

**PROPOSED REVISIONS TO THE UNIFORM JURY INSTRUCTIONS - CRIMINAL
PROPOSAL 2020-019**

March 3, 2020

The Uniform Jury Instructions – Criminal Committee has recommended amendments to UJI 14-331 NMRA for the Supreme Court’s consideration.

If you would like to comment on the proposed amendments set forth below before the Court takes final action, you may do so by either submitting a comment electronically through the Supreme Court’s web site at <http://supremecourt.nmcourts.gov/open-for-comment.aspx> or sending your written comments by mail, email, or fax to:

Joey D. Moya, Clerk
New Mexico Supreme Court
P.O. Box 848
Santa Fe, New Mexico 87504-0848
nmsupremecourtclerk@nmcourts.gov
505-827-4837 (fax)

Your comments must be received by the Clerk on or before April 2, 2020, to be considered by the Court. Please note that any submitted comments may be posted on the Supreme Court’s web site for public viewing.

14-331. Stalking; essential elements.

For you to find the defendant guilty of stalking as [charged in Count _____]¹, the state must prove to your satisfaction beyond a reasonable doubt each of the following elements of the crime:

1. The defendant [~~maliciously~~]knowingly pursued a pattern of conduct that would cause a reasonable person to feel frightened, intimidated or threatened on more than one occasion by:²

 [(a) following _____ (*name of victim*) in a place other than in the residence of the defendant;]

 [(b) placing _____ (*name of victim*) under surveillance by being present outside _____’s (*name of victim*) [school] [residence] [workplace] [vehicle] or [_____, a place frequented by _____ (*name of victim*)] [other than the defendant’s residence]³; [or]

 [(c) harassing _____ (*name of victim*);]⁴

2. The defendant intended

 [to place _____ (*name of victim*) in reasonable apprehension of [death] [bodily harm] [sexual assault] [confinement or restraint]³;

 [or]

 [to cause a reasonable person to fear for the person’s safety or the safety of a household member⁵];

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

USE NOTES

1. Insert the count number if more than one count is charged.
2. Use only the applicable bracketed alternatives.
3. Give this alternative only if it is in issue.
4. If this alternative is used, instruction UJI 14-330 NMRA must also be given.
5. If this alternative is given, UJI 14-332 NMRA must be given immediately after this instruction.

[Adopted, effective February 1, 1995; as amended, effective July 1, 1998, as amended by Supreme Court Order No. _____, effective _____.]

comments on proposed rule changes

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Apr 17, 2020 2:31 PM

Posted in group: **nmsupremecourtclerk**

Proposal 2020-014

This amendment appears to be a good in granting a remedy for the non-feasance of the district attorney on abiding by the rules. There have been too many instances of prosecutors acting as though they are above the rules.

Proposal 2020-015

This amendment rectifies a long standing problem wherein an accused is arrested and jailed without knowing his charges. It is a not uncommon scenario for a defendant to contact a lawyer from jail and ask for advice. Without the defendant having the charging document in hand, counsel is left with merely guessing as to what the charges might be and their severity when attempting to advise the defendant. Further, paragraph E is greatly needed to ensure the arresting officer actually removes an arrest warrant from the system—too often someone is released from custody only to find that his warrant is still active and then suffers another arrest.

Proposal 2020-019

You need to go back to the drawing board on this UJI. The addition of “intent” to the knowingly might work.

Please review the statute.

Proposal 2020-021

I like this new UJI. It may put a bit of pressure on prosecuting authorities to be a bit more careful in handling evidence.

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