

3.5 Character of Victim

You have heard evidence of specific instances of the victim's character for [*specify character trait*]. You may consider this evidence in determining whether the victim acted in conformance with that character trait at the time of the offense charged against the defendant in this case. In deciding this case, you should consider the victim's character evidence together with and in the same manner as all the other evidence in this case.

Comment

Generally, character evidence is inadmissible, but it may be admitted for a particular purpose, *see*, Fed. R. Evid. 404(a)(2), and if sexual conduct of the victim is at issue, *see* Fed. R. Evid. 412. This instruction is a form of limiting instruction. *See* Fed. R. Evid. 105. When extrinsic evidence corroborating a defendant's testimony about a victim's prior acts of violence is admitted pursuant to Fed. R. Evid. 404(a)(2), this instruction should be modified accordingly. *United States v. Saenz*, 179 F.3d 686, 687-89 (9th Cir. 1999); *United States v. James*, 169 F.3d 1210, 1214 (9th Cir. 1999); *see also United States v. Keiser*, 57 F.3d 847, 854 (9th Cir. 1995) ("Rule 404(a)(2) provides one of the few instances in which character evidence is admissible to allow the jury to infer that a person acted on a specific occasion in conformity with his character.").

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