**14-947. Criminal sexual penetration in the second degree; threats of force or coercion; personal injury; essential elements.**

For you to find the defendant guilty of criminal sexual penetration causing personal injury [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

[used threats of physical force or physical violence against \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of victim or other person*);]

[OR]

[threatened to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_6;]

3. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of victim*) believed the defendant would carry out the threat;

4. The defendant's acts resulted in \_\_\_\_\_\_\_\_\_\_\_\_\_\_7;

[5. The defendant's act was unlawful;]8

6. 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. 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 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. Describe threats used against the victim or another in layman's language. *See* Section 30-9-10(A)(3) NMSA 1978 for examples of types of threats.

7. Name victim and describe personal injury or injuries. *See* Section 30-9-10(C) NMSA 1978 for types of personal injuries.

8. 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 January 20, 2005.]