

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

August 5, 2026 – 12:00 p.m. to 1:30 p.m.

Via [Webex](#)

12:00	Welcome and Announcements			Judge Welch
	Approval of July Minutes		Tab 1	Judge Welch
	Review of Roadmap		Tab 2	Judge Welch
	Proposed Draft: CR (Number Forthcoming) Burglary		Tab 3	McKay Lewis
	Proposed Draft: CR (Number Forthcoming) Aggravated Burglary		Tab 4	McKay Lewis
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):

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

Judge Welch welcomed the Committee and began the July meeting.

(2) APPROVAL OF MAY 2026 MINUTES

Judge Welch asked the Committee Members to review the draft minutes from the June 2026 meeting and invited a motion to approve the minutes. Jeffrey Mann moved to approve the minutes, and Judge Flores seconded the motion. No committee member offered an objection. The motion carried and the minutes were approved.

(3) ROADMAP REVIEW AND STRATEGIC ASSIGNMENTS

Judge Welch then turned the Committee's attention to the roadmap document for a review and update of categories and assignments. Judge Welch instructed committee members to send any draft instructions they may have to staff member Alex Jacobson at least one week prior to the August 5th meeting. McKay Lewis indicated that he would be ready with drafts of either the URE related instructions or those concerning burglary and aggravated burglary. Alex indicated that Nicolas Mills had stated in a prior meeting that he had drafts ready. Alex would reach out to Mr. Mills to see if those were ready for consideration by the committee. Judge Welch asked the Committee if any other changes were necessary. No member offered changes.

(4) CR433: JURY UNANIMITY – OFFENSE WITH ALTERNATE ELEMENTS

Judge Welch reopened discussion on CR433, which was tabled at the conclusion of the previous meeting. At the outset of the discussion, Judge Welch proposed three options for addressing the concerns of the drafting attorney Dallas Young. Option 1 was to add the cases *State v. Fitzwater* and *State v. Cissel* to the references section of the existing jury unanimity instructions. Option 2 was to add these cases to the references sections as well as a committee note. Option 3 was to add the proposed 433 to as a new instruction to the existing unanimity instructions.

As part of considering these options, the committee reviewed the existing unanimity related instructions (CR 430 (Jury Unanimity Single Offense in More Than One Way) CR431 (Jury Unanimity - Multiple Offenses with Identical Elements), and CR432 (Jury Unanimity - Evidence of More Occurrences than Charges)) to consider the best approach. McKay Lewis expressed support for option 1 and offered that the three existing instructions sufficiently encompass all likely unanimity scenarios and significant additions or corrections were unnecessary. Dallas Young focused on the distinction between "theory" and "alternative elements," and argued that jury instructions should be written in a way so as prevent the jury from "choosing their own adventure" regarding discrete elements of a crime. Jeffrey Mann then took the position that CR430 already covers alternative elements. He noted that in the court in the *Cissel* case determined that the various ways of committing a DUI were "theories" of the crime rather than "alternative elements." He further suggested that the word "way" in CR430 is legally accurate, supported by linguistic advisors, and more user-friendly for lay jurors than technical legal terms.

Based on this discussion Dallas Young withdrew the proposed CR433 and expressed support for revising the existing CR430 to more clearly address alternative elements. The committee then discussed revisions and arrived at the following proposed actions:

- **Title Change:** "Single Offense with Alternative Act Elements."
- **Text Addition:** The addition of a second sentence: "This offense has alternative elements or ways that it may be committed."

- **Reference Update:** The addition of *State v. Fitzwater* and *State v. Cissel* to the references section.

Judge Welch then called for a vote on options 1 (adding only the case references to CR430) and 2 (Making all the discussed changes to CR430). McKay Lewis voted in favor of option 1, while the remaining voting committee members voted for option 2. Mr. Jacobson was instructed to prepare and circulate those changes for public comment. The chair also noted that *State v. Fitzwater* and *State v. Cissel* should be added to the references section in CR431 and CR432, but that public input regarding those changes was not necessary as the addition did not represent a substantive change.

(5) ADJOURN

The meeting adjourned at 1:00 PM. Judge Welch thanked the Committee for their contributions.

TAB 2

Roadmap of DUI Series Instructions as of 8/5/26

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 3)

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 8/5/26

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 404D (McKay Lewis) (Category 4)

TAB 3

Draft Instruction for Burglary

(DEFENDANT'S NAME) is charged [in Count ____] with committing Burglary [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'S NAME);
2. Intentionally, knowingly, or recklessly entered or remained in a [building] [dwelling] or any portion of a [building] [dwelling];
3. With intent to commit [a felony] [theft] [an assault on any person] [lewdness] [sexual battery] [lewdness involving a child] [voyeurism] [recorded or photographed voyeurism] [distribution of images obtained through voyeurism].

References:

- Utah Code Ann. § 76-6-202

Relevant Definitions:

- “Building,” in addition to its ordinary meaning, means any watercraft, aircraft, trailer, or other structure or vehicle adapted for overnight accommodation of persons or for carrying on business and includes: each separately secured or occupied portion of the structure or vehicle; and each structure appurtenant to or connected with the structure or vehicle. *See* Utah Code Ann. § 76-6-201(1)(a).

- “Building” does not include a railroad car. *See* Utah Code Ann. § 76-6-201(1)(b).
- “Dwelling” means a building which is usually occupied by a person lodging in the building at night, whether or not a person is actually present. *See* Utah Code Ann. § 76-6-201(2).
- “Enter or remain unlawfully” means a person enters or remains in or on any premises when: at the time of the entry or remaining, the premises or any portion of the premises are not open to the public; and the actor is not otherwise licensed or privileged to enter or remain on the premises or any portion of the premises. *See* Utah Code Ann. § 76-6-201(3).
- “Enter” means: intrusion of any part of the body; or intrusion of any physical object under control of the actor. *See* Utah Code Ann. § 76-6-201(4).

Committee Note:

This instruction is intended to be used in prosecuting the crime of Burglary.

Whether that offense constitutes a Third-Degree Felony or a Second-Degree Felony depends on whether the defendant entered or remained unlawfully in a building or a dwelling. *See* Utah Code Ann. § 76-6-202(3). Practitioners should use the bracketed [building] and [dwelling] language accordingly.

The committee also suggests including a separate instruction that defines the elements for the crime the defendant is accused of intending to commit while committing the burglary. For example, if the defendant is accused of intending to commit an assault while entering or remaining unlawfully in a building or dwelling,

element 3 could read “With intent to commit an assault on any person, as defined in Instruction #[].”

TAB 4

Draft Instruction for Aggravated Burglary

(DEFENDANT'S NAME) is charged [in Count ____] with committing Aggravated Burglary [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'S NAME);
2. Intentionally, knowingly, or recklessly entered or remained in a [building] [dwelling] or any portion of a [building] [dwelling];
3. With intent to commit [a felony] [theft] [an assault on any person] [lewdness] [sexual battery] [lewdness involving a child] [voyeurism] [recorded or photographed voyeurism] [distribution of images obtained through voyeurism]; and
4. While attempting, committing, or fleeing from the burglary (DEFENDANT'S NAME) [or another participant in the burglary] [caused bodily injury to any person who was not a participant in the crime] [used or threatened the immediate use of a dangerous weapon against any person who was not a participant in the crime] [possessed or attempted to use any explosive or dangerous weapon].

References:

- Utah Code Ann. § 76-6-203

Relevant Definitions:

- “Building,” in addition to its ordinary meaning, means any watercraft, aircraft, trailer, or other structure or vehicle adapted for overnight accommodation of persons or for carrying on business and includes: each separately secured or occupied portion of the structure or vehicle; and each structure appurtenant to or connected with the structure or vehicle. *See* Utah Code Ann. § 76-6-201(1)(a).
- “Building” does not include a railroad car. *See* Utah Code Ann. § 76-6-201(1)(b).
- “Dwelling” means a building which is usually occupied by a person lodging in the building at night, whether or not a person is actually present. *See* Utah Code Ann. § 76-6-201(2).
- “Enter or remain unlawfully” means a person enters or remains in or on any premises when: at the time of the entry or remaining, the premises or any portion of the premises are not open to the public; and the actor is not otherwise licensed or privileged to enter or remain on the premises or any portion of the premises. *See* Utah Code Ann. § 76-6-201(3).
- “Enter” means: intrusion of any part of the body; or intrusion of any physical object under control of the actor. *See* Utah Code Ann. § 76-6-201(4).
- “Bodily injury” means physical pain, illness, or any impairment of physical condition.” *See* Utah Code Ann. § 76-1-101.5(4).
- “Dangerous weapon” means any item capable of causing death or serious bodily injury; or a facsimile or representation of the item, if: the actor’s use or

apparent intended use of the item leads the victim to reasonably believe the item is likely to cause death or serious bodily injury; or the actor represents to the victim verbally or in any other manner that the actor is in control of such an item.

Committee Note:

This instruction is intended to be used in prosecuting the crime of Aggravated Burglary. Practitioners should adjust the bracketed language in the elements of the crime as appropriate to account for the specific facts of the case on trial.

The committee also suggests including a separate instruction that defines the elements for the crime the defendant is accused of intending to commit while committing the burglary. For example, if the defendant is accused of intending to commit an assault while entering or remaining unlawfully in a building or dwelling, element 3 could read “With intent to commit an assault on any person, as defined in Instruction #[].”