

# ADA ELLIOTT - AGGRAVATED BATTERY

## BATTERY (PETTY MISDEMEANOR) - NMSA 1978, SECTION 30-3-4

Battery is the unlawful, intentional touching or application of force to the person of another, when done in a rude, insolent or angry manner.

A touch, a push, a shove - this charge is used when minimum force is used. Confusion arises when more force is used. This is because there are two kinds of aggravated battery

## AGGRAVATED BATTERY (MISDEMEANOR) - NMSA 1978, SECTION 30-3-5 (B)

Whoever commits aggravated battery, inflicting an injury to the person which is not likely to cause death or great bodily harm, but does cause painful, temporary disfigurement or temporary loss or impairment of the functions of any member or organ of the body, is guilty of a misdemeanor.

This is very common in domestic violence (DV) cases: the black eye, the bruise on the face, the cut on the lip. These are examples of painful temporary disfigurement but we often charge just Battery. Aggravated Battery (misdemeanor) may be more appropriate.

## AGGRAVATED BATTERY (FELONY) - NMSA 1978, SECTION 30-3-5 (C)

Whoever commits aggravated battery inflicting great bodily harm or does so with a deadly weapon or does so in any manner whereby great bodily harm or death can be inflicted is guilty of a third degree felony.

"Great bodily harm" means an injury to the person which creates a high probability of death; or which causes serious disfigurement; or which results in permanent or protracted loss or impairment of the function of any member or organ of the body. NMSA 1978, Section 30-1-12 (A).

