

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

Via Webex
February 1st, 2023 – 12:00 p.m. to 1:30 p.m.

COMMITTEE MEMBER:	ROLE:	PRESENT	EXCUSED	GUESTS:
Hon. James Blanch	District Court Judge [Chair]	•		None
Hon. Brendan McCullagh	Justice Court Judge	•		
Sandi Johnson	Prosecutor	•		STAFF:
Jennifer Andrus	Linguist/Communications Professor	•		Bryson King
Hon. Linda Jones	Emeritus District Court Judge		•	
Hon. Teresa Welch	District Court Judge	•		
Sharla Dunroe	Defense Attorney	•		
Janet Lawrence	Defense Attorney	•		
Jeffrey Mann	Prosecutor	•		
Richard Pehrson	Prosecutor	•		
Dustin Parmley	Defense Attorney	•		
Freyja Johnson	Defense Attorney	•		
Brian Williams	Prosecutor	•		

(1) WELCOME AND APPROVAL OF MINUTES:

Judge Blanch welcomed the committee to the meeting. The committee reviewed January 4th, 2023 meeting minutes. Sandi Johnson moved to approve the minutes. Brian Williams seconded the motion. With no objection, the motion passes and the minutes are approved.

Judge Blanch informs the committee that after 9 years as the chair of the committee, he will be stepping down and the Judicial Council will appoint a new chair. He expresses his gratitude for the significant effort and contributions the committee members have made during his tenure as chair.

(2) AGENDA ITEM 1: PARTIAL DEFENSE (CONTINUED) – COMPLETE PACKET – CR 1451, CR510-540

Jeff Mann begins the discussion with a short review of the completed packet for 1451 and 510-540. Sandi Johnson proposes a change to correct typos in the instructions and discusses a concern related to the definition of imperfect self-defense, given the committee hasn't defined it before. Jeff explains that the statute and case law don't say more than what the instruction already provides. The committee discusses the suggestion of creating a new instruction to define imperfect self-defense. Judge Blanch requests the committee vote on whether to create a new imperfect self-defense instruction, with two committee members voting in favor and the remainder voting against. Following more discussion, Judge Blanch suggested that Sandi work with Jeff, Judge Welch, and Janet Lawrence to create language for a separate, proposed instruction.

(3) AGENDA ITEM 2: SELF-REPRESENTED PARTIES AND STANDBY COUNSEL – PROPOSED CR444 AND CR445.

Judge Blanch then turns the committee’s attention to new instructions regarding pro se defendants and standby counsel. Committee members offer their opinions regarding the usefulness of the instruction and its practical purpose. Judge Welch suggested that the committee reference *State v. Rohwedder*, specifically the concurrence, in drafting language for the role of standby counsel in a case where that applies. Judge Blanch discusses language from the *Rohwedder* case and its applicability to the proposed instruction. The committee continues its discussion, focusing on potential adverse inferences to pro se representation and presence of standby counsel. The committee also discusses the responsibilities of pro se defendants involving compliance with procedural rules and evidence in trial. Judge Blanch suggests the committee combine the pro se instruction and standby counsel instruction with a committee note that mentions the instruction be used only when required, and not necessarily because a defendant is pro se or standby counsel is in place. The committee also discusses adding a provision in the instructions that states a defendant did not qualify for appointed counsel and has elected to represent themselves. The committee makes some final edits to the proposed instruction for readability and adds some language to the committee notes to indicate how the instruction can be used, if necessary, in pro se cases. Richard Pehrson moves to approve the instruction and Freya Johnson seconds. Without objection the motion carries and the instruction will be published.

(4) ADJOURN

The meeting adjourned at approximately 1:20 p.m. The next meeting will be held on March 1st, 2023, starting at 12:00 noon.