**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.]