

1 **14-1632. Aggravated burglary; essential elements.**

2 For you to find the defendant guilty of aggravated burglary [as charged in Count  
3 \_\_\_\_\_]<sup>1</sup>, the state must prove to your satisfaction beyond a reasonable doubt each of the  
4 following elements of the crime:

5 1. The defendant entered a [vehicle] [watercraft] [aircraft] [dwelling] [or] [other  
6 structure] without authorization;

7 2. The defendant entered the [vehicle] [watercraft] [aircraft] [dwelling] [or] [other  
8 structure] with the intent to commit [a theft] [or] [\_\_\_\_\_]<sup>2</sup> (*name of*  
9 *felony*) once inside;

10 3. The defendant  
11 [was armed with a \_\_\_\_\_<sup>3</sup>];<sup>4</sup>  
12 [became armed with a \_\_\_\_\_<sup>3</sup> after entering;]  
13 [touched or applied force to \_\_\_\_\_ (*name of victim*) in a  
14 rude or angry manner while entering or leaving, or while inside;]

15 4. This happened in New Mexico on or about the \_\_\_\_\_ day of  
16 \_\_\_\_\_, \_\_\_\_\_.

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USE NOTES

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

20 2. It is not necessary to instruct on the elements of a theft. If intent to commit a felony  
21 other than theft is alleged, the essential elements of the felony must be given if not separately  
22 instructed. To instruct on the elements of an uncharged offense, UJI 14-140 NMRA must be used.

1           3.       Insert the name of the weapon when the instrument is a deadly weapon as defined  
2 in Section 30-1-12(B) NMSA 1978, or use the phrase “an instrument or object which, when used  
3 as a weapon, could cause death or very serious injury.”[-]

4           4.       Use the applicable bracketed phrase.

5 [As amended, effective August 1, 2001; as amended by Supreme Court Order No. 20-8300-004,  
6 effective for all cases pending or filed on or after December 31, 2020.]

7           **Committee commentary.** — *See* commentary to UJI 14-1621 for explanation of the  
8 deadly weapon provision. Carrying a deadly weapon is not a lesser included offense to aggravated  
9 burglary. *State v. Andrada*, 82 N.M. 543, 484 P.2d 763 (Ct. App.), cert. denied, 82 N.M. 534, 484  
10 P.2d 754 (1971).

11           The elements of a statutory battery are included in this instruction as one of the  
12 “aggravating” circumstances. *See* Section 30-3-4 NMSA 1978. For a case involving the  
13 distinctions between aggravated burglary, aggravated battery and robbery, *see State v. Ranne*, 80  
14 N.M. 188, 453 P.2d 209 (Ct. App. 1969).