

CR1001 Preamble to Driving Under the Influence Instructions.

In the realm of DUI, practitioners often request that the court give instructions that comment on the sufficiency, or relative quality, of evidence. Some examples of such instructions include:

- “Bookends”
- Standardized field sobriety tests (including horizontal gaze nystagmus)
- *Baker* waiting period
- Breath test
- “Mere consumption”
- “Under the influence”
- Margin of error

Instructions of this nature are disfavored and may run afoul of the Utah Supreme Court’s admonition that trial courts should not comment upon the evidence. See *State v. Pappacostas*, 407 P.2d 576 (Utah 1965) and Utah R. Crim. P. 19(f).

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