

155 EXHIBITS

An exhibit becomes evidence only when received by the court. An exhibit marked for identification and not received is not evidence. An exhibit received is evidence, whether or not it goes to the jury room.

COMMENT

Wis JI-Criminal 155 was originally published in 1962, revised in 1983 and republished without substantive change in 1991 and 2000. A non-substantive editorial correction was made to the Comment in 2018.

The Committee considers giving a separate instruction on exhibits to be optional since its substance is now incorporated in Wis JI-Criminal 103, **EVIDENCE DEFINED**. This instruction may be appropriate where more detailed advice about the status of exhibits is believed to be helpful.

Permitting exhibits to be taken to the jury room is a decision resting within the discretion of the trial court. For a discussion of factors bearing on this discretionary decision, see Payne v. State, 199 Wis. 615, 629-30, 227 N.W. 258 (1929).