

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

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

Via [Webex](#)

12:00	Welcome and Announcements			Judge Welch
	Approval of June Minutes		Tab 1	Judge Welch
	Review DUI Roadmap		Tab 2	Judge Welch
	Proposed CR433: Jury Unanimity – Offense with Alternate Elements		Tab 3	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):

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
June 3, 2026 – 12:00 p.m. to 1:06 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 AND MEETING SCHEDULING MATTERS

Judge Welch welcomed the Committee. Judge Welch asked if committee members would be available for the scheduled July meeting. Enough committee members to constitute a quorum indicated that they would be able to attend. Judge Welch also reminded members that the Committee will not convene in October.

(2) APPROVAL OF MAY 2026 MINUTES

Judge Welch asked the Committee Members to review the draft minutes from the May 2026 meeting and invited a motion to approve the minutes. McKay Lewis moved to approve the

minutes, and Dallas Young seconded the motion. No committee member offered an objection. The motion carried and the minutes were approved.

(3) REVIEW OF PUBLIC COMMENTS: CR 1010 AND CR1010A

Alex Jacobson reported that no public comments were received for CR1010A and its comment period has expired. Mr. Jacobson also reported that the 45-day public comment period for CR1010 had not yet expired. McKay Lewis and Judge Welch noted that CR1010 and CR1010A are intended to function as a pair. Based on this, the Committee resolved to defer publication of CR1010A to the public website until any input on CR1010 is received.

(4) 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. Alex Jacobson asked for clarification as to the instructions McKay Lewis offered to draft in the previous meeting. Mr. Lewis confirmed that he was going to draft proposed instructions addressing Utah Rules of Evidence 404(c) and 404(d). Judge Welch asked the Committee if any other changes were necessary. No member offered changes.

(5) CR 1011 (REFUSAL AS EVIDENCE)

Judge Welch reminded the Committee that it had tabled discussion of CR 1011 at the conclusion of last month's meeting. Judge Welch re-opened the matter for discussion and sought input regarding the most recent draft. Judge Bates and Judge Jones questioned whether this instruction constitutes an unnecessary "judicial comment on the evidence." Committee members Lacey Singleton, Dallas Young, and Jeff Mann argued that the instruction provides essential guidance for practitioners (particularly in justice courts) and offers necessary protections for defendants by clarifying that a refusal alone is insufficient to establish guilt.

The discussion then centered on Paragraph 2, which is modeled after the "flight instruction." Janet Lawrence reiterated the earlier concern regarding the appearance of a judicial comment on the evidence. The Committee discussed whether starting the instruction with "if" would better emphasize its conditional nature, though the consensus was that the word "may" sufficiently established the condition. Dallas Young proposed adding language regarding an officer's reasonable suspicion. Following discussion, the Committee reached a consensus that reasonable suspicion is a preliminary legal determination to be handled via motions *in limine* rather than a factual issue for jury deliberation.

Judge Jones proposed a committee note stating that the instruction is not explicitly required by Utah law, citing the *Van Dyke* case. Following the insertion of a proposed committee note, Judge Welch asked for a vote from the Committee as to whether the note should be included. Eight members voted in favor of removal, concluding that since most MUJI instructions are not "required," a specific note would be redundant.

Judge Welch asked if there was a motion to approve CR1011 for publication. McKay Lewis moved. Members McKay Lewis, Janet Lawrence, Brienne Miller, Judge Flores, Judge Bates, and Jeff Mann voted to submit CR1011 for publication. Members Shannon Wolfe, Lacey Singleton, and Dallas Young voted against publication. Judge Welch directed Alex Jacobson to publish CR1011 for public comment before the July meeting.

(6) CR433 (JURY UNANIMITY)

Judge Welch instructed Committee Members to turn their attention to the draft of CR433 regarding Jury Unanimity. Dallas Young, who drafted the proposed instruction, provided context for instruction, specifying that the instruction for aggravated assault contains alternate elements. The Committee discussed the evolving distinction between "theories" and "elements" in appellate law. Specific reference was made to *State v. Fitzwater* and *State v. Cissel*. Janet Lawrence noted that Paragraphs 45 and 46 of the *Fitzwater* decision are particularly instructive on this point. The discussion focused on whether the Committee's current use of the word "way" in instructions 430, 431, and 432 remains legally sound or if a linguistic shift to "theory" or "element" is required to align with recent case law.

In the interest of time, Judge Welch tabled discussion of CR433 and instructed members to review existing instructions 430, 431, and 432 and the *Fitzwater* and *Cissel* decisions. Discussion is to resume on this instruction during the July meeting.

(7) ADJOURN

The meeting adjourned at 1:06 PM. Judge Welch thanked the Committee for their contributions.

TAB 2

Roadmap of DUI Series Instructions as of 7/1/26

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 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 7/1/26

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)

CR??? URE404C and 405D (McKay Lewis) (Category 4)

TAB 3

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).