

PROOF OF OTHER CRIMES, WRONGS, OR ACTS -
DEFENSIVE USE¹
(N.J.R.E. 404b)

The defense has introduced evidence that:

[OR]

You are about to hear evidence that:

[Describe the evidence of other crimes, wrongs, or acts² offered by the defense.]

The evidence has been offered because

[Describe the defensive purpose for which the defense has offered the evidence.]³

You should consider this evidence, along with all the other evidence in the case, in determining whether or not the State has proven beyond a reasonable doubt that defendant is the person who committed _____ **[insert appropriate offense]** _____.

¹ The court must instruct the jury on the limited purpose of this evidence both at the time of its admission and in the final charge. See, e.g., State v. Angoy, 329 N.J. Super. 79 (App. Div. 2000).

² The exclusionary scope of N.J.R.E. 404b is broader than that of former Evid. R. 55 and extends to bad acts. State v. Nance, 148 N.J. 376, 386 (1997).

³ A defendant may use evidence of other crimes, wrongs, or acts defensively if in reason it tends, alone or with other evidence, to negate his guilt of the crime charged against him. A lower standard of admissibility - simple relevance - is required for defensive use of the evidence than for its use against the defendant. Nevertheless, the judge may balance its probative value against the potential for confusion or undue consumption of time. State v. Garfole, 76 N.J. 445, 452-53 (1978); State v. Williams, 214 N.J. Super. 12, 20 (App. Div. 1986).