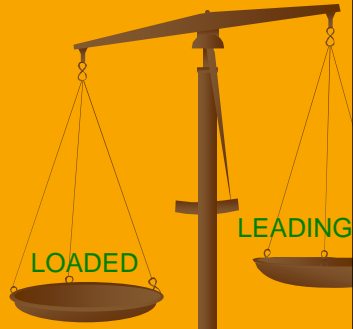


Questions ??



What is a *leading question* ?

A leading question suggests a particular answer that the questioner desires – most often a simple ‘yes’ or ‘no’ answer.

- “You were in Los Angeles last week, weren’t you?” (Leading question)
- “Were you in Los Angeles last week?” (Neutral question)

Types of Leading Questions

- You were in Los Angeles last week, weren’t you?
- You didn’t see the stop sign, did you?
- You never came home that night, right?
- Isn’t it true that you had been drinking?
- Weren’t you sick on Tuesday?
- You’ve seen your children since the divorce?

Who may ask a leading question?

- Witness's attorney, during direct examination, generally may not ask leading questions because then the attorney would be suggesting to the witness what the answer should be.
- Opposing attorney, during cross-examination, may freely ask leading questions in order to 'trick' the witness in answering, to discover contradictions, or to raise doubts in the minds of the jurors.

What can a witness do when hit with a leading question?

- Nothing. Your lawyer can't object. It's 'legal'.
- Don't answer just 'yes' or 'no'. Add an emphatic denial if your answer is not the expected one.
 - Q: "You were in Los Angeles last week, weren't you?"
 - A: "No. I was not."

What is a *loaded question*?

A loaded question implies some fact that has not been previously established. In answering this kind of question (with its negative implication), the witness is put in a dilemma.

- "Do you still beat your wife?" (Loaded question because it implies that you used to beat your wife.)
- "Do you beat your wife?" (Neutral question)

Not all questions that imply some fact are 'loaded'. Only those where the implication has a negative connotation.

Compare:

"Do you still volunteer to feed the homeless on Sunday mornings?"

Types of Loaded Questions

- *When did you stop beating your husband?* [implies that you were beating your husband in the past]
- *Did you realize that your company was in debt?* [implies that your company was in debt]
- *Did you manage to cash a bad check?* [implies that you attempted to cash a bad check]
- *Before you hit the other car, had it already entered the cross street?* [implies that you hit the other car]
- Were you sorry that you had caused a horrible accident? [implies that you caused an accident]

Unfortunately, a question could be both loaded and leading.

"You still beat your husband, don't you?"

↑
loaded

↑
leading

**Who may ask
a loaded question?**

- It will ALWAYS be the opposing attorney.

**What can a witness do when
hit with a loaded question?**

- Hope your own attorney objects.
- Explain why you cannot directly answer the question because of the presupposition contained in it.
- Don't answer 'no'; instead, overtly deny the presupposition.

Q: "Do you still beat your wife?"

A: "I have never beaten my wife."

"The law is a profession of words."

David Mellinkoff,
Professor of Law, UCLA
