

## 6.8. Accused's Statement - Alternative 1

Evidence has been introduced that the accused made a statement concerning the crime charged. It is for you to determine, in light of all the circumstances under which the statement was made, if it was properly obtained by the [police, prosecutor, law enforcement.] The law does not allow the [police, prosecutor, law enforcement] to obtain a statement by [abuse, threats, duress, or violence] [false promises]. If you find that [police, prosecutor, law enforcement] obtained the statement by such means, you should not consider the statement as evidence against the accused. If you find from a consideration of all the evidence that the statement was properly obtained by [police, prosecutor, law enforcement], then it is for you to determine what value should be given to the statement.

**Authority:** IN Pattern Instruction No. 12.0300

### Comments

It may be appropriate to instruct the jury on its duty to determine the credibility of a defendant's confession. *See Shanabarger v. State*, 846 N.E.2d 702, 710 (Ind. Ct. App. 2006), *trans. denied*. But to avoid unnecessarily emphasizing a defendant's confession over other evidence, the Committee recommends this instruction not be given unless tendered by the defendant and where the voluntariness of the statement has been challenged.

Evidence bearing on the voluntariness of a confession and evidence bearing on its credibility often overlap. *Crane v. Kentucky*, 476 U.S. 683, 687 (1986). It is the role of the trial court—not the jury—to determine whether a statement made by a defendant is voluntary and therefore admissible. *Crain v. State*, 736 N.E.2d 1223, 1232 (Ind. 2000). But after a statement is admitted into evidence, it then becomes the duty of the jury to evaluate the credibility of the statement and to decide how much weight to give it. *Id.*; *see also Morgan v. State*, 648 N.E.2d 1164, 1169–70 (Ind. Ct. App. 1995), *adopted in relevant part*, 675 N.E.2d 1067, 1072 (Ind. 1996) (noting trial court makes an initial admissibility determination based on voluntariness of a confession, but jury separately assesses credibility of the confession which may also include considering its voluntariness).