

14-2255. Possession of an explosive by a prisoner; essential elements.

For you to find the defendant guilty of possession of an explosive by a prisoner [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 was in custody or confinement² at _____³;
2. The defendant was in possession⁴ of [_____ (*name of explosive*)⁵].

[OR]

A _____ (*name of substance*) is an explosive substance if it is a chemical compound or mixture, the primary purpose of which is to explode]⁶;

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. If there is a question of fact involving the lawfulness of the custody or confinement, an appropriate instruction must be prepared.
3. Identify the place of custody or confinement.
4. Use UJI 14-130 if possession is in issue.
5. Insert the name of the explosive. Use this alternative only if it is an explosive specifically listed in Section 30-7-18 NMSA 1978.
6. This alternative is given only if the item possessed is not specifically listed in Section 30-7-18 NMSA 1978.

[Approved, effective February 1, 2000.]