1	14-2203. Aggravated assault on a peace officer; attempted battery or threat or menacing			
2	conduct with a deadly weapon; essential elements. <sup>1</sup>			
3	For you to find the defendant guilty of aggravated assault on a peace officer by use of a			
4	deadly weapon [as charged in Count] <sup>2</sup> , the state must prove to you			
5	satisfaction beyond a reasonable doubt each of the following elements of the crime:			
6	1. The defendant intended to commit the crime of battery against			
7	(name of peace officer) by3;			
8	A battery consists of <u>intentionally</u> touching or applying force in a rude, insolent, or angry			
9	manner. <sup>4</sup>			
10	2. The defendant began to do an act which constituted a substantial part of the battery			
11	but failed to commit the battery;			
12	OR			
13	1. The defendant (describe unlawful act, threat or menacing			
14	conduct);			
15	2. The defendant's conduct caused (name of peace officer) to			
16	believe the defendant was about to intrude on''s (name of peace officer)			
17	bodily integrity or personal safety by touching or applying force to (name			
18	of peace officer) in a rude, insolent or angry manner;			
19	3. A reasonable person in the same circumstances as (name of			
20	peace officer) would have had the same belief;			
21	AND			
22	4. At the time, (name of peace officer) was a peace officer and			
23	was performing duties of a peace officer <sup>5</sup> ;			

1	5.	The defendant knew	(name of peace officer) was a peace	
2	officer.			
3	6.	The defendant's conduct <sup>4</sup>		
4	[threa	ntened the safety of	_ (name of peace officer);] <sup>5</sup>	
5	[or] <sup>6</sup>			
6	[challenged the authority of		(name of peace officer);]	
7	7.	The defendant used a [	] <sup>7</sup> [deadly weapon. The defendant	
8	used a	(name of object). A _	(name of object) is a	
9	deadly weap	on only if you find that a	(name of object), when used as a	
10	weapon, could cause death or great bodily harm <sup>8</sup> ] <sup>9</sup> ;			
11	8.	This happened in New Mexico	on or about the day of	
12				
13		USE NOTI	ES	
14	1.	This instruction combines the element	s of UJI 14-2201 and 14-2202 NMRA. If the	
15	evidence supports both of the theories of assault set forth in UJI 14-2201 and 14-2202 NMRA, use			
16	this instruction.			
17	2.	Insert the count number if more than o	one count is charged.	
18	3.	Use ordinary language to describe the	touching or application of force.	
19	4.	In State v. Padilla, 1996-NMCA-072,	, 122 N.M. 92, 920 P.2d 1046, the Supreme	
20	Court held that to satisfy the Section 30-22-24 NMSA 1978 requirement that the act be "unlawful"			
21	the state must prove "injury or conduct that threatens an officer's safety or meaningfully challenges			
22	his or her authority." If any other issue of lawfulness is raised, add unlawfulness as an element as			
23	provided by Use Note 1 of UJI 14-132 NMRA. In addition, UJI 14-132 NMRA is given. If the			

- 1 issue of "lawfulness" involves self-defense or defense of another, see UJI 14-5181 to UJI 14-5184
- 2 NMRA.
- 3 5. "Peace officer" is defined in Subsection C of Section 30-1-12 NMSA 1978. If there
- 4 is an issue as to whether or not the victim was a peace officer, give UJI 14-2216 NMRA, which
- 5 defines "peace officer." If there is an issue as to whether the officer was within the lawful discharge
- of the officer's duties, an instruction may need to be drafted. The mistake of fact referred to in
- 7 prior UJI 14-2216 NMRA has been incorporated into this instruction as an element. If some other
- 8 mistake of fact is raised as a defense, see UJI 14-5120 NMRA.
- 9 6. Use only applicable alternative or alternatives.
- 10 7. Insert the name of the weapon. Use this alternative only if the deadly weapon is
- specifically listed in Section 30-1-12B NMSA 1978.
- 12 8. UJI 14-131 NMRA, the definition of "great bodily harm," must also be given.
- 13 9. This alternative is given only if the object used is not specifically listed in Section
- 14 30-1-12B NMSA 1978.
- 15 [Adopted, effective October 1, 1976; UJI Criminal Rule 22.02 NMSA 1978; UJI 14-2203
- SCRA; as amended, effective January 15, 1998; February 1, 2000; as amended by Supreme Court
- Order No. 10-8300-039, effective December 31, 2010; as amended by Supreme Court Order No.
- 18 16-8300-008, effective for all cases pending or filed on or after December 31, 2016; as amended
- by Supreme Court Order No. 21-8300-031, effective for all cases pending or filed on or after
- 20 December 31, 2021.]
- 21 **Committee commentary.** See committee commentary for UJI 14-2201 NMRA. This
- instruction was amended in 2010 to be consistent with *State v. Nozie*, 2009-NMSC-018, 146 N.M.
- 23 142, 207 P.3d 1119.

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