

Criminal Procedure - Evidence

- I. INTRODUCTION; Includes tangible evidence, documents and testimonial evidence. demonstrative Evidence. Illustrative evidence

- II. ADMISSIBILITY: the jury will be allowed to consider admitted evidence but not excluded evidence.
 - A. To be admissible, evidence must be relevant and material and not otherwise inadmissible.
 - B. The judge rules on the admissibility of evidence, and has some discretion.

- III. DISTINCTION: DIRECT AND CIRCUMSTANTIAL EVIDENCE
 - A. Direct evidence: proof of a fact without need for other supportive facts.
 - 1. physical or tangible evidence
 - 2. documentary evidence: writings, computer media, photos, maps, audio recordings.
 - a) Because documents can be copied or faked, special treatment for admissibility.
 - 3. testimony: evidence offered by the words of a witness in court, under oath. Testimony: may involve
 - a) direct observations by the witness
 - b) circumstantial observations by the witness.
 - 4. Demonstrative evidence: charges, diagrams to help illustrate or explain, created especially to persuade the jury. (like a Powerpoint slide.)

B. Circumstantial evidence: proof of a fact by proof of a fact that permits an inference or conclusion that the main fact in issue is true. Facts which indirectly demonstrate the main fact in questions.

C. Identification Evidence, a special case:

1. lineup, must not be unnecessarily suggestive
2. showups:
3. mug shots.
 - a) sanctions:

IV. SPECIAL ISSUES;

A. Scientific Identifications – collection problems

1. DNA
2. Fingerprints
3. Blood tests

B. Scientific opinions:

1. Polygraph
2. Voice tests

V. FOUNDATION FOR ADMISSION

A. Foundation: relevance, materiality, reliability

B. Technical Evidence Rules

1. Hearsay and exceptions
2. Presumptions

C. Chain of Custody:

1. All in the chain of custody must testify
2. evidence rooms

D. Exclusionary Rule: Evidence and testimony obtained from an illegal search or arrest is excluded from admissibility. (Case is not dropped, but it hurts the prosecution)

1. fruit of the poison tree
 2. exceptions to the exclusionary rule
 - a) inevitable discovery
 - b) good faith reliance on belief that warrant was sufficient
 - c) independent source
- E. Use of physical evidence by the jury.
1. Weight of the evidence
 2. Permissible inferences
 3. Jury nullification