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