

104.70 CONFESSIONS.

If you find that the defendant has confessed that the defendant committed the crime charged in this case, then you should consider all of the circumstances under which it was made in determining whether it was a truthful confession and the weight you will give to it.

NOTE WELL: N.C. Gen. Stat. § 15A-211 requires that a complete electronic recording be made of a custodial interrogation conducted at a police station or other place of detention in criminal investigations of Class A, B1, and B2 felonies and also in the Class C felonies of rape, sex offense or assault with a deadly weapon with intent to kill inflicting serious injury. When evidence of compliance or noncompliance with the requirements of the statute is presented at trial, the jury must be instructed that it may consider the evidence of compliance or noncompliance in determining the reliability of a statement made by the defendant during the interrogation. If evidence is introduced that the defendant made a custodial statement during interrogation at a place of detention and evidence is also introduced of compliance or noncompliance with the statute, then the following instruction should be given:

Evidence was introduced during this trial tending to show that the defendant made (a) statement(s) regarding the crime(s) charged in this case during an interrogation by (a) law enforcement officer(s). The law requires that whenever a person is interrogated by law enforcement during a criminal investigation, a complete electronic recording must be made of the interrogation. Evidence has been received during this trial tending to show that a complete electronic recording of the defendant's interrogation was (not) made as required by law. If you find that the defendant made (a) statement(s) during an interrogation by law enforcement in this case and that a complete electronic recording of the interrogation was (not) made, then you may consider this together with

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all other circumstances under which the statement(s) (was) (were) made
in determining whether the statement(s) (was) (were) voluntary and
reliable.