal intercourse", "cunnilingus" or "fellatio". The applicable definition or definitions from Instruction 14-982 NMRA must be given after this instruction.

4. Identify the object used.

5. Name the part or parts of the body: i.e., "vagina", "penis" or "anus". The applicable definition or definitions from Instruction 14-981 must be given after this instruction.

6. Describe threats used against the victim or another in layman's language. *See* Section 30-9-10(A)(3) NMSA 1978 for examples of types of threats.

7. Use the bracketed element if the evidence raises a genuine issue of the unlawfulness of the defendant's actions. If this element is given, UJI 14-132 NMRA, "unlawful defined", must be given after this instruction.

[As amended, effective January 20, 2005.]