

14-1402. Criminal trespass; private or state or local government property; essential elements.

For you to find the defendant guilty of criminal trespass [as charged in Count _____]¹, the state must prove to your satisfaction beyond a reasonable doubt each of the following elements of the crime:

1. The defendant entered or remained _____ (*identify lands or structure entered*) without permission from the [owner]² [occupant] [custodian] of that property; [the least intrusion constitutes an entry;]³

2. The defendant knew [~~or should have known~~] that permission to enter or remain had been [denied]² [withdrawn];

3. This happened in New Mexico on or about the _____ day of _____, _____.

USE NOTES

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

2. Use only the applicable alternative. If custodian is used, give UJI 14-1420 NMRA, Custodian; definition.

3. Use bracketed phrase if entry is in issue.
[Adopted, effective April 27, 1983; as amended by Supreme Court Order No. 22-8300-037, effective for all cases pending or filed on or after December 31, 2022.]

Committee Commentary. —See NMSA 1978, § 30-14-1 (1995); NMSA 1978, § 30-20-13 (1981). UJI 14-1402 NMRA is a general criminal trespass instruction. It applies to trespass of lands or buildings owned or controlled by a state agency or political subdivision of the state when the person has been denied permission to enter the premises or where previous permission has

1 been withdrawn. It also applies to trespass onto private property. UJI 14-2001 NMRA should be
2 used instead of UJI 14-1402 NMRA if there is sufficient evidence that the failure or refusal to
3 leave a state or local government building is accompanied by the impairment or interference with
4 or obstruction of the lawful processes, procedures, or functions of the property.

5 The mens rea required is actual, subjective knowledge that permission to enter or remain
6 had been denied or withdrawn. See State v. Ancira, 2022-NMCA-053, ¶¶ 18-20, ___ P.3d ___
7 (holding the plain language of NMSA 1978, Section 30-14-1(B) requires proof of not what a
8 reasonable person would have understood, but actual knowledge that permission to enter had been
9 denied).

10 Whether the property is owned or controlled by the state or any of its political subdivisions
11 is a question of law. [~~See Section 12-6-2 NMSA 1978~~] NMSA 1978, Section 12-6-2 (2009) defines
12 [for a definition of] “political subdivisions.” “State” generally includes all three branches of
13 government. See id.
14 [As amended by Supreme Court Order No. 22-8300-037, effective for all cases pending or filed
15 on or after December 31, 2022.]