

**14-2212. Aggravated battery on a peace officer with a deadly weapon; essential elements.**

For you to find the defendant guilty of aggravated battery on a peace officer with a deadly weapon [as charged in Count \_\_\_\_\_]<sup>1</sup>, the state must prove to your satisfaction beyond a reasonable doubt each of the following elements of the crime:

1. The defendant [unlawfully]<sup>2</sup> touched or applied force to \_\_\_\_\_ (*name of peace officer*) by \_\_\_\_\_<sup>3</sup> with a [\_\_\_\_\_]<sup>4</sup> [deadly weapon. 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<sup>5</sup>]<sup>6</sup>;
2. At the time, \_\_\_\_\_ (*name of peace officer*) was a peace officer and was performing the duties of a peace officer<sup>8</sup>;
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]<sup>7</sup>  
[threatened the safety of \_\_\_\_\_ (*name of peace officer*)];  
[or]<sup>7</sup>  
[challenged the authority of \_\_\_\_\_ (*name of peace officer*)];
5. The defendant intended to injure \_\_\_\_\_ (*name of peace officer*);
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. 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. Insert the name of the weapon. Use this alternative only if the deadly weapon is specifically listed in Subsection B of Section 30-1-12 NMSA 1978.
5. UJI 14-131 NMRA, 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 Subsection B of Section 30-1-12 NMSA 1978.
7. Use only applicable alternative or alternatives.
8. "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 22.11 NMSA 1978; UJI 14-2212 SCRA; as amended, effective January 15, 1998; February 1, 2000; November 1, 2001; as amended by Supreme Court Order No. 08-8300-060, effective February 2, 2009; by Supreme Court Order No. 10-8300-039, effective December 31, 2010.]