

1 **14-2201. Aggravated assault on a peace officer; attempted battery with a deadly weapon;**
2 **essential elements.**¹

3 For you to find the defendant guilty of aggravated assault on a peace officer by use of a
4 deadly weapon [as charged in Count _____]², the state must prove to your
5 satisfaction beyond a reasonable doubt each of the following elements of the crime:

6 1. The defendant intended to commit the crime of battery against _____
7 (*name of peace officer*) by _____³;

8 A battery consists of intentionally touching or applying force in a rude, insolent, or angry
9 manner⁴.

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

12 3. The defendant used a [_____] ⁵ [deadly weapon. The defendant
13 used a _____ (*name of object*). A _____ (*name of object*) is a
14 deadly weapon only if you find that a _____ (*name of object*), when used as a
15 weapon, could cause death or great bodily harm⁶]⁷;

16 4. At the time, _____ (*name of peace officer*) was a peace officer and
17 was performing duties of a peace officer⁸;

18 5. The defendant knew _____ (*name of peace officer*) was a peace
19 officer;

20 6. The defendant's conduct [threatened the safety of _____ (*name of*
21 *peace officer*);]

22 [or]⁹

23 [challenged the authority of _____ (*name of peace officer*);]

1 the officer was within the lawful discharge of the [~~officer's~~] officer's duties, an instruction may
2 need to be drafted. The mistake of fact referred to in prior UJI 14-2216[~~NMRA~~] has been
3 incorporated into this instruction as an element. If some other mistake of fact is raised as a defense,
4 *see* UJI 14-5120 NMRA.

5 9. Use only applicable alternative or alternatives.

6 [Adopted effective October 1, 1976; UJI Criminal Rule 22.00 NMSA 1978; UJI 14-2201 SCRA;
7 as amended, effective January 15, 1998; February 1, 2000; as amended by Supreme Court Order
8 No. 10-8300-039, effective December 31, 2010; as amended by Supreme Court Order No. 16-
9 8300-008, effective for all cases pending or filed on or after December 31, 2016; as amended by
10 Supreme Court Order No. S-1-RCR-2025-00126, effective for all cases pending or filed on or after
11 December 31, 2025.]

12 **Committee commentary.** — *See* NMSA 1978, § 30-22-22(A)(1) (1971). This crime follows the
13 elements of an aggravated assault by use of a deadly weapon, UJI 14-306 NMRA. *See State v.*
14 *Cutnose*, 1974-NMCA-130, 87 N.M. 307, 532 P.2d 896, *cert. denied*, 87 N.M. 299, 532 P.2d 888
15 (1974).

16 This instruction was revised in 1999 to address the issue raised in *State v. Montano*, 1999-NMCA-
17 023, 126 N.M. 609, 973 P.2d 861 and *State v. Bonham*, 1998-NMCA-178, 126 N.M. 382, 970
18 P.2d 154.

19 This instruction was amended in 2010 to be consistent with *State v. Nozie*, 2009-NMSC-018, 146
20 N.M. 142, 207 P.3d 1119.

21 NMSA 1978, § 30-22-22(A)(1) (1971) provides that the peace officer must be in the lawful
22 discharge of duty at the time of the assault. If the officer was attempting to make an arrest while
23 not in the lawful discharge of duty, an appropriate defense instruction for “resisting an unlawful

1 arrest” must be prepared. *See State v. Doe*, 1978-NMSC-072, 92 N.M. 100, 583 P.2d 464 for a
2 discussion of “lawful discharge of duties.”
3 [As amended by Supreme Court Order No. 10-8300-039, effective December 31, 2010; as
4 amended by Supreme Court Order No. 16-8300-008, effective for all cases pending or filed on or
5 after December 31, 2016.]