

1 **14-2200. Assault on a peace officer; attempted battery; essential elements.**<sup>1</sup>

2 For you to find the defendant guilty of assault on a peace officer [as charged in Count  
3 \_\_\_\_\_]<sup>2</sup>, the state must prove to your satisfaction beyond a reasonable doubt each of the  
4 following elements of the crime:

5 1. The defendant intended to commit the crime of battery against \_\_\_\_\_  
6 (*name of peace officer*) by \_\_\_\_\_<sup>3</sup>;

7 A battery consists of intentionally touching or applying force in a rude, insolent, or angry  
8 manner<sup>4</sup>.

9 2. The defendant began to do an act which constituted a substantial part of the battery  
10 but failed to commit the battery;

11 3. At the time, \_\_\_\_\_ (*name of peace officer*) was a peace officer  
12 and was performing duties of a peace officer<sup>5</sup>;

13 4. The defendant knew \_\_\_\_\_ (*name of peace officer*) was a peace officer.

14 5. The defendant's conduct [threatened the safety of \_\_\_\_\_ (*name of*  
15 *peace officer*);]<sup>6</sup>

16 [or]

17 [challenged the authority of \_\_\_\_\_ (*name of peace officer*);]

18 6. This happened in New Mexico on or about the \_\_\_\_\_ day of \_\_\_\_\_,  
19 \_\_\_\_\_.

20 USE NOTES

21 1. If the evidence supports both this theory of assault as well as that found in UJI 14-  
22 2200A NMRA, then UJI 14-2200B NMRA should be given instead of this instruction.

23 2. Insert the count number if more than one count is charged.

1           3.       Use ordinary language to describe the touching or application of force.

2           4.       In *State v. Padilla*, [~~1996-NMCA-072, 122 N.M. 92, 920 P.2d 1046~~] 1997-NMSC-  
3 022, ¶ 11, 123 N.M. 216, 937 P.2d 492, the Supreme Court held that to satisfy the [~~Section 30-22-~~  
4 ~~24 NMSA 1978~~] requirement in NMSA 1978, Section 30-22-24 that the act be “unlawful,” the  
5 state must prove “injury or conduct that threatens an officer’s safety or meaningfully challenges  
6 [~~his or her~~] [their] authority.” If any other issue of lawfulness is raised, add unlawfulness as an  
7 element as provided by Use Note 1 of UJI 14-132 NMRA. In addition, UJI 14-132 [~~NMRA~~] is  
8 given. If the issue of “lawfulness” involves self-defense or defense [~~of~~] of another, *see* [~~UJI~~] UJIs  
9 14-5181 to UJI 14-5184 NMRA.

10           5.       “Peace officer” is defined in Subsection C of NMSA 1978, Section 30-1-  
11 12 [~~NMSA 1978~~] and UJI 14-2216 NMRA. If there is an issue [~~as to~~] about whether or not the  
12 victim was a peace officer, give UJI 14-2216 [~~NMRA~~], which defines “peace officer.” If there is  
13 an issue [~~as to~~] about whether the officer was within the lawful discharge of the officer’s duties,  
14 an instruction may need to be drafted. The mistake of fact referred to in prior UJI 14-  
15 2216 [~~NMRA~~] has been incorporated into this instruction as an element. If some other mistake of  
16 fact is raised as a defense, *see* UJI 14-5120 NMRA.

17           6.       Use only applicable alternative or alternatives.  
18 [~~Adopted by Supreme Court Order No. 16-8300-008, effective for all cases pending or filed on or~~  
19 ~~after December 31, 2016; as amended by Supreme Court Order No. S-1-RCR 2025-00126,~~  
20 effective for all cases pending or filed on or after December 31, 2025.]

21 **Committee commentary.** — *See* NMSA 1978, § 30-22-21(A)(1).

22 [~~Adopted by Supreme Court Order No. 16-8300-008, effective for all cases pending or filed on or~~  
23 ~~after December 31, 2016.~~]