**14-959. Criminal sexual penetration in the first degree; threats of force or coercion; great bodily harm or great mental anguish; essential elements.**

For you to find the defendant guilty of criminal sexual penetration causing [great bodily harm]1 [great mental anguish] [as charged in Count \_\_\_\_\_\_]2, the state must prove to your satisfaction beyond a reasonable doubt each of the following elements of the crime:

1. The defendant1

[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*);]1

[OR]

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

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

4. The defendant's acts resulted in [great bodily harm7]1 [great mental anguish8] to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of victim*);

[5. The defendant's act was unlawful9;]

6. This happened in New Mexico on or about the \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_.

USE NOTES

1. Use only the applicable alternatives.

2. Insert the count number if more than one count is charged.

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 NMRA 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. The definition of "great bodily harm", Instruction 14-131 NMRA, must be given after this instruction.

8. The definition of "great mental anguish", Instruction 14-980 NMRA, must be given after this instruction.

9. 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.]