

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

Via Webex
February 7, 2023 – 12:00 p.m. to 1:30 p.m.

DRAFT

COMMITTEE MEMBER:	ROLE:	PRESENT	EXCUSED	GUESTS:
Hon. Teresa Welch	District Court Judge [Chair]	•		None
Hon. Brendan McCullagh	Justice Court Judge	•		
Jennifer Andrus	Linguist/Communications Professor		•	STAFF:
Hon. Linda Jones	Emeritus District Court Judge	•		Bryson King
Hon. Matthew Bates	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	•		
McKay Lewis	Prosecutor	•		
Nic Mills	Prosecutor	•		

(1) WELCOME AND APPROVAL OF MINUTES:

Judge Welch welcomed the committee to the meeting. The Committee reviewed the minutes from its last meeting and, without objection, voted to approve.

(2) AGENDA ITEM 2: FAILURE TO RESPOND TO AN OFFICER’S SIGNAL TO STOP INSTRUCTION (CR1102 & CR1103)

Judge Welch then asked Judge Jones to introduce her proposed instruction for Failure to Respond to an Officer’s Signal to Stop. Judge Jones indicates that the case law supports two separate instructions, one for the 3rd degree felony offense for failure to stop, and a separate instruction for the 2nd degree felony offense. Judge Welch reviews language from *State v. Bird* that supports the separate instructions and the language included in them. Judge Bates requests the Committee discuss the mens rea language, “intentionally” in the instruction in paragraph 4, and whether it applies to subparts a and b. After discussion the Committee agrees to remove the word “intentionally,” and leave the mens rea standard in 4b. Th Committee discusses included additional case law and statute references in the instructions. Judge McCullagh then suggests amending the language to state “willful or wanton” instead of “willful and wanton” in paragraph 4a. The Committee also discusses including a note regarding unanimity, with a reference to CR430. Additional discussion ensues about developing the Committee Note for the 2nd degree felony, but ultimately votes to remove language that references the 5th element of that instruction. The Committee then discusses what to number the instructions and decides to

number them CR1102 for the 3rd degree felony and CR1103 for the 2nd degree felony. McKay Lewis will work on a proposed instruction for the misdemeanor-level offense.

(3) AGENDA ITEM 3: DRIVING WITH A MEASURABLE CONTROLLED SUBSTANCE

McKay Lewis begins discussing his proposed instruction for Driving with a Measurable Controlled Substance in the Body, CR1006. McKay reviews the elements along with the supporting statute, Utah Code 41-6a-517. He also briefly reviews *State v. Outzen*'s language and its influence on the instruction. Judge McCullough draws the Committee's attention to affirmative defenses, included the carve out in 41-6a-517(2)(b). The Committee adds language into the instruction regarding the affirmative defense from the statute. The Committee will resume its work on the instruction at the next meeting.

(4) ADJOURN

The Committee reviews its meeting schedule and cancels the July meeting due to the holiday. The meeting adjourned at approximately 1:30 p.m. The next meeting will be held on March 6th, 2024, starting at 12:00 noon.