

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

vVia Webex
September 4, 2024 – 12:00 p.m. to 1:30 p.m.

COMMITTEE MEMBER:	ROLE:	PRESENT	EXCUSED	GUESTS:
Hon. Teresa Welch	District Court Judge [Chair]	•		Dr. Jay Jordan
Hon. Brendan McCullagh	Justice Court Judge		•	
[VACANT]	Linguist/Communications Professor	N/A	N/A	STAFF: Bryson King Jace Willard (covering)
Hon. Linda Jones	Emeritus District Court Judge	•		
Hon. Matthew Bates	District Court Judge	•		
Sharla Dunroe	Defense Attorney		•	
Janet Lawrence	Defense Attorney		•	
Jeffrey Mann	Prosecutor	•		
[VACANT]	Prosecutor	N/A	N/A	
Dustin Parmley	Defense Attorney		•	
Freyja Johnson	Defense Attorney	•		
McKay Lewis	Prosecutor	•		
Nic Mills	Prosecutor	•		

(1) WELCOME AND APPROVAL OF MINUTES: AUGUST 2024 MEETING

Judge Welch welcomed the Committee and reminded the members that applications are pending for the vacancies in the Committee. Judge Welch also mentioned that the recently published instructions have not yet received any public comments for the Committee’s feedback. Judge Welch then reviewed the minutes from the previous month’s meeting and asked for a motion to approve the minutes. Nic Mills moved to approve the minutes, with Freyja Johnson seconding the motion. Without opposition, the minutes are approved. Dr. Jay Jordan, visiting as an observer, then introduced himself to the Committee and explained his work history and professional background in linguistics, specifically applied linguistics in pedagogy. McKay Lewis then addressed some formatting issues for instructions showing up on the website and asked that Bryson King look into those formatting issues to fix those.

(2) AGENDA ITEM 2: CR1005: NEGLIGENCELY OPERATING A VEHICLE RESULTING IN INJURY

Judge Welch then turned the Committee’s discussion to CR1005. McKay Lewis began the discussion by explaining that Negligently Operating a Vehicle Resulting in Injury could be charged as a misdemeanor or felony based on whether the defendant inflicted “injury” or “serious injury” on the victim. He offered the idea that a single instruction could accomplish the work of combining the two different versions of the offense (misdemeanor vs. felony), using brackets and a Committee Note to explain the combination. Judge Welch asked whether any Committee would prefer multiple instructions or a single instruction. Freyja Johnson

offered that a single instruction makes sense, but also noted that the Committee drafted multiple instructions in the DUI series for the various misdemeanor levels of that crime. McKay also noted that CR1102 and CR1103, Failing to Stop at an Officer's Signal to Stop, are two different instructions for the two different levels of the offense. After some discussion, Judge Welch indicated that there was a consensus that a single instruction is sufficient for the two versions of Negligently Operating a Vehicle Resulting in Injury. Judge Welch then asked the Committee to review CR1005 before the next meeting and prepare to discuss the instruction then.

(3) AGENDA ITEM 3: CR1007 – UNANIMITY INSTRUCTION ON DUI & SPECIAL VERDICT FORM

The Committee will resume its discussion on this agenda item at its next meeting.

(4) AGENDA ITEM 4: IGNORANCE OR MISTAKE OF FACT/LAW INSTRUCTION

Judge Welch then turned the time to Freyja Johnson for a discussion on the proposed instructions on mistake of fact/law. Freyja reviewed the materials prepared for this agenda item with the Committee. McKay Lewis asked Freyja to review with the Committee when the instruction would be given. Freyja explained that the statute provides the language for when the instruction would be given as a defense. For example, the mental state of a defendant could negate a fact in evidence. Judge Welch asked whether any Committee member had questions or comments about the proposed instruction. Dr. Jordan expressed some confusion about the relationship between a defendant's mental state and ignorance of a fact in evidence and explained he was attempting to understand from a layperson's perspective the mental state and whether the ignorance of a fact was the same thing. Judge Welch and Freyja agreed that there is little case law that addresses Dr. Jordan's question. McKay Lewis offered an example to address Dr. Jordan's question involving a defendant charged with murder (intentionally or knowingly cause the death of another individual) who picked mushrooms from the forest that they thought could be safe and fed them to her parents who then died from the mushrooms that turned out to be poisonous. McKay further explained that the defendant's mistake of fact (misidentification of the mushrooms, or her thought that they were safe to eat) negates the mental state required (intentional or knowing) for murder but might qualify her for a charge of manslaughter. Judge Welch asked the Committee to also consider where a defendant's verdict would be not guilty based on the defense instruction, or whether they would be guilty of a lesser-included offense. The Committee then discussed additional considerations between mistake and ignorance of a fact or the law. Judge Welch asked Freyja to include a Committee Note in the proposed instruction and asked the Committee to review relevant caselaw on the issue of ignorance or mistake of fact/law.

(5) ADJOURN

The Committee adjourned around 12:50p.m. The Committee's next meeting will be October 2nd, 2024, at 12:00p.m. to 1:30p.m.