

1 **14-2203. Aggravated assault on a peace officer; attempted battery or threat or menacing**
2 **conduct with a deadly weapon; essential elements.**¹

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 _____]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 intended to commit the crime of battery against _____
7 (*name of peace officer*) by _____³;

8 A battery consists of intentionally touching or applying force in a rude, insolent, or angry
9 manner.⁴

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 officer⁵;

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
6 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
11 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
16 SCRA; as amended, effective January 15, 1998; February 1, 2000; as amended by Supreme Court
17 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
19 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
22 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.]