

We have just talked about what the government has to prove for you to convict a defendant of sexual abuse of a minor under 18 U.S.C. § 2243(a). Your first task is to decide whether the government has proved, beyond a reasonable doubt, that the defendant committed that alleged crime. If your verdict on that alleged crime is guilty, you are finished. But if your verdict as to that alleged crime is not guilty, or if you are unable to reach a verdict, you should go on to consider whether the defendant is guilty of abusive sexual contact under 18 U.S.C. § 2244(a).

To find the defendant guilty of the lesser included crime of abusive sexual contact, in violation of Section 2244(a), the government must prove each of the following elements beyond a reasonable doubt:

- First: that the defendant knowingly engaged in sexual contact with _____;
- Second: that at the time of the sexual contact _____ had attained the age of 12 years of age but had not yet attained the age of 16 years;
- Third: that the defendant was at least four (4) years older than _____;
- Fourth: that the incident occurred in Indian Country; and
- Fifth: that this happened within the State and District of New Mexico, on or about _____.

If your verdict is that the defendant is guilty of sexual abuse of a minor under 18 U.S.C. § 2243(a), you need go no further. But if your verdict on that crime is not guilty, or if you are unable to reach a verdict on it, you should consider whether the defendant has been proved guilty of abusive sexual contact under 18 U.S.C. § 2244(a).

Of course, if the government has not proved beyond a reasonable doubt that the defendant committed either crime, your verdict as to the defendant must be not guilty of all charges.