

14-955. Criminal sexual penetration in the second degree; deadly weapon; essential elements.

For you to find the defendant guilty of criminal sexual penetration while armed with a deadly weapon [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 defendant²
[caused _____ (*name of victim*) to engage in _____³;
[OR]
[caused the insertion, to any extent, of a _____⁴ into the
_____⁵ of _____ (*name of victim*);]
2. The defendant was armed with and used a [_____] ⁶
[_____] (*name of object*) with the intent to use it as a weapon
and a _____ (*name of object*) when used as a weapon, is
capable of inflicting death or great bodily harm⁷]⁸;
- [3. The defendant's act was unlawful;]⁹
4. This happened in New Mexico on or about the _____ day of
_____, _____.

USE NOTE

1. Insert the count number if more than one count is charged.
 2. Use only the applicable alternatives.
 3. Name the sexual act or acts: i.e., "sexual intercourse", "anal intercourse", "cunnilingus" or "fellatio". The applicable definition or definitions from Instruction 14-982 NMRA must be given after this instruction.
 4. Identify the object used.
 5. Name the part or parts of the body: i.e., "vagina", "penis" or "anus". The applicable definition or definitions from Instruction 14-981 NMRA must be given after this instruction.
 6. Insert the name of the weapon. Use this alternative only if the deadly weapon is specifically listed in Section 30-1-12(B) NMSA 1978.
 7. UJI 14-131 NMRA, the definition of "great bodily harm", must also be given.
 8. This alternative is given only if the object used is not specifically listed in Section 30-1-12(B) NMSA 1978.
 9. Use the bracketed element if the evidence raises a genuine issue of the unlawfulness of the defendant's actions. If this element is given, UJI 14-132 NMRA, "unlawful defined", must be given after this instruction.
- [As amended, effective February 1, 2000; January 20, 2005.]