

STATEMENTS OF DEFENDANT¹

There is for your consideration in this case a (written, recorded or oral)² statement allegedly made by the defendant.

It is your function to determine whether or not the statement was actually made by the defendant, and, if made, whether the statement or any portion of it is credible.³

[IF ORAL STATEMENT CHARGE FOLLOWING PARAGRAPH]

In considering whether or not an oral statement was actually made by the defendant, and, if made, whether it is credible, you should receive, weigh and consider this evidence with caution based on the generally recognized risk of misunderstanding by the hearer, or the ability of the hearer to recall accurately the words used by the defendant. The specific words used and the ability to remember them are important to the correct understanding of any oral communication because the presence, or absence, or change of a single word may substantially change the true meaning of even the shortest sentence.

You should, therefore, receive, weigh and consider such evidence with caution.

(HERE DISCUSS THE STATEMENT)

In considering whether or not the statement is credible, you should take into consideration the circumstances and facts as to how the statement was made, as well as all other evidence in this case relating to this issue.

(HERE DISCUSS ANY PROOF ADDUCED BEFORE THE JURY WHICH WENT TO DEFENDANT'S MIRANDA RIGHTS OR THE STATEMENT'S VOLUNTARINESS)

¹ This charge replaces the Oral Statements of Defendant charge, approved 5/23/94. It may also be used for defendant's written statements. See State v. Hampton, 61 N.J. 250 (1972); State v. Kennedy, 135 N.J. Super. 513 (App. Div. 1975).

² Given the effect of R. 3:17, which requires electronic recordation of a defendant's custodial interrogation in a place of detention, the term "recorded" has been included in the types of statements which may be utilized in a case. See also N.J.R.E. 801(a) (statement includes oral or written assertion) and 801(e) (writing includes electronic recording). If not recorded, see Model Jury Charge on Statements of Defendant (When Court Finds Police Inexcusably Failed to Electronically Record Statement).

³ If the State alleges the defendant purposely gave a false statement, knowing it was false, and the State wishes to use the statement to show a consciousness of guilt on the part of the defendant, you should consider altering this portion of the charge.

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If, after consideration of all these factors, you determine that the statement was not actually made, or that the statement is not credible, then you must disregard the statement completely.

If you find that the statement was made and that part or all of the statement is credible, you may give what weight you think appropriate to the portion of the statement you find to be truthful and credible.