

3.11X
Prior Inconsistent Statements – Multiple Statements Admitted
For Limited and Substantive Purposes

[1] The believability of witness _____ may be challenged by evidence that on some former occasion he [(made a statement) (acted in a manner)] that was not consistent with his testimony [regarding _____] in this case. This evidence may be considered by you only for the limited purpose of deciding the weight to be given the testimony you heard from the witness in this courtroom.

[2] However, you may consider witness _____'s inconsistent [(statement) (action)] [regarding _____] as evidence without that limitation.

Committee Note

This instruction applies when some prior inconsistent statements are admitted for substantive purposes and other inconsistent statements are admitted for the non-substantive limited purpose of attacking the credibility of the witness.

Do not use this instruction when all prior inconsistent statements are admitted solely as substantive evidence pursuant to Rule 801 or Section 115-10.1 of the Code of Criminal Procedure (725 ILCS 5/115-10.1). *People v. Donlow*, 2020 IL App (4th) 170374, ¶ 73 (when a prior inconsistent statement has been admitted substantively, juries need not be instructed regarding that statement). All evidence is substantive unless limited to a non-substantive purpose.

Do not use this instruction when all prior inconsistent statements are admitted solely for the limited purpose of attacking credibility. In those circumstances, give Instruction 3.11.

Upon request, give paragraph [1] orally to the jury when non-substantive impeachment occurs. Impeachment occurs when it is completed. Impeachment is completed either when the witness admits the out-of-court statement or other affirmative evidence is admitted to perfect the impeachment. This instruction should be given in its entirety in the final, written instructions.

Where multiple witnesses or one witness with multiple statements are presented, paragraph [1] must be repeated for each applicable witness and/or statement.

Where applicable, insert the name of the testifying witness.

Where applicable, insert a brief phrase describing the testimony such as “regarding the description of the vehicle.” Do not repeat the entire testimony.

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of the court and counsel and should not be included in the instruction submitted to the jury.