

14-2213. Aggravated battery on a peace officer; great bodily harm; essential elements.

For you to find the defendant guilty of aggravated battery with great bodily harm on 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 [unlawfully]² touched or applied force to _____ (name of peace officer) by _____³;
2. At the time, _____ (name of peace officer) was a peace officer and was performing the duties of a peace officer⁶;
3. The defendant knew _____ (name of peace officer) was a peace officer;
4. The defendant's conduct [caused injury to _____ (name of peace officer)]; [or]⁴ [threatened the safety of _____ (name of peace officer)]; [or]⁴ [challenged the authority of _____ (name of peace officer)];
5. The defendant intended to injure _____ (name of peace officer);
6. The defendant [caused great bodily harm⁵ to _____ (name of peace officer)]; [or]⁴ [acted in a way that would likely result in death or great bodily harm⁵ to _____ (name of peace officer)];
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. The bracketed language is given if an issue is raised as to the lawfulness of the battery. If the issue of lawfulness is raised, add unlawfulness as an element as provided by Use Note 1 of UJI 14-132 NMRA. If the issue of "lawfulness" involves self-defense or defense of another, see UJI 14-5181 to UJI 14-5184 NMRA.
3. Use ordinary language to describe the touching or application of force.
4. Use only the applicable bracketed element established by the evidence.
5. The definition of "great bodily harm," UJI 14-131 NMRA, must also be given.
6. "Peace officer" is defined in Subsection C of Section 30-1-12 NMSA 1978. 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 NMRA 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.

[Adopted, effective October 1, 1976; UJI Criminal Rule 22.12 NMSA 1978; UJI 14-2213 SCRA; as amended, effective January 15, 1998; November 1, 2001; as amended by Supreme Court Order No. 10-8300-039, effective December 31, 2010.]