

REHABILITATION BY PRIOR CONSISTENT STATEMENT

Normally you may not consider any statement that a witness made in the past which is similar to that witness's testimony at trial. That rule rests in part on our common experience that saying something repeatedly does not necessarily make it any more or less true. But we make an exception to that rule when there has been a suggestion at trial that a witness may have recently invented or changed the witness's testimony. In determining how reliable a witness is who has been accused of recently inventing or changing the witness's testimony, you may consider any earlier statements that the witness made which are consistent with the present testimony. It is for you to say how important the consistency is, depending on when any earlier statement was made and any other circumstances that you consider significant.

The earlier statement is *not* itself evidence of any fact that is mentioned in it, but you may consider it only for the limited purpose of deciding how much belief or importance you will give the witness's testimony here at trial.

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While a prior consistent statement is generally inadmissible, the trial judge may admit a prior consistent statement if the judge determines that 1) the opposing party has claimed that a witness's in-court testimony is a recent fabrication, and 2) that the prior consistent statement was made before the witness had a motive to fabricate his or her trial testimony. See *Commonwealth v. Morales*, 483 Mass. 676, 678 (2019), citing *Commonwealth v. Caruso*, 476 Mass. 275, 284 (2017) and Mass. G. Evid. § 613(b)(2).