

**UTAH JUDICIAL COUNCIL
STANDING COMMITTEE ON MODEL UTAH CRIMINAL JURY INSTRUCTIONS
MEETING MINUTES**

Via Webex
March 10, 2021 – 12:00 p.m. to 1:30 p.m.

MEMBERS:	PRESENT	EXCUSED	GUESTS:
Judge James Blanch, <i>Chair</i>	•		None
Jennifer Andrus	•		
Melinda Bowen	•		
Mark Field	•		STAFF:
Sandi Johnson	•		Michael Drechsel
Judge Linda Jones, <i>Emeritus</i>		•	
Karen Klucznik	•		
Elise Lockwood		•	
Judge Brendan McCullagh	•		
Debra Nelson	•		
Stephen Nelson		•	
Nathan Phelps	•		
Judge Michael Westfall		•	
Scott Young		•	

(1) WELCOME AND APPROVAL OF MINUTES:

Judge Blanch welcomed the committee to the meeting.
The committee considered the minutes from the February 10, 2021 meeting.
Mr. Field moved to approve the draft minutes; Judge McCullagh seconded the motion.
The committee voted unanimously in support of the motion. The motion passed.

(2) PLEASANT GROVE CITY V. TERRY, 2020 UT 69:

With necessary committee members not present today, the committee tabled this item. Judge Blanch indicated his understanding is that Ms. Lockwood had wanted the committee to consider possible instructions related to this case. Judge Blanch stated this matter would be tabled until Ms. Lockwood brings the matter back to the committee’s attention. Otherwise, the committee will take no action on the matter.

(3) PARTIAL DEFENSE INSTRUCTIONS:

The committee turned its attention to the continuation of discussion regarding how jury instructions for partial defenses should be structured. These defenses include: imperfect self-defense (ISD); extreme emotional distress / mental illness (EED); and battered person mitigation (BPM).

Ms. Klucznik reviewed where the committee left off at the end of the last meeting. Ms. Klucznik summarized some of the material in her memo at page 62 of the meeting materials. She indicated a preference to approach the structure for jury instructions for each of the partial defenses in the same way for the sake of consistency and to avoid confusion for practitioners. In her view a single verdict form that combines multiple verdicts (a la page 54 of the materials) is the simplest most consistent approach. This is particularly true where more than one of the partial defenses is at issue in a single case.

Ms. Johnson advocated for the use of special verdict forms (as opposed to a single verdict form with multiple verdicts a la the example on page 54 of the meeting materials). Unlike that combination verdict form, special verdict forms provide clarity for understanding the jury decision-making process. Ms. Johnson gave the example of an aggravated murder case with an ISD issue. There would be:

- elements instructions for the primary offense and any elements-based lesser included offense(s);
- a verdict form for the primary offense and any elements-based lesser included offense(s) (without including any partial self-defense);
- an ISD instruction that informs the jury that if they find the defendant guilty of aggravated murder, they must consider whether ISD applies;
- an ISD SVF for aggravated murder
- a lesser included elements instruction for murder / manslaughter / etc.
- ISD SVFs for any lesser included that informs the jury that if they find the elements of [name of lesser included], they must consider whether ISD applies for that lesser included

Using this structure, there will always be clarity at the trial court and on appellate review. Judge Blanch noted that with appropriate roadmap instructions, lesser included offense instructions and special verdict forms will not create confusion. The committee agreed that this is the correct approach to take. The committee then turned its attention to a discussion of what instructions and forms would be needed.

The committee agreed that the instructions included in the meeting materials need enough work that it wouldn't be possible to finalize those instructions today. The committee walked through the instructions in the meeting materials to identify issues to be addressed and refined before the next meeting. Judge Blanch asked Ms. Klucznik and Ms. Johnson to cooperate in preparing the revised materials for the next meeting.

(4) ADJOURN

The meeting adjourned at approximately 1:25 p.m. The next meeting will be held on April 7, 2021, starting at 12:00 noon.