

REDACTED RECORDED STATEMENT OF DEFENDANT¹

There is for your consideration in this case a (written)(recorded) 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.

You may consider all the circumstances surrounding the statement in making that determination with the following caution. I instruct you that, in this case, certain portions of the (written)(recorded) statement have not been provided to you. You may only consider those portions of the statement which have been admitted in evidence, and must not speculate as to the contents of the omission or the reason or reasons for the omissions.

¹ This cautionary instruction is to be used when it is evident from the recording that a redaction has been made. The court may provide this cautionary instruction at the time of the admission of the statement. The instruction should be given at the time of final instructions.

This is different than the circumstance where the court finds that the police inexcusably failed to record a statement. In that situation, the Model Jury Charge-Statements of Defendant (Where Court Finds Police Inexcusably Failed to Electronically Record Statement) for that circumstance should be used.