

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

March 4, 2026 – 12:00 p.m. to 1:30 p.m.

Via [Webex](#)

12:00	Welcome and Announcements (Introduction to New Member, Judge Mark Flores)			Judge Welch
	Approval of February Minutes		Tab 1	Judge Welch
	Review DUI Roadmap		Tab 2	Judge Welch
	Proposed CR1010: Refusing a Chemical Test or Blood Draw		Tab 3	McKay Lewis
	Proposed CR1010A(???): Definition of DUI Admonition		Tab 4	McKay Lewis
	Proposed CR1011: Refusal as Evidence of Consciousness of Guilt		Tab 5	McKay Lewis
	Proposed CR433: Jury Unanimity – Offense with Alternate Elements		Tab 6	Dallas Young
1:30	Adjourn			

COMMITTEE WEB PAGE: <https://www.utcourts.gov/utc/muji-criminal/>

UPCOMING MEETING SCHEDULE:

Meetings are held via Webex on the first Wednesday of each month from 12:00 noon to 1:30 p.m. (unless otherwise specifically noted):

April 1, 2026

May 6, 2026

June 3, 2026

July 1, 2026

August 5, 2026

September 2, 2026

October – No Meeting

November 4, 2026

December 2, 2026

TAB 1

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

Via Webex
February 4, 2026 – 12:00 p.m. to 1:30 p.m.

Committee Members	Role	Present	Excused	Guests
Hon. Teresa Welch	District Court Judge [Chair]	•		
Hon. Mark Flores	Justice Court Judge	•		
Hon. Matthew Bates	District Court Judge	•		
Hon. Linda Jones	Emeritus District Court Judge	•		
Dr. Jay Jordan	Linguist/Communications Professor		•	
Janet Lawrence	Defense Attorney		•	
McKay Lewis	Prosecutor	•		
Jeffrey Mann	Prosecutor	•		
Breanne Miller	Prosecutor	•		
Nic Mills	Prosecutor		•	
Lacey Singleton	Defense Attorney	•		
Shannon Woulfe	Defense Attorney		•	
Dallas Young	Defense Attorney	•		
Jace Willard	Staff	•		
Alex Jacobson	Staff	•		
				Jesse Egbert, William Eggington, Scott Jarvis, Clark Cunningham, and Susan Provenzano

(1) WELCOME

Judge Welch welcomed the Committee.

(2) LINGUISTICS AND LAW GROUP

Judge Welch invited guest linguistics professor Jesse Egbert to introduce himself and other guests from a group of linguistics professors and law professors. Prof. Egbert introduced himself and fellow Professors William Eggington, Scott Jarvis, Clark Cunningham, and Susan Provenzano. The group has been working with the MUJI (Civil) Committee to identify instructions that may need to be revised to be more understandable to lay jurors. Professors Egbert and Jarvis presented a PowerPoint presentation about the work the group has done so far with the civil instructions, including their methodology and test group outcomes indicating that many laypersons do not understand certain jury instructions. They will present this information to the MUJI (Civil) Committee and discuss potential revisions. They proposed doing similar work with the MUJI (Criminal) Committee. Judge Welch thanked the group for their time and presentation and said the Committee would be in touch as to whether it would like to move forward as proposed.

(3) ANNOUNCEMENTS

Judge Welch noted that Alex Jacobson, a new associate with the AOC's legal team, will be assuming staffing responsibilities for the Committee. Mr. Jacobson introduced himself and is looking forward to working with the Committee. Judge Welch also announced that South Salt Lake City Justice Court Judge Mark Flores has recently been appointed to the Committee. Judge Flores joined the meeting but had audio difficulties, so he will be introduced at the Committee's next meeting.

(4) APPROVAL OF LINGUISTICS AND LAW SUBCOMMITTEE

Judge Welch asked whether the Committee would like to work with the linguistics and law group to identify and revise instructions as previously described. The Committee responded affirmatively. Judge Welch suggested that Prof. Jay Jordan lead a Linguistics and Law Subcommittee to work with the group. Dallas Young, Lacey Singleton, and Breanne Miller volunteered to serve with Prof. Jordan. No opposition was expressed to the idea, so the Subcommittee was formed. Jace Willard will email Prof. Jordan about the proposal and let Prof. Egbert know that the Subcommittee has been formed and will be in touch to identify instructions. The Subcommittee will let Mr. Jacobson know when they are ready to report to the Committee.

(5) CLARIFICATION OF APPROVED AMENDED COMMITTEE NOTES RE SVF 1450, CR1402, CR1403, CR1411, CR1451

Judge Welch noted that a question that has come up regarding the Committee note amendments approved in January. Mr. Willard reminded the Committee that amendments were approved as to the note in SVF 1450 and several related instructions (CR1402, CR1403, CR1411, and CR1451). But the note to CR1451 includes a paragraph that was not included in the redline. He asked if it was intended to be omitted, or if it should be left and added to the other instructions. Jeff Mann clarified that it should be left in the CR1451 note but not added to the others. Those changes will be published for public comment.

(6) APPROVAL OF JANUARY 2026 MINUTES

Judge Welch invited a motion to approve the January meeting minutes. Mr. Young moved to approve the minutes and Mr. Mann seconded the motion. Without objection the motion carried and the minutes were approved.

(7) DUI ROADMAP REVIEW

Judge Welch reviewed the Roadmap of DUI Series Instructions and invited the Committee members to consider whether any changes should be made. No updates were needed at this time.

(8) DRAFT CR1010, CR1010A & CR1011 – REFUSING A CHEMICAL TEST, DEFINITION OF DUI ADMONITION, REFUSAL AS EVIDENCE OF CONSCIOUSNESS OF GUILT

McKay Lewis presented draft instructions regarding refusing a chemical test and the definition of the DUI admonition. The draft CR1010 instruction as to refusal is taken from Utah Code section 41-6a-520.1. The required finding number 2 of the draft is that the defendant “was issued the DUI Admonition.” Mr. Lewis referenced the draft Committee Notes for this instruction, stating that this is just a shorthand reference to the admonition defined in draft instruction CR1010A. Following discussion regarding how this offense is cited, language referring to “the DUI Admonition” in both draft instructions was changed to “the Refusal Admonition” to be more precise.

Also as indicated in the draft notes to CR1010, Mr. Lewis believes this is a strict liability offense pursuant to Utah Code 76-2-101(2) because no intent requirement is provided. But he has had a trial where a judge required that the jury be given an instruction indicating that the refusal must be done intentionally, knowingly, or recklessly. He thinks that is incorrect.

Mr. Young questioned whether finding no. 2 should be “was properly issued the Refusal Admonition,” to reflect that officers must have some grounds for issuing the Refusal Admonition. He said if it was done without grounds, it would likely be the basis for a motion to suppress to the judge prior to trial. But he wondered if it could or should still be something for the jury to consider if the motion were denied. He also noted that an additional instruction would be required if the word “properly” is added to explain what that means. Ms. Miller and Mr. Lewis both opposed adding the word “properly” as they do not believe that is an element of the offense.

Due to the lack of time, Judge Welch invited the Committee to consider what was presented as to these draft instructions, which will be on the agenda again at the next meeting.

(9) ADJOURN

The meeting adjourned at approximately 1:30 p.m. Judge Welch thanked Mr. Willard for his service to the Committee and welcomed Mr. Jacobson.

TAB 2

Roadmap of DUI Series Instructions as of 3/4/26

Category 1 = Instruction exists and no amendments necessary

Category 2 = Instruction exists and amendments necessary

Category 3 = Instruction does exist, but instruction awaiting publication

Category 4 = Instruction does not exist

Proposed Order of DUI Instructions CR1000 Series:

CR1000 – DUI Instructions (Category 1)

CR1001 – Preamble to Driving Under the Influence Instructions (Category 1)

CR1002 – Actual Physical Control (Category 1)

CR1003 – **Simple** Driving Under the Influence **Instruction** (Category 2) (Nic Mills)

CR1004 – **Enhanced** Driving Under the Influence **Instruction** (Category 2) (Nic Mills)

CR1005 – Driving Under the Influence of Alcohol, Drugs, or Combination/Extreme DUI (Category 2) (Nic Mills)

CR1006 – Automobile Homicide (Category 1)

CR1007 – No instruction (status is reserved on website)

CR1008 – Driving with a Measurable Controlled Substance (Category 1)

CR1009 – Negligently Operating a Vehicle Resulting in Injury (Category 1)

CR1010 – Refusing a Chemical Test or Blood Draw (McKay Lewis) (Category 4)

CR1011 – Refusal as Evidence of Consciousness of Guilt (McKay Lewis) (Category 4)

CR1012 – Ignition Interlock (J. Bates) (Category 1)

CR1013 – Driving with Alcohol in Your System as an Alcohol Restricted Driver/Alcohol Restricted Driver (Breanne Miller) (Category 1)

CR1014 – Alcohol Restricted Driver - Defined (Janet Lawrence) (Category 4)

CR1015 – Driving a Motor Vehicle Under the Influence of Alcohol or Drugs When the Driving Privilege Has Been Suspended, Disqualified, or Revoked (Janet Lawrence) (Category 4)

Roadmap of DUI Series Instructions as of 3/4/26

CR1016 – Drinking an Alcohol Beverage While Operating a Motor Vehicle (Category 1)

CR1017 – Open Container in a Motor Vehicle (Category 1)

CR1017A – Definition of Passenger Compartment (Category 1)

Proposed DUI Special Verdict Forms

SVF1001 – Driving Under the Influence [Will Revise] (Nic Mills)

Placeholders:

CR??? 41-6a-504. Defense not available for driving under the influence violation.

The fact that a person charged with violating Section [41-6a-502](#) is or has been legally entitled to use alcohol or a drug is not a defense against any charge of violating Section [41-6a-502](#). (Nic Mills)

CR??? 41-6a-526. Drinking alcoholic beverage and open containers in motor vehicle prohibited -- Definitions -- Exceptions. (Nic Mills)

CR??? 41-6a-518.1. Tampering with an ignition interlock system. (J. Bates)

Other Assignments:

CR??? Burglary (McKay Lewis) (Category 4)

CR??? Aggravated Burglary (McKay Lewis) (Category 4)

CR1320: Aggravated Assault (Breanne Miller) (Category 2)

TAB 3

CR1010: Refusing a Chemical Test

(DEFENDANT'S NAME) is charged [in Count ____] with committing Refusing a Chemical Test [on or about (DATE)]. You cannot convict [him] [her] of this offense unless, based on the evidence, you find beyond a reasonable doubt each of the following elements:

1. [DEFENDANT];
2. Was issued the Refusal Admonition, as defined in Instruction [#];
3. A court issued a warrant to draw and test [his] [her] blood; and
4. [DEFENDANT] nonetheless refused to submit to a test of [his] [her] blood.

After you carefully consider all the evidence in this case, if you are convinced that each and every element has been proven beyond a reasonable doubt, then you must find the defendant GUILTY. On the other hand, if you are not convinced that each and every element has been proven beyond a reasonable doubt, then you must find the defendant NOT GUILTY.

References:

- Utah Code Ann. § 41-6a-520.1
- Utah Code Ann. § 41-6a-520(2)(a)

Committee Notes:

This instruction is intended to be used in prosecuting the crime of Refusing a Chemical Test. Whether that offense constitutes a Class B Misdemeanor, a Class A Misdemeanor, or a Third-Degree Felony depends on various factors. See Utah Code Ann. § 41-6a-520.1(2)(a)–(c). Practitioners should adjust this instruction accordingly. Similar to the offense of Driving Under the Influence, Refusing a Chemical Test is a strict liability offense. See Utah Code Ann. § 76-2-101(2) (no mental state generally required for traffic offenses). An element of this crime is that the defendant was issued “the warning required in Subsection 41-6a-520(2)(a).” See Utah Code Ann. § 41-6a-520.1(1)(a). The committee has chosen to use the phrase “Refusal Admonition” as shorthand to refer to this warning. The committee believes that including the entirety of the Refusal Admonition in the elements of the crime would render this instruction unwieldy. As such, the committee suggests also giving CR 1010A, which defines the content of the Refusal Admonition.

West's Utah Code Annotated
Title 41. Motor Vehicles
Chapter 6A. Traffic Code (Refs & Annos)
Part 5. Driving Under the Influence and Reckless Driving

U.C.A. 1953 § 41-6a-520.1

§ 41-6a-520.1. Refusing a chemical test

Currentness

(1) An actor commits refusing a chemical test if:

(a) a peace officer issues the warning required in [Subsection 41-6a-520\(2\)\(a\)](#);

(b) a court issues a warrant to draw and test the blood; and

(c) after Subsections (1)(a) and (b), the actor refuses to submit to a test of the actor's blood.

(2)(a) A violation of Subsection (1) is a class B misdemeanor.

(b) Notwithstanding Subsection (2)(a), a violation of Subsection (1) is a class A misdemeanor if the actor:

(i) has a passenger younger than 16 years old in the vehicle at the time the officer had grounds to believe the actor was driving under the influence;

(ii) is 21 years old or older and has a passenger younger than 18 years old in the vehicle at the time the officer had grounds to believe the actor was driving under the influence;

(iii) also violated [Section 41-6a-712](#) or [41-6a-714](#) at the time of the offense; or

(iv) has one prior conviction within 10 years of:

(A) the current conviction under Subsection (1); or

(B) the commission of the offense upon which the current conviction is based.

(c) Notwithstanding Subsection (2)(a), a violation of Subsection (1) is a third degree felony if:

(i) the actor has two or more prior convictions, each of which is within 10 years of:

(A) the current conviction; or

(B) the commission of the offense upon which the current conviction is based; or

(ii) the current conviction is at any time after:

(A) a felony conviction; or

(B) any conviction described in Subsection (2)(c)(ii)(A) for which judgment of conviction is reduced under [Section 76-3-402](#).

(3) As part of any sentence for a conviction of violating this section, the court shall impose the same sentencing as outlined for driving under the influence violations in [Section 41-6a-505](#), based on whether this is a first, second, or subsequent conviction, with the following modifications:

(a) any jail sentence shall be 24 consecutive hours more than is required under [Section 41-6a-505](#);

(b) any fine imposed shall be \$100 more than is required under [Section 41-6a-505](#); and

(c) the court shall order one or more of the following:

(i) the installation of an ignition interlock system as a condition of probation for the individual, in accordance with [Section 41-6a-518](#);

(ii) the imposition of an ankle attached continuous transdermal alcohol monitoring device as a condition of probation for the individual; or

(iii) the imposition of home confinement through the use of electronic monitoring, in accordance with [Section 41-6a-506](#).

(4)(a) The offense of refusing a chemical test under this section does not merge with any violation of [Section 32B-4-409](#), [41-6a-502](#), [41-6a-517](#), or [41-6a-530](#).

(b) In accordance with [Subsection 77-2a-3\(8\)](#), a guilty or no contest plea to an offense of refusal to submit to a chemical test under this section may not be held in abeyance.

(5) An actor is guilty of a separate offense under Subsection (1) for each passenger in the vehicle that is younger than 16 years old at the time the officer had grounds to believe the actor was driving under the influence.

Credits

[Laws 2023, c. 415, § 9, eff. May 3, 2023](#); [Laws 2024, c. 197, § 7, eff. July 1, 2024](#).

U.C.A. 1953 § 41-6a-520.1, UT ST § 41-6a-520.1

Current with laws of the 2025 General Session and Chapters 1 and 2 of the 2025 First Special Session. Some statutes sections may be more current, see credits for details.

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West's Utah Code Annotated
Title 41. Motor Vehicles
Chapter 6A. Traffic Code (Refs & Annos)
Part 5. Driving Under the Influence and Reckless Driving

U.C.A. 1953 § 41-6a-520

§ 41-6a-520. Implied consent to chemical tests for alcohol or drug--Number of tests--Refusal--Warning, report

Currentness

(1)(a) A person operating a motor vehicle in this state is considered to have given the person's consent to a chemical test or tests of the person's breath, blood, urine, or oral fluids for the purpose of determining whether the person was operating or in actual physical control of a motor vehicle while:

(i) having a blood or breath alcohol content statutorily prohibited under [Section 41-6a-502](#), [41-6a-530](#), or [53-3-231](#);

(ii) under the influence of alcohol, any drug, or combination of alcohol and any drug under [Section 41-6a-502](#); or

(iii) having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of [Section 41-6a-517](#).

(b) A test or tests authorized under this Subsection (1) must be administered at the direction of a peace officer having grounds to believe that person to have been operating or in actual physical control of a motor vehicle while in violation of any provision under Subsections (1)(a)(i) through (iii).

(c)(i) The peace officer determines which of the tests are administered and how many of them are administered.

(ii) If a peace officer requests more than one test, refusal by a person to take one or more requested tests, even though the person does submit to any other requested test or tests, is a refusal under this section.

(d)(i) A person who has been requested under this section to submit to a chemical test or tests of the person's breath, blood, or urine, or oral fluids may not select the test or tests to be administered.

(ii) The failure or inability of a peace officer to arrange for any specific chemical test is not a defense to taking a test requested by a peace officer, and it is not a defense in any criminal, civil, or administrative proceeding resulting from a person's refusal to submit to the requested test or tests.

(2)(a) A peace officer requesting a test or tests shall warn a person that refusal to submit to the test or tests may result in criminal prosecution, revocation of the person's license to operate a motor vehicle, a five or 10 year prohibition of driving with any

measurable or detectable amount of alcohol in the person's body depending on the person's prior driving history, and a three-year prohibition of driving without an ignition interlock device if the person:

(i) has been placed under arrest;

(ii) has then been requested by a peace officer to submit to any one or more of the chemical tests under Subsection (1); and

(iii) refuses to submit to any chemical test requested.

(b)(i) Following the warning under Subsection (2)(a), if the person does not immediately request that the chemical test or tests as offered by a peace officer be administered, a peace officer shall, on behalf of the Driver License Division and within 24 hours of the arrest, give notice of the Driver License Division's intention to revoke the person's privilege or license to operate a motor vehicle.

(ii) When a peace officer gives the notice on behalf of the Driver License Division, the peace officer shall supply to the operator, in a manner specified by the Driver License Division, basic information regarding how to obtain a hearing before the Driver License Division.

(c) As a matter of procedure, the peace officer shall submit a signed report, within 10 calendar days after the day on which notice is provided under Subsection (2)(b), that:

(i) the peace officer had grounds to believe the arrested person was in violation of any provision under Subsections (1)(a)(i) through (iii); and

(ii) the person had refused to submit to a chemical test or tests under Subsection (1).

(3) Upon the request of the person who was tested, the results of the test or tests shall be made available to the person.

(4)(a) The person to be tested may, at the person's own expense, have a physician or a physician assistant of the person's own choice administer a chemical test in addition to the test or tests administered at the direction of a peace officer.

(b) The failure or inability to obtain the additional test does not affect admissibility of the results of the test or tests taken at the direction of a peace officer, or preclude or delay the test or tests to be taken at the direction of a peace officer.

(c) The additional test shall be subsequent to the test or tests administered at the direction of a peace officer.

(5) For the purpose of determining whether to submit to a chemical test or tests, the person to be tested does not have the right to consult an attorney or have an attorney, physician, or other person present as a condition for the taking of any test.

(6) Notwithstanding the provisions in this section, a blood test taken under this section is subject to [Section 77-23-213](#).

Credits

Laws 2005, c. 2, § 76, eff. Feb. 2, 2005; Laws 2005, c. 91, § 3, eff. July 1, 2005; Laws 2006, c. 341, § 4, eff. May 1, 2006; Laws 2017, c. 181, § 15, eff. May 9, 2017; Laws 2018, c. 35, § 2, eff. May 8, 2018; Laws 2019, c. 77, § 1, eff. May 14, 2019; Laws 2019, c. 349, § 28, eff. May 14, 2019; Laws 2020, c. 177, § 6, eff. July 1, 2020; Laws 2022, c. 116, § 9, eff. May 4, 2022; Laws 2022, c. 134, § 4, eff. May 4, 2022; Laws 2023, c. 415, § 8, eff. May 3, 2023.

[Notes of Decisions \(138\)](#)

U.C.A. 1953 § 41-6a-520, UT ST § 41-6a-520

Current with laws of the 2025 General Session and Chapters 1 and 2 of the 2025 First Special Session. Some statutes sections may be more current, see credits for details.

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TAB 4

CR1010A Definition of Refusal Admonition

Under Utah law, a peace officer requesting a chemical test shall issue the Refusal Admonition, which states that refusal to submit to the test or tests may result in criminal prosecution, revocation of the person's license to operate a motor vehicle, a five or 10 year prohibition of driving with any measurable or detectable amount of alcohol in the person's body depending on the person's prior driving history, and a three-year prohibition of driving without an ignition interlock device.

References

- Utah Code Ann. § 41-6a-520(2)(a)

Committee Note

This instruction is intended to be given in conjunction with CR1010 (Refusing a Chemical Test), as it defines the content of the Refusal Admonition a peace officer is required to give before a defendant can be charged with Refusing a Chemical Test.

West's Utah Code Annotated
Title 41. Motor Vehicles
Chapter 6A. Traffic Code (Refs & Annos)
Part 5. Driving Under the Influence and Reckless Driving

U.C.A. 1953 § 41-6a-520

§ 41-6a-520. Implied consent to chemical tests for alcohol or drug--Number of tests--Refusal--Warning, report

Currentness

(1)(a) A person operating a motor vehicle in this state is considered to have given the person's consent to a chemical test or tests of the person's breath, blood, urine, or oral fluids for the purpose of determining whether the person was operating or in actual physical control of a motor vehicle while:

(i) having a blood or breath alcohol content statutorily prohibited under [Section 41-6a-502](#), [41-6a-530](#), or [53-3-231](#);

(ii) under the influence of alcohol, any drug, or combination of alcohol and any drug under [Section 41-6a-502](#); or

(iii) having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of [Section 41-6a-517](#).

(b) A test or tests authorized under this Subsection (1) must be administered at the direction of a peace officer having grounds to believe that person to have been operating or in actual physical control of a motor vehicle while in violation of any provision under Subsections (1)(a)(i) through (iii).

(c)(i) The peace officer determines which of the tests are administered and how many of them are administered.

(ii) If a peace officer requests more than one test, refusal by a person to take one or more requested tests, even though the person does submit to any other requested test or tests, is a refusal under this section.

(d)(i) A person who has been requested under this section to submit to a chemical test or tests of the person's breath, blood, or urine, or oral fluids may not select the test or tests to be administered.

(ii) The failure or inability of a peace officer to arrange for any specific chemical test is not a defense to taking a test requested by a peace officer, and it is not a defense in any criminal, civil, or administrative proceeding resulting from a person's refusal to submit to the requested test or tests.

(2)(a) A peace officer requesting a test or tests shall warn a person that refusal to submit to the test or tests may result in criminal prosecution, revocation of the person's license to operate a motor vehicle, a five or 10 year prohibition of driving with any

measurable or detectable amount of alcohol in the person's body depending on the person's prior driving history, and a three-year prohibition of driving without an ignition interlock device if the person:

(i) has been placed under arrest;

(ii) has then been requested by a peace officer to submit to any one or more of the chemical tests under Subsection (1); and

(iii) refuses to submit to any chemical test requested.

(b)(i) Following the warning under Subsection (2)(a), if the person does not immediately request that the chemical test or tests as offered by a peace officer be administered, a peace officer shall, on behalf of the Driver License Division and within 24 hours of the arrest, give notice of the Driver License Division's intention to revoke the person's privilege or license to operate a motor vehicle.

(ii) When a peace officer gives the notice on behalf of the Driver License Division, the peace officer shall supply to the operator, in a manner specified by the Driver License Division, basic information regarding how to obtain a hearing before the Driver License Division.

(c) As a matter of procedure, the peace officer shall submit a signed report, within 10 calendar days after the day on which notice is provided under Subsection (2)(b), that:

(i) the peace officer had grounds to believe the arrested person was in violation of any provision under Subsections (1)(a)(i) through (iii); and

(ii) the person had refused to submit to a chemical test or tests under Subsection (1).

(3) Upon the request of the person who was tested, the results of the test or tests shall be made available to the person.

(4)(a) The person to be tested may, at the person's own expense, have a physician or a physician assistant of the person's own choice administer a chemical test in addition to the test or tests administered at the direction of a peace officer.

(b) The failure or inability to obtain the additional test does not affect admissibility of the results of the test or tests taken at the direction of a peace officer, or preclude or delay the test or tests to be taken at the direction of a peace officer.

(c) The additional test shall be subsequent to the test or tests administered at the direction of a peace officer.

(5) For the purpose of determining whether to submit to a chemical test or tests, the person to be tested does not have the right to consult an attorney or have an attorney, physician, or other person present as a condition for the taking of any test.

(6) Notwithstanding the provisions in this section, a blood test taken under this section is subject to [Section 77-23-213](#).

Credits

Laws 2005, c. 2, § 76, eff. Feb. 2, 2005; Laws 2005, c. 91, § 3, eff. July 1, 2005; Laws 2006, c. 341, § 4, eff. May 1, 2006; Laws 2017, c. 181, § 15, eff. May 9, 2017; Laws 2018, c. 35, § 2, eff. May 8, 2018; Laws 2019, c. 77, § 1, eff. May 14, 2019; Laws 2019, c. 349, § 28, eff. May 14, 2019; Laws 2020, c. 177, § 6, eff. July 1, 2020; Laws 2022, c. 116, § 9, eff. May 4, 2022; Laws 2022, c. 134, § 4, eff. May 4, 2022; Laws 2023, c. 415, § 8, eff. May 3, 2023.

[Notes of Decisions \(138\)](#)

U.C.A. 1953 § 41-6a-520, UT ST § 41-6a-520

Current with laws of the 2025 General Session and Chapters 1 and 2 of the 2025 First Special Session. Some statutes sections may be more current, see credits for details.

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TAB 5

CR1011: Refusal as Evidence of Consciousness of Guilt

Evidence was introduced at trial that [Defendant] refused to submit to a chemical test or tests. This evidence alone is not enough to establish guilt. However, if you believe that evidence, you may consider it along with the rest of the evidence in reaching a verdict. It's up to you to decide how much weight to give that evidence.

References

- Utah Code Ann. § 41-6a-524
- *State v. Van Dyke*, 2009 UT App 369, 223 P.3d 465

West's Utah Code Annotated
Title 41. Motor Vehicles
Chapter 6A. Traffic Code (Refs & Annos)
Part 5. Driving Under the Influence and Reckless Driving

U.C.A. 1953 § 41-6a-524

§ 41-6a-524. Refusal as evidence

Currentness

If a person under arrest refuses to submit to a chemical test or tests or any additional test under [Section 41-6a-520](#), evidence of any refusal is admissible in any civil or criminal action or proceeding arising out of acts alleged to have been committed while the person was operating or in actual physical control of a motor vehicle while:

(1) under the influence of:

(a) alcohol;

(b) any drug; or

(c) a combination of alcohol and any drug;

(2) having any measurable controlled substance or metabolite of a controlled substance in the person's body; or

(3) having any measurable or detectable amount of alcohol in the person's body if the person is an alcohol restricted driver as defined under [Section 41-6a-529](#).

Credits

[Laws 2005, c. 2, § 80, eff. Feb. 2, 2005](#); [Laws 2005, c. 91, § 5, eff. July 1, 2005](#); [Laws 2017, c. 181, § 17, eff. May 9, 2017](#).

[Notes of Decisions \(3\)](#)

U.C.A. 1953 § 41-6a-524, UT ST § 41-6a-524

Current with laws of the 2025 General Session and Chapters 1 and 2 of the 2025 First Special Session. Some statutes sections may be more current, see credits for details.

TAB 6

CR433 Jury Unanimity – Offense with Alternate Elements

The State has charged in Count (# through Count #) that (DEFENDANT’S NAME) committed (CRIME). The elements of (CRIME) are outlined in another instruction.

(CRIME) uses alternate (or alternative) elements. That means that one or more of the elements of (CRIME) can be satisfied in more than one way. Here, the alternate elements are:

(ALTERNATE ELEMENTS)

When determining if the State has proven an alternate element beyond a reasonable doubt, you must unanimously agree which alternate element(s) it proved beyond a reasonable doubt.

You may find that (DEFENDANT)’s conduct satisfied all of these alternate elements, one or more of these alternate elements, or none of these alternate elements.

References:

- *State v. Hummel*, 2017 UT 19
- *State v. Alires*, 2019 UT App 206
- *State v. Case*, 2020 UT App 81
- *State v. Mendoza*, 2021 UT App 79

(or, pattern it off CR430, which addresses a similar although different scenario)

Count (# through #) charges (DEFENDANT) with (CRIME). (CRIME) has one or more element(s) that can be satisfied more than one way. These are known as alternate elements.

You may not find that (DEFENDANT)’s conduct satisfies an alternate element unless you unanimously agree that the prosecution has proven one or more of the alternate elements AND you unanimously agree on which of the alternate elements were proven AND you agree on the specific way in which (DEFENDANT)’s conduct satisfies that/those alternate element(s).