

14-2241. Tampering with evidence; essential elements.

For you to find the defendant guilty of tampering with evidence [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 [destroyed]² [changed] [hid] [fabricated] [placed] _____ (*identify physical evidence*);
2. By doing so, the defendant intended to [prevent the apprehension, prosecution, or conviction of _____ (*name*) for the crime of _____ (*identify crime*)^{3, 4}]² [create the false impression that _____ (*name*) had committed the crime of _____ (*identify crime*)⁴];
3. This happened in New Mexico on or about the _____ day of _____, _____.

You must complete the special verdict [form]² [forms] to indicate your findings and report your determination.³

USE NOTES

1. If the defendant is charged with more than one count of tampering with evidence, this instruction must be repeated for each count. Likewise, if the defendant is charged with one count of tampering with evidence but the tampering with evidence is alleged to involve more than one crime, this instruction must be repeated for each category of crime for which tampering with evidence is alleged to have been committed. See Use Note 3.

2. Use only the applicable bracketed elements established by the evidence.

3. If the defendant is charged with tampering with evidence involving multiple crimes, list all crimes. If the defendant is charged with tampering with evidence of crimes that fit into more than one category as defined in NMSA 1978, Section 30-22-5(B), the special verdict in UJI 14-6019 NMRA must be repeated for each category of offense. For example, if the defendant is charged with tampering with evidence involving three crimes, two of which fit in category one and the third that fits in category two, the jury should receive a special verdict instruction for the category one crimes and a separate instruction for the category two crime.

4. If a violation for probation or parole is at issue, the instruction must identify the underlying offense for which the defendant was serving probation or parole.

[As amended by Supreme Court Order No. 11-8300-037, effective for cases pending or filed in the district court on or after November 18, 2011; as amended by Supreme Court Order No. 13-8300-043, effective for all cases pending or filed on or after December 31, 2013; as amended by Supreme Court Order No. 19-8300-016, effective for all cases pending or filed on or after December 31, 2019.]