

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

Hybrid Meeting – Judicial Council Room and via Webex  
October 2<sup>nd</sup>, 2024 12:00 – 1:30p.m.

**DRAFT**

COMMITTEE MEMBER:	ROLE:	PRESENT	EXCUSED	GUESTS:
Hon. Teresa Welch	District Court Judge [Chair]	•		<b>STAFF:</b>  Bryson King
Hon. Brendan McCullagh	Justice Court Judge		•	
[VACANT]	Linguist/Communications Professor	N/A	N/A	
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: SEPTEMBER 4<sup>TH</sup>, 2024**

Judge Welch welcomed the Committee to the meeting and updated the Committee regarding the recently published instructions and noted that the published instructions did not receive any feedback. She indicated that if any comments are published, the Committee will be notified. Judge Welch also updated the Committee regarding the vacant positions for the prosecutor and linguistic expert and explained the process of making a recommendation to the Judicial Council for who among the applicants should fill those positions. McKay Lewis commented that he was interested in providing feedback on the applicants as well, and Judge Welch instructed McKay to send Bryson King an email with his feedback on the applicants. Judge Welch then announced the retirement of Judge McCullagh from his position with the Committee now that he has joined the Judicial Council. Judge Welch expressed her appreciation for his service and Judge McCullagh offered some parting comments to members of the Committee. Judge Welch then requested a motion to approve the September minutes. Nic Mills moved to approve the minutes with Judge McCullagh seconding the motion. Without opposition, the motion passes and the minutes are approved.

**(2) AGENDA ITEM 2: CR1007- UNANIMITY INSTRUCTION ON DUI & SPECIAL VERDICT FORM**

Judge Welch then turned the Committee’s attention to CR1007 and the discussion on DUI unanimity. Judge McCullagh then reviewed the relevant statutes to the instruction with the Committee. Judge Welch then

recalled that there might be a pending case out of the appellate courts on the unanimity issue. Jeff Mann stated that a colleague in his office was working on the case, which is *State v. Cissel*, 20220963-CA. Given that, Judge McCullagh proposed that the Committee table its discussion on DUI unanimity until the *Cissel* decision is announced. Judge Bates seconded the proposal. Without opposition, the proposal passes, and the Committee will postpone its discussion until after the decision is published. Judge McCullagh also proposed that in a future meeting the Committee should discuss and develop instructions for extreme DUI offenses. Judge Welch asked Judge McCullagh to share any materials he has for this potential instruction and asked whether any committee member would take on the responsibility of drafting the instruction for the committee's consideration at the next meeting. Nic Mills volunteered for the assignment and also volunteered to propose amended instructions for the current DUI series in CR1003, 1004, and 1005.

### **(3) AGENDA ITEM 3: CR1005: NEGLIGENTLY OPERATING A VEHICLE RESULTING IN INJURY**

Judge Welch then asked McKay Lewis to begin a discussion on CR1005. McKay reviewed the elements on the instruction with the Committee and asked for feedback from the Committee on the format of the instruction. The Committee then discussed various formatting options to mirror the format of the statute. The Committee then discussed how to apply the instruction in settings where the jury is being instructed about whether bodily or serious bodily injury was caused, to differentiate between the charged offense, or a lesser-included alternative offense. The Committee then discussed further formatting options to use the instruction in that setting and amended the Committee Note for practitioners to consider how to apply the instruction in that setting. McKay Lewis offered to continue working on proposed language for the instruction and Committee Note and bring that to the Committee's next meeting.

### **(4) ADJOURN**

The Committee adjourned around 1:15p.m. The Committee's next meeting will be November 6<sup>th</sup>, 2024, at 12:00p.m. to 1:30p.m.