

1 **14-2205. Aggravated assault on a peace officer; threat or menacing conduct with intent to**
2 **commit a felony; essential elements.**

3 For you to find the defendant guilty of aggravated assault on a peace officer with intent to
4 commit _____¹ [as charged in Count _____]², 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 officer;

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 manner³;

16 5. A reasonable person in the same circumstances as _____ (*name of*
17 *peace officer*) would have had the same belief;

18 6. The defendant intended to commit the crime of _____¹;

19 7. This happened in New Mexico on or about the _____ day of
20 _____, _____.

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USE NOTES

1 1. Insert the name of the felony or felonies in the disjunctive. The essential elements
2 of each felony must also be given immediately following this instruction. To instruct on the
3 elements of an uncharged offense, UJI 14-140 NMRA must be used.

4 2. Insert the count number if more than one count is charged.

5 3. If the “unlawfulness” of the act is in issue, add unlawfulness as an element as
6 provided by Use Note 1 of UJI 14-132 NMRA. In addition, UJI 14-132 NMRA is given. If the
7 issue of “lawfulness” involves self-defense or defense of another, *see* UJI 14-5181 to UJI 14-5184
8 NMRA.

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

15 [Adopted, effective October 1, 1976; UJI Criminal Rule 22.04 NMSA 1978; UJI 14-2205 SCRA;
16 as amended, effective January 15, 1998; as amended by Supreme Court Order No. 10-8300-039,
17 effective December 31, 2010; as amended by Supreme Court Order No. 20-8300-004, effective
18 for all cases pending or filed on or after December 31, 2020.]

19 **Committee commentary.** — *See* committee commentary for UJI 14-2204 NMRA. This
20 instruction was amended in 2010 to be consistent with *State v. Nozie*, 2009-NMSC-018, 146 N.M.
21 142, 207 P.3d 1119.

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