**3.3 Other Crimes, Wrongs, or Acts of Defendant**

You have heard evidence that the defendant committed other [crimes] [wrongs] [acts] not charged here. You may consider this evidence only for its bearing, if any, on the question of the defendant’s [intent] [motive] [opportunity] [preparation] [plan] [knowledge] [identity] [absence of mistake] [absence of accident] and for no other purpose. [You may not consider this evidence as evidence of guilt of the crime for which the defendant is now on trial.]

**Comment**

*See* Fed. R. Evid. 404(b). Evidence of other crimes, wrongs or acts may be admissible for one purpose but not another; therefore, this instruction is required by Fed. R. Evid. 105 (“If the court admits evidence that is admissible against a party or for a purpose— but not admissible against another party or for another purpose—the court, on timely request, must restrict the evidence to its proper scope and instruct the jury accordingly.”).

The Ninth Circuit has approved this instruction. *See United States v. Lloyd*, 807 F.3d 1128, 1167 (9th Cir. 2015) (rejecting argument that “not charged here” improperly implies other acts that could have been charged); *United States v. Hardrick*, 766 F.3d 1051, 1056 (9th Cir. 2014).

*See also* Instruction 3.6 (Impeachment, Prior Conviction of Defendant) and the Comment thereto, the Comment to Instruction 3.3 (Other Crimes, Wrongs or Acts of Defendant), and Instruction 2.11 (Similar Acts in Sexual Assault and Child Molestation Cases).

*Revised Mar. 2018*