

1 **14-914. Criminal sexual contact; deadly weapon; essential elements.**

2 For you to find the defendant guilty of criminal sexual contact when armed with a deadly
3 weapon [as charged in Count _____]¹, the state must prove to your satisfaction beyond a
4 reasonable doubt each of the following elements of the crime:

5 1. The defendant
6 [touched or applied force to the unclothed _____² of _____
7 (*name of victim*) without _____'s (*name of victim*) consent;]³

8 [OR]
9 [caused _____ (*name of victim*) to touch the _____² of the defendant;]

10 2. The defendant was armed with and used a [_____] ⁴ [_____
11 (*name of object*) with the intent to use it as a weapon and a _____ (*name of*
12 *object*) when used as a weapon, is capable of inflicting death or great bodily harm⁵]⁶;

13 [3. The defendant's act was unlawful;]⁷

14 4. _____ (*name of victim*) was eighteen (18) years of age or older;

15 5. This happened in New Mexico on or about the ____ day of _____,
16 _____.

17 USE NOTES

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

19 2. Name one or more of the following parts of the anatomy touched: "groin," "anus,"
20 "buttocks," "breast," "mons pubis," "penis," "testicles," "mons veneris," or "vulva." When
21 definitions are provided in UJI 14-981 NMRA, they must be given after this instruction; otherwise,
22 no definition need be given unless the jury requests one.

23 3. Use only the applicable alternative or alternatives.

1 4. Insert the name of the weapon. Use this alternative only if the deadly weapon is
2 specifically listed in NMSA 1978, Section 30-1-12(B).

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

4 6. This alternative is given only if the object used is not specifically listed in Section
5 30-1-12(B).

6 7. Use the bracketed element if the evidence raises a genuine issue of the unlawfulness
7 of the defendant's actions. If this element is given, UJI 14-132 NMRA, "unlawful defined," must
8 be given after this instruction.

9 [As amended, effective September 1, 1994; January 20, 2005; as amended by Supreme Court Order
10 No. 18-8300-012, effective for all cases pending or filed on or after December 31, 2018.]

11 **Committee commentary.** — UJI 14-914 NMRA contains the essential elements of criminal
12 sexual contact when the perpetrator is armed with a deadly weapon, a fourth-degree felony.

13 The statute states that the offense of criminal sexual contact is a fourth-degree felony "when the
14 perpetrator is armed with a deadly weapon." The instruction requires in Element 2 that the
15 defendant be armed with and use a deadly weapon. The statute must be construed to require use of
16 the weapon because there is no requirement of force or coercion. It would seem that the legislative
17 intent was to supplant the element of force or coercion with the element of "being armed." In order
18 for the substitution to be logically consistent, the weapon must be used.

19 [~~Compare~~] Compare UJI 14-1621 NMRA (armed robbery), and UJI 14-1632 NMRA (aggravated
20 burglary)[~~and~~] , with NMSA 1978, Section 30-7-3 [~~NMSA 1978~~] (unlawful carrying of a firearm
21 into a liquor dispensary).

22 The defendant uses the deadly weapon if [~~he~~] the defendant employs it in any manner that
23 constitutes an express or implied threat to use it against the victim or another. That may be done

1 by displaying the weapon, or referring to it or by permitting its presence to become known to the
2 victim. The weapon must be used to supply the required coercion.

3 This instruction was revised in 1999 and 2004 to address the issue raised in *State v. Montano*,
4 1999-NMCA-023, 126 N.M. 609, 973 P.2d 861 and *State v. Bonham*, 1998-NMCA-178, 126 N.M.
5 382, 970 P.2d 154. See [commentary to UJI 14-304 NMRA] UJI 14-304 NMRA comm. cmt.

6 See also [commentary to UJI 14-902 NMRA] UJI 14-902 NMRA comm. cmt.

7 [As amended by Supreme Court Order No. S-1-RCR-2025-00126.]