**Utah**

**CR415 In-Custody Informant.**

You have heard from a witness who may be classified as an “in-custody informant.” The law allows the use of such testimony. However, the testimony of an informant who provides evidence against a defendant must be examined and weighed by you with greater care than the testimony of an ordinary witness. Whether the informant's testimony has been affected by interest or prejudice against the defendant is for you to determine. In making that determination, you should consider:

1. Whether the informant has received anything (including leniency in prosecution, personal advantage, or vindication) in exchange for testimony;
2. Other cases, and the number of other cases, in which the informant testified or offered statements against another, whether those statements are being used, and whether the informant received any deal, promise, inducement, or benefit in exchange for that testimony or statement, or believed he was likely to receive some benefit from his cooperation;
3. Whether the informant has ever changed his or her testimony;
4. The criminal history of the informant, not just limited to number of convictions, but also the level of sophistication gained through the informant's experience in the criminal justice system; and
5. Any other evidence related to the informant's credibility.

In sum, you should look at all of the evidence in deciding what credence and what weight, if any, you would give to the jailhouse informant.  You should bear in mind that a witness who has entered into such an agreement with the government may have an interest in the case different than any ordinary witness. A witness who believes that he may be able to obtain his own freedom, or receive a lighter sentence by giving testimony favorable to the prosecution, has motive to testify falsely. Therefore, you must examine [his] [her] testimony with caution and weigh it with great care. If, after scrutinizing [his] [her] testimony, you decide to accept it, you may give it whatever weight, if any, you find it deserves.

*State v. Charles, 2011 UT App 291, 263 P.3d 469.* [*https://www.utcourts.gov/resources/muji/inc\_list.asp?action=showRule&id=32#415*](https://www.utcourts.gov/resources/muji/inc_list.asp?action=showRule&id=32#415)