

14-333. Aggravated stalking; essential elements.

For you to find the defendant guilty of aggravated stalking [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. _____ (*name of defendant*) committed the crime of stalking;²

2. At the time of the offense:

[_____ (*name of defendant*) knowingly violated a permanent or temporary order of protection issued by a court (and the victim did not also violate the court order);]³

[or]

[_____ (*name of defendant*) violated a court order setting conditions of release and bond;]

[or]

[_____ (*name of defendant*) was in possession of a [_____]]⁴

[_____ (*name of object*) with the intent to use it as a weapon and a _____ (*name of object*), when used as a weapon, is capable of inflicting death or great bodily harm⁵.⁶];

[or]

[the victim was less than sixteen years of age;]

3. This happened in New Mexico [between] [on or about] the _____ day of _____, _____ [and the _____ day of _____, _____].³

USE NOTES

1. Insert the count number if more than one is charged.

2. Unless the court has instructed on the essential elements of the crime of stalking, these essential elements must be given immediately after this instruction. To instruct on the elements of an uncharged offense, UJI 14-140 NMRA must be used.

3. Use only applicable alternative.

4. Insert the name of the weapon. Use this alternative only if the deadly weapon is specifically listed in Section 30-1-12(B) NMSA 1978. If the object used is not listed in Section 30-1-12(B) NMSA 1978 as a weapon, the second alternative is given.

5. UJI 14-131 NMRA, the definition of “great bodily harm”, must also be given.

6. Use this alternative only if the “weapon” is not one that is specifically listed in Section 30-1-12(B) NMSA 1978.

[Approved, effective July 1, 1998; as amended, effective Jan. 10, 2002; as amended by Supreme Court Order No. 21-8300-010, effective for all cases filed or pending on or after December 31, 2021.]