

1 **14-2202. Aggravated assault on a peace officer; threat or menacing conduct with a deadly**
2 **weapon; essential elements.**¹

3 For you to find the defendant guilty of aggravated assault on a peace officer by use² of a
4 deadly weapon [as charged in Count _____]³, the state must prove to your
5 satisfaction beyond a reasonable doubt each of the following elements of the crime:

6 1. The defendant _____ (*describe unlawful act, threat, or menacing*
7 *conduct*);

8 2. At the time, _____ (*name of peace officer*) was a peace officer and
9 was performing duties of a peace officer⁹;

10 3. The defendant knew _____ (*name of peace officer*) was a peace
11 officer;

12 4. The defendant's conduct caused _____ (*name of peace officer*) to
13 believe the defendant was about to intrude on _____'s (*name of peace officer*)
14 bodily integrity or personal safety by touching or applying force to _____ (*name*
15 *of peace officer*) in a rude, insolent, or angry manner;

16 5. The defendant's conduct⁴
17 [threatened the safety of _____ (*name of peace officer*);]
18 [or]⁵
19 [challenged the authority of _____ (*name of peace officer*);]

20 6. A reasonable person in the same circumstances as _____ (*name of*
21 *peace officer*) would have had the same belief;

22 7. The defendant used² a [_____] ⁶ [deadly weapon. The defendant
23 used a _____ (*name of object*). A _____ (*name of object*) is a

1 deadly weapon only if you find that a _____ (*name of object*), when used as a
2 weapon, could cause death or great bodily harm⁷8;

3 8. This happened in New Mexico on or about the _____ day of
4 _____, _____.

5 USE NOTES

6 1. If the evidence supports both this theory of assault as well as that found in UJI 14-
7 2201 NMRA, then UJI 14-2203 NMRA should be given instead of this instruction.

8 2. If use of the weapon is in issue, UJI 14-135 NMRA, the definition of “use,” must
9 also be given.

10 3. Insert the count number if more than one count is charged.

11 4. In *State v. Padilla*, [~~1996 NMCA 072, 122 N.M. 92, 920 P.2d 1046~~] 1997-NMSC-
12 022, ¶ 11, 123 N.M. 216, 937 P.2d 492, the Supreme Court held that to satisfy the [~~Section 30-22-~~
13 ~~24 NMSA 1978~~] requirement in NMSA 1978, Section 30-22-24 that the act be “unlawful,” the
14 state must prove “injury or conduct that threatens an officer’s safety or meaningfully challenges
15 [~~his or her~~][their] authority.” If any other issue of lawfulness is raised, add unlawfulness as an
16 element as provided by Use Note 1 of UJI 14-132 NMRA. In addition, UJI 14-132[~~-NMRA~~] is
17 given. If the issue of “lawfulness” involves self-defense or defense of another, *see* [~~UJI~~] UJIs 14-
18 5181 to [~~UJI~~]14-5184 NMRA.

19 5. Use only applicable alternative or alternatives.

20 6. Use this alternative only if the deadly weapon is specifically listed in, NMSA 1978,
21 Section 30-1-12(B)[~~-NMSA 1978~~].

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

1 8. This alternative is given only if the object used is not specifically listed in Section
2 30-1-12(B)[~~NMSA 1978~~].

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

9 [Adopted, effective October 1, 1976; UJI Criminal Rule 22.01 NMSA 1978; UJI 14-2202 SCRA;
10 as amended, effective January 15, 1998; February 1, 2000; as amended by Supreme Court Order
11 No. 10-8300-039, effective December 31, 2010; as amended by Supreme Court Order No. S-1-
12 RCR-2023-00030, effective for all cases pending or filed on or after December 31, 2023; as
13 amended by Supreme Court Order No. S-1-RCR-2025-00126, effective for all cases pending or
14 filed on or after December 31, 2025.]

15 **Committee commentary.** — *See* committee commentary for UJI 14-2201 NMRA. This
16 instruction was amended in 2010 to be consistent with *State v. Nozie*, 2009-NMSC-018, 146 N.M.
17 142, 207 P.3d 1119.

18 [As amended by Supreme Court Order No. 10-8300-039, effective December 31, 2010.]