

1 **14-5032. Proof of knowledge.**

2 You have been instructed that knowledge is an essential element of the crime of
3 _____ . Knowledge need not be established by direct evidence but may be inferred
4 from all the surrounding circumstances, such as the manner in which the act was done, the means
5 used, [and] the conduct of the defendant [and any statements made by the defendant].

6 USE NOTES

7 No instruction on this subject shall be given.

8 **Committee commentary.** — The language of this instruction states the legal test for the
9 sufficiency of the circumstantial evidence needed to prove the mental element of knowledge. The
10 committee believed that the subject matter was best left to the argument of counsel.

11 Knowledge of certain facts is an element of some property crimes and crimes under the Controlled
12 Substance Law. For example: issuing or transferring a forged writing with knowledge that the
13 writing is false, etc. - *see* UJI 14-1644 NMRA and commentary; receiving stolen property with
14 knowledge that the property had been stolen - *see* UJI 14-1650 NMRA and commentary;
15 knowledge of the presence of the controlled substance and its narcotic character as an element of
16 possession of a controlled substance - *see* *State v. Giddings*[~~r~~], 1960-NMSC-050, 67 N.M. 87, 352
17 P.2d 1003 [~~(1960)~~].

18 Knowledge may, and for the most part must, be proved by circumstantial evidence. *See, e.g., State*
19 *v. Lindsey*, 1969-NMCA-121, 81 N.M. 173, 464 P.2d 903 [~~(Ct. App. 1969)~~, ~~cert. denied~~], cert.
20 denied, 81 N.M. 140, 464 P.2d 559, [~~cert. denied~~] cert. denied, 398 U.S. 904[, ~~90 S. Ct. 1692, 26~~
21 ~~L. Ed. 2d 62~~] (1970); *State v. Nation*[~~r~~], 1973-NMCA-087, 85 N.M. 291, 511 P.2d 777 [~~(Ct. App.~~
22 ~~1973)~~]; *State v. Garcia*[~~r~~], 1966-NMSC-063, 76 N.M. 171, 413 P.2d 210 [~~(1966)~~].

1 The courts recognize that the mental element of knowledge is a separate concept from the mental
2 element of intent. *State v. Gonzales*[~~;~~], 1974-NMCA-080, 86 N.M. 556, 525 P.2d 916 [~~(Ct. App.~~
3 ~~1974)~~], overruled on other grounds by State v. Bender, 1978-NMSC-044, 91 N.M. 670, 579 P.2d
4 796. Conceding the general rule, the [~~court~~] Court in *Gonzales* proceeded to find that a separate
5 reference to knowledge in the jury instructions was not necessary, since a reference to intent to sell
6 embodied the idea that [~~the defendant knew what he was~~] defendants know what they are selling.
7 Under UJI Criminal, where knowledge and intent are elements of the crime, they are separately
8 identified in the elements instruction.
9 [As amended by Supreme Court Order No. S-1-RCR-2025-00126.]