

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

June 3, 2026 – 12:00 p.m. to 1:30 p.m.

Via [Webex](#)

12:00	Welcome and Announcements			Judge Welch
	Approval of May Minutes		Tab 1	Judge Welch
	Review of Public Comment: CR1010A Definition of Refusal Admonition		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):

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
May 6, 2026 – 12:00 p.m. to 1:30 pm

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) APPROVAL OF MARCH 2026 MINUTES

Judge Welch explained that the April meeting had been cancelled due to a conflict with a mandatory district court bench meeting. Judge Welch asked the Committee Members to review the draft minutes from the March 2026 meeting and invited a motion to approve the minutes. Nic Mills moved to approve the minutes, and McKay Lewis seconded the motion.

No committee member offered an objection. The motion carried and the minutes were approved.

(3) REVIEW OF PUBLIC COMMENTS: CR 1451 (IMPERFECT SELF-DEFENSE)

Judge Welch presented the public comments received on the proposed CR 1451 instruction. Comment. Those comments suggested the removal of the phrase "reasonable mistake of law." The Committee Members synthesized the feedback, concluding that while the phrase is legally grounded in case law, it often creates confusion for jurors and remains difficult for practitioners to explain clearly. The Committee determined that removing this technical terminology would enhance lay comprehension without sacrificing legal integrity.

The Committee Members then debated balancing formal legal terminology with accessible prose. Committee Member Dallas Young proposed merging sentences for brevity, while Judge Bates advocated for retaining the terms "justified or excused" to ensure the instruction remained anchored in statutory principles. The Committee eventually reached a consensus on a structure that presents the legal standard first, followed by a lay explanation introduced by the phrase "in other words."

After the discussion and revisions to the instruction, Judge Welch called for a vote on the publication of the revised version of CR 1451 for public comment. Judge Bates made the motion and Dallas Young seconded. The motion carried. Judge Welch directed Alex Jacobson to publish the instruction for comment.

(4) REVIEW OF PUBLIC COMMENTS: CR 1010 (REFUSING A CHEMICAL TEST)

Judge Welch presented the comments that members of the public submitted regarding the proposed CR 1010 (Refusing a Chemical Test) instruction). Judge Welch noted that the Committee had engaged in a robust discussion of whether this offense is a strict liability offense. The instruction was submitted for public comment without that language included. Based on that discussion and the submitted public feedback, Judge Welch reopened the discussion on this matter.

McKay Lewis offered his argument that that under Utah Code 76-2-101, traffic code violations are strict liability offenses unless otherwise specified. As the refusal statute lacks a mental state requirement, the prosecution only needs to prove the act occurred. In response Dallas Young argued that "refusal" is an active verb that inherently requires intentionality. Mr. Young suggested that one cannot "accidentally" refuse, implying a mental state is inherent in the term. Nic Mills stated that he was in the middle of these approaches and suggested the proposed instruction remain silent on the issue to avoid taking a stand on an undecided appellate question and to allow the parties to litigate the matter.

Judge Welch then called for a vote as to whether the strict liability language should be put back into the proposed CR1010. Judge Bates made the motion and Nic Mills seconded. The Committee voted 5-2 to reinstate the strict liability language. Judge Welch directed Alex Jacobson so published the revised version for public comment.

(5) DUI ROADMAP REVIEW AND STRATEGIC ASSIGNMENTS

Judge Welch then turned the Committee's attention to the DUI Roadmap document for a review and update of categories and assignments. Based on the discussion, the following updates and assignments were made:

- **CR 1010 and CR 1010A:** Status updated from Category 4 to Category 3 (pending the 45-day comment window) or Category 1 (final), depending on final publication steps.
- **Nic Mills:** Assigned to prepare new DUI instructions for the June meeting: CR1004 – Enhanced Driving Under the Influence Instruction assigned to work on CR1003 – Simple Driving Under the Influence Instruction, and CR1005 – Driving Under the Influence of Alcohol, Drugs, or Combination/Extreme DUI.
- **Janet Lawrence:** Formally assigned to the "Defense of Self or Others" instruction series.
- **McKay Lewis:** Formally assigned to "Burglary" and "Aggravated Burglary."

Judge Welch also noted that the MUJI instructions contain several "Reserved" titles, including Taxation and Public Assistance Fraud. Judge Welch reoffered the Committee's philosophy of prioritizing "hot topics" (issues frequently arising in current trials)—rather than filling reserved blocks in numerical order. While the reserved topics for taxation and fraud will remain pending while the Committee addresses more immediate trial needs, Judge Welch reaffirmed that the Committee's work is necessary and will continue as long as there are these reserved categories.

(6) CR 1011 (REFUSAL AS EVIDENCE)

Judge Welch then directed the Committee to begin discussion on CR 1011, which addresses the evidentiary weight of a defendant's refusal to submit to a chemical test. McKay Lewis presented his proposed draft, noting it was specifically modeled after the existing Flight instruction found at CR 405) to ensure consistency.

Shannon Wolf and Judge Bates raised concerns regarding whether the instruction provides a necessary legal principle or acts as a judicial comment on evidence. Shannon Wolf specifically noted that the admission of refusal involves Fifth Amendment privilege considerations, citing the standard in *State v. Van Dyke* (2009) and the U.S. Supreme Court's holding in *South Dakota v. Neville*. Discussion also focused on removing "Consciousness of Guilt" from the title to align with statutory language and avoid the risk of directing the jury toward a specific inference of guilt.

Judge Welch tabled the vote to allow for further linguistic refinement. Alex Jacobson was directed to merge the current working draft of CR 1011 with the second paragraph of the

flight instruction (CR 405), which addresses innocent explanations for conduct, for review at the next meeting.

(7) ADJOURN

The meeting adjourned at 1:30 PM. Judge Welch thanked the Committee for their contributions and directed all participants to review the "Reserved" topics on the MUJI website to identify and prioritize future areas of focus.

TAB 2

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.

TAB 3

Roadmap of DUI Series Instructions as of 6/3/26

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 3)

CR1010A – Definition of Refusal Admonition (McKay Lewis) (Category 3)

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 6/3/26

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)

CR1206: Possession of Drug Paraphernalia (Shannon Woulfe) (Category 2)

TAB 4

CR1011: Refusal as Evidence

Evidence that [DEFENDANT'S NAME] may have refused to submit to a chemical test or tests is not, by itself, enough to establish guilt of driving under the influence. However, if you believe that the Defendant refused, 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.

Keep in mind that there may be reasons for refusal that could be fully consistent with innocence. Even if you choose to infer from the evidence that the defendant had a "guilty conscience," that does not necessarily mean (he) (she) is guilty of the crime charged.

References

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

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).