

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

May 6, 2026 – 12:00 p.m. to 1:30 p.m.

Via [Webex](#)

| | | | | |
|-------|--|--|-------|--------------|
| 12:00 | Welcome and Announcements | | | Judge Welch |
| | Approval of March Minutes | | Tab 1 | Judge Welch |
| | Review of Public Comments: CR1451 Definition of Imperfect Self-Defense and CR1010 Refusing a Chemical Test | | Tab 2 | Judge Welch |
| | Review DUI Roadmap | | Tab 3 | Judge Welch |
| | Proposed CR1011: Refusal as Evidence of Consciousness of Guilt | | Tab 4 | McKay Lewis |
| | Proposed CR433: Jury Unanimity – Offense with Alternate Elements | | Tab 5 | 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):

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
March 4, 2026 – 12:00 p.m. to 1:19 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 | | • | |
| Alex Jacobson | Staff | • | | |
| | | | | |

(1) WELCOME

Judge Welch welcomed the Committee.

(2) ANNOUNCEMENTS

Judge Welch announced that Alex Jacobson has assumed staffing responsibilities for the Committee. Next, Judge Welch introduced South Salt Lake City Justice Court Judge Mark Flores as the Committee’s newest member and asked that he provide a bit of background about himself. Judge Welch then asked each member of the Committee to introduce themselves to Judge Flores.

(3) APPROVAL OF FEBURARY 2026 MINUTES

Judge Welch invited a motion to approve the February meeting minutes. Breanne Miller moved to approve the minutes, and McKay Lewis seconded the motion. Without objection the motion carried and the minutes were approved.

(4) 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.

(5) DRAFT CR1010 & CR1010A – REFUSING A CHEMICAL TEST AND DEFINITION OF REFUSAL ADMONITION

Judge Welch reminded the Committee that the discussion in February’s meeting regarding the draft CR1010 instruction had focused on leaving out the word “properly” in item two and whether the instruction should include a mens rea. Judge Welch then asked for input from McKay Lewis as he drafted the proposed CR1010 instruction and had argued that offense in the instruction is a strict liability offense. Mr. Lewis reiterated his view from the February meeting that a mens rea is not required because this is a strict liability offense pursuant to Utah Code 76-2-101(2).

Judge Welch then brought up whether “refused” as used in item four had been defined in statute or case law. Judge Welch asked for a response from Mr. Lewis, who indicated that he could not find any instance of where “refused” had been defined. Judge Welch then asked the Committee if the ordinary meaning of “refused” should apply in the absence of specific definition in statute or case law. No Committee member expressed disagreement.

Judge Welch then opened the discussion on CR1010 and CR1010A to the Committee in advance of potential publication. Mr. Lewis requested the inclusion of stronger language at the conclusion of the Committee note to CR1010 and then made a motion to approve the publication of CR1010 and CR1010A. Ms. Woulfe suggested the removal of the word “nonetheless” from item four and Judge Jones offered proposed edits to item number two for the purpose of brevity. After consideration of the proposals, the Committee voted to remove “nonetheless” from item four and to reword item two to make it more concise.

Ms. Miller then pointed out that the Committee agreed that the term “Refusal Admonition” instead of “DUI Refusal Admonition” was to be used across CR1010 and CR1010A. Mr. Miller noted a remaining instance in CR1010 where “DUI Refusal Admonition” had been used and asked that “DUI” be stricken for consistency.

Ms. Woulfe then requested that the reference section of CR1010 include the case *Gukeisen v. Department of Public Safety, Driver License Division* to provide additional context to practitioners regarding the refusal of a chemical test. Ms. Woulfe also requested the

removal of any language from the committee note in CR1010 that this is a strict liability offense. Ms. Miller and Mr. Lewis opposed the inclusion of the *Gukeisen* case. Ms. Miller also took the position that Utah Code Ann. § 76-2-101(2) stands for the proposition that this is a strict liability offense. Given that some committee members believed this was a strict liability offense and that other members did not, Judge Welch proposed a compromise that the strict liability language be stricken from the committee note and that the *Gukeisen* case and citation to Utah Code Ann. § 76-2-101(2) be added to the reference list. Mr. Lewis did not oppose.

Mr. Lewis then made a motion to approve CR1010 and CR1010A as currently drafted. Judge Flores seconded the motion. The motion was unopposed. Judge Welch directed Mr. Jacobson to publish the instructions for comment before the April meeting.

(6) DISCUSSION OF ITEMS TO HOLD FOR THE APRIL MEETING

Noting the time, Judge Welch asked Mr. Lewis if the next item on the agenda, CR1011, could be discussed in the April Meeting. Mr. Lewis agreed. Judge Welch also noted that given Dallas Young's absence, CR433 would be carried to the April meeting as well.

(7) ADJOURN

The meeting adjourned at approximately 1:19 p.m.

TAB 2

Public Comments: CR1451 Definition of Imperfect Self-Defense (Comment Period Closes March 26, 2026)

Comment 1: Christopher Ballard

[February 10, 2026 at 11:27 am](#)

CR1451 Definition of Imperfect Self-Defense.

I think the Committee should remove the phrase “reasonable mistake of law” from the imperfect self-defense instruction. While caselaw correctly uses that phrase to describe the defense, I think the phrase merely confuses lay jurors. In fact, many lawyers have a hard time explaining what it means. I would delete it and rework the second paragraph as follows:

Imperfect self-defense applies when the defendant [caused the death] [attempted to cause the death] of another while incorrectly, but reasonably, believing that the law justified or excused his/her conduct. In other words, it applies when a defendant reasonably believed that the law allowed him/her to act as he/she did, but in fact, the law did not allow the defendant to take such action. The reasonable belief of the defendant shall be determined from the viewpoint of a reasonable person under the circumstances.

Arguably, you could delete the second sentence entirely because it is redundant.

This format won't let me post a redline version, but I can send that if you would like.

Public Comments: CR1010 Refusing a Chemical Test (Comment Period Closes April 25, 2026)

Comment 1: Stockton Vander Werff

[March 18, 2026 at 6:42 am](#)

The most recent draft omits language that is important to understanding the nature of the offense—specifically, that refusal is a strict liability crime. That omission matters. The removed language is an accurate statement of the law and provides necessary context for how this instruction should be applied.

Without it, there is a real risk that the instruction will be read to require a mens rea that does not exist in the statute. That is especially concerning given that Utah Code § 76-2-101(2) makes clear that offenses like this do not require a mental state unless one is expressly included. The elements themselves reflect that framework by not including any mens rea requirement, but the absence of explanatory language in the committee notes invites confusion and inconsistent application.

In practice, I expect this will lead to increased arguments that intent must be proven in refusal cases, even though the instruction itself does not require it. That runs contrary to the statutory scheme and risks turning a strict liability offense into something it is not.

Comment 2: Tagg Francis

[March 18, 2026 at 7:02 am](#)

I strongly oppose striking the language regarding strict liability from the Committee Notes on this model jury instruction for Chemical Test Refusal. The stricken language is legally correct; Chemical Test Refusal is a strict liability traffic offense, as is DUI. Striking the language could be interpreted by some to mean that there is a mens rea for Chemical Test Refusal other than strict liability, which is not true under the plain language of Utah Code 76-2-101 and 41-6a-520.1.

Comment 3: Brandon Dalley

[March 19, 2026 at 10:08 am](#)

The committee should retain the note striking the strict liability language. In my experience, defense counsels have attempted to introduce a mens rea requirement by proposing a Mistake of Fact jury instruction in conjunction with the refusal instruction. That proposed instruction usually states that “unless otherwise provided, ignorance or mistake of fact which disproves the culpable mental state is a defense to any prosecution for that crime.” However, the offense of Refusal of a Chemical Test does not require the State to prove a culpable mental state. The appropriate standard is strict liability. Utah Code 41-6a-502(6)

establishes that DUI is a strict liability offense. Refusal of a Chemical Test is analogous to DUI in several key respects; both are enhanced similarly, carry similar penalties, and are codified within the same title, chapter, and part (41-6a part 5). Given these parallels, the state is not required to prove a culpable mental state for Refusal of a Chemical Test. According, the committee should not hesitate to make this point explicit in its notes to avoid confusion and to preclude attempts to improperly introduce a mens rea element through additional jury instruction.

TAB 3

Roadmap of DUI Series Instructions as of 5/6/26

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 5/6/26

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)

CR530: Defense of Self or Other (Janet Lawrence) (Category 2)

TAB 4

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 5

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).