

1 **14-310. Aggravated assault; attempted battery; threat or menacing conduct with intent to**  
2 **commit a felony; essential elements.<sup>1</sup>**

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

6 1. The defendant intended to commit the crime of battery against \_\_\_\_\_ (*name*  
7 *of victim*) by \_\_\_\_\_<sup>4</sup>;

8 A battery consists of intentionally touching or applying force in a rude, insolent or angry  
9 manner<sup>5</sup>.

10 2. The defendant began to do an act which constituted a substantial part of the battery but  
11 failed to commit the battery;

12 OR

13 1. The defendant intentionally \_\_\_\_\_ (*describe unlawful act, threat or*  
14 *menacing conduct*);

15 2. The defendant's conduct caused \_\_\_\_\_ (*name of victim*) to believe the  
16 defendant was about to intrude on \_\_\_\_\_'s (*name of victim*) bodily integrity or personal  
17 safety by touching or applying force to \_\_\_\_\_ (*name of victim*) in a rude, insolent or angry  
18 manner<sup>5</sup>;

19 3. A reasonable person in the same circumstances as \_\_\_\_\_ (*name of victim*)  
20 would have had the same belief;

21 AND

22 4. The defendant also intended to commit the crime of \_\_\_\_\_<sup>2</sup>;

1           5.     This happened in New Mexico on or about the \_\_\_ day of \_\_\_\_\_,  
2 \_\_\_\_\_.

3

4

USE NOTES

5           1.     This instruction combines the essential elements in UJI 14-308 NMRA and UJI 14-  
6 309 NMRA.

7           2.     Insert the name of the felony. If there is more than one felony, insert the names of  
8 the felonies in the disjunctive. The essential elements of each felony must also be given  
9 immediately following this instruction. To instruct on the elements of an uncharged offense, UJI  
10 14-140 NMRA must be used.

11          3.     Insert the count number if more than one count is charged.

12          4.     Use ordinary language to describe the touching or application of force.

13          5.     If the “unlawfulness” of the act is in issue, add unlawfulness as an element as  
14 provided by Use Note 1 of UJI 14-132 NMRA. In addition, UJI 14-132 NMRA is given. If the  
15 issue of “lawfulness” involves self defense or defense of another, *see* UJI 14-5181 NMRA to UJI  
16 14-5184 NMRA.

17 [Adopted effective October 1, 1976; UJI Criminal Rule 3.09 NMSA 1978; UJI 14-310 SCRA; as  
18 amended, effective January 15, 1998; as amended by Supreme Court Order No. 21-8300-025,  
19 effective for all cases pending or filed on or after December 31, 2021.]

20 **Committee commentary.** – *See* committee commentary for UJI 14-308 NMRA.