

14-2208. Aggravated assault on a peace officer; threat or menacing conduct with intent to commit a violent felony; essential elements.

For you to find the defendant guilty of aggravated assault on a peace officer with intent to kill [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 _____ (*describe unlawful act, threat or menacing conduct*);
2. At the time, _____ (*name of peace officer*) was a peace officer and was performing duties of a peace officer³;
3. The defendant knew _____ (*name of peace officer*) was a peace officer;
4. The defendant's conduct caused _____ (*name of peace officer*) to believe the defendant was about to intrude on _____'s (*name of peace officer*) bodily integrity or personal safety by touching or applying force to _____ (*name of peace officer*) in a rude, insolent or angry manner²;
5. A reasonable person in the same circumstances as _____ (*name of peace officer*) would have had the same belief;
6. The defendant intended to kill _____ (*name of peace officer*);
7. 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 the "unlawfulness" of the act is in issue, add unlawfulness as an element as provided by Use Note 1 of UJI 14-132 NMRA. In addition, UJI 14-132 NMRA is given. If the issue of "lawfulness" involves self-defense or defense of another, see UJI 14-5181 to UJI 14-5184 NMRA.
 3. "Peace officer" is defined in Subsection C of Section 30-1-12 NMSA 1978. If there is an issue as to whether or not the victim was a peace officer, give UJI 14-2216 NMRA, which defines "peace officer." If there is an issue as to whether the officer was within the lawful discharge of the officer's duties, an instruction may need to be drafted. The mistake of fact referred to in prior UJI 14-2216 NMRA has been incorporated into this instruction as an element. If some other mistake of fact is raised as a defense, see UJI 14-5120 NMRA.
- [Adopted, effective October 1, 1976; UJI Criminal Rule 22.07 NMSA 1978; UJI 14-2208 SCRA; as amended, effective January 15, 1998; as amended by Supreme Court Order No. 10-8300-039, effective December 31, 2010.]