

1.9 What is Evidence

The evidence you are to consider in deciding what the facts are consists of:

- > (1) the sworn testimony of any witness;
- > (2) the exhibits that are admitted into evidence;
- > (3) any facts to which the lawyers have agreed; and
- > (4) any facts that I [may instruct] [have instructed] you to accept as proved.

Comment

During deliberation, jurors are generally entitled to examine all exhibits properly admitted into evidence. The decision to send exhibits to the jury room is within the discretion of the trial court. *United States v. DeCoito*, 764 F.2d 690, 695 (9th Cir. 1985); *see also United States v. Chadwell*, 798 F.3d 910, 914-15 (9th Cir. 2015).

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