Direct examination of witnesses is done by

During a trial, lawyers have the opportunity to conduct an examination of certain witnesses and to interview other witnesses. Depending on who calls the witness to testify, it will generally dictate the type of examination that will take place for each witness. For example, if the complainant calls a witness to the stand (assuming the witness is not a hostile or adverse witness), the plaintiff's lawyer will engage in a direct examination of the witness. Normally, a direct examination consists of who, what, where, when and why the style of questions. Asking open questions, such as these, allows the witness to freely describe his impressions of what happened in a particular situation. Furthermore, apart from limited circumstances, a lawyer may not lead the witness during a direct examination. Instead, cross-examination provides a type of difference in opportunity for a lawyer to examine a witness. The interrogation takes place after a direct examination of the witness. In particular, the cross-examination allows the opposing party's lawyer to question the witness in order to discover information that was not disclosed during the direct examination or to prosecute the witness. When a lawyer tries to prosecute a witness, the lawyer basically tries to question the credibility of the witness before the judge and the jury. The prosecution of a witness is intended to show the jury the testimony of the witness at the direct examination, or throughout the entire trial, cannot be trusted. Importantly, in interrogation, a lawyer can lead the witness. An example of driving the witness is following: Question: You were texting while driving at the time of the collision, right? Answer: Right. Leading a witness is a strategic tactic that trial lawyers use while examining a witness. A main question suggests, in essence, the answer to the question. After it can be said, direct examination and cross-examination are two critical stages of a process. Since the examination stage of the trial is of the utmost importance, it is essential to take into account not only the potential testimony of the witness, but also the credibility of the witness. Thus, in addition to the other stages of the study, the substantial amount of training is usually necessary for effective direct examinations and cross-examinations. This article about the law is a stub. You can help Wikipedia by expanding it.vte questioning a witness in a trial by the party who called the witness This article needs additional quotes for verification. Please help improve this article by adding quotes to trusted sources. Non-exturse materials may be challenged and disposed of. Find sources: Direct Review – news · newspapers · · scholar · JSTOR (April 2013) (Learn and when to remove this template message) Proof Part of the Series of Laws Types of Evidence Evidence Documentary Real (Physical) Digital Exculpatory Incriminating Identification of Genetic EyeWitnesses (DNA) Lies Relevance Of Evidence Task Establishing a Foundation Materiality Public Policies Exclusions Spolation Character Habitment Similar Fact Authentication Custody Chain Judicial Notification Best Evidence Rule Auto-Authentication Document Old Hague Evidence Convention Witnesses Competence PrivilegeExtra-Examination Redirection Registration Recorded Witness Expert Dead Man's Status and exceptions in English law in the United States law Confessions of business records excited lysation death statement Part admission ancient document Statement against interest Present sense impression Res gestae Learned treaty implicit statement Other areas of common law Contract Cake Property Wills, trusts and estates Criminal

law vteAmine direct or examination-in-chief is a step in the process of giving evidence from witnesses in a court of law. Direct examination is the hearing of a witness by the party who called him in a trial. Direct examination is usually carried out to obtain evidence in support of facts which will satisfy an element necessary by the request of a party or the defence. In direct examination, it is generally prohibited to ask driving questions. This prevents a lawyer from feeding the responses to a favorable witness. An exception to this rule arises if a party has called a witness, but it is either understood or becomes clear, that the witness is hostile to the part of the questioner of the controversy. The lawyer can then ask the court to declare the person he called to the stand as a hostile witness. If the court does so, the lawyer may subsequently ask the witnesses for driving questions during the direct examination. Direct examination techniques are taught in process advocacy courses. [1] Each direct examination is integrated with the overall strategy of the case either through a theme and theory or, with more advanced strategies, a line of effort. [2] See also cross-examination - questioning a witness appointed by a redirect examination opponent - U.S. legal term List of reference ^ Lubet, Steven; Modern Trial Advocacy, NITA, New York, NY 2004 pp. 45 et. seq. ISBN 1556818866 ^ Dreier, A.S.; Strategy, Planning & Litigation to Win; Conatus, Boston, MA, 2012, pp. 46-73; ISBN 0615676952 Taken from Direct Examinations are the heart of the case that the prosecution presents at trial. As a general rule, direct examination is open to questions in any field, as long as the questions are relevant. See G.S. 8C-1, Article 401, 403. The aim is to ensure that all information and useful for the case of the State is presented, while avoiding any superfluous distraction. The format of the questions on should be open (what time did you get there?) rather than driving (you got there around 7:00, right?), unless specific circumstances allowing the use of driving questions are present (see Driving Questions, below). The prosecutor should prepare in advance to ensure that important details are not left on the way out during the examination. This means not only determining the questions to be asked of each witness, but also planning the order in which to address them (introduction of the witness, relevant background information, chronological order of relevant events, follow-up of specific details and so on). Practice PointerPreparing QuestionsFor most witnesses, the best practice is for the prosecutor to prepare a sketch of the key points of testimony that he or she wants to cover with the witness, but to avoid using fully scripted questions. This allows for a more natural and conversation between the prosecutor and the witness, which better presents the jury. However, when dealing with complex foundation or authentication issues, or highly technical issues involving expert witnesses, it might be useful to ask the proposed questions in more detail in order to avoid inadvertently leaving an essential point. Redirect Review of redirection The examination takes place after cross-examination of a witness. The redirection examination generally has a much narrower scope than the direct examination and is used to clarify the testimony which was questioned in the cross-examination, to clarify [a] new question presented at the cross-examination or to reject the testimony obtained in the questioning. Stat v. Franks, 300 N.C. 1 (1980); Stat v. Davis, 68 N.C. App. 238 (1984). The purpose of a redirection examination is not to introduce new issues or merely to have the witness repeat the testimony already given directly, see State v. weeks, 322 N.C. 152 (1988); Stat v. Stitt, 147 N.C. App. 77 (2001), but the court is free to allow the introduction of testimony that goes beyond the scope of questioning, as long as it is relevant and otherwise admissible. See Status v. Barton, 335 N.C. 696 (1994); Stat v. Davis, 68 N.C. App. 238 (1984). This is especially true if the defence opens the door by inquiring into a subject on cross-examination, in which case the state may address in response to the redirection examination. For example, if the witness is charged in the context of a cross-examination, the witness may be given the opportunity to explain or clarify this matter when examining the redirection, even if that testimony would not have been admissible other way to direct examination. See, for example, State v. Johnston, 344 N.C. 596 (1996) (allowing testimony of evidence of character on redirection); Stat v. Patterson, 284 N.C. 190 (1973) (allowing questions on redirection on a previous occasion when the defendant raped the witness after the defense opened questioning, asking about the witness's antipathy towards the defendant). Determination of the Order of Witnesses Before the start of the trial, the prosecutor should decide on the order in which to call state witnesses. A chronological progression that begins with pre-criminal activities or preparations, then moves into the investigation itself, and ends with any post-arrest pursuit is usually the most logical and understandable sequence to follow. But the prosecutor also needs to be flexible, as there will often be scheduling and witness availability issues that force the prosecutor to adapt their plans. A smooth and orderly presentation is essential for the jury to fully understand the case, and the prosecutor should try to make things easier for them. For example, the state should call the officer who collected an item (to establish identification, authentication and chain of custody) before calling the forensic analyst who tested or examined that item. Prosecutors should also take into account that jurors tend to have the best recall of information they hear first and last. Open the case with a strong witness who will make a good first impression. Use a witness who is unlikely to be injured by cross-examination (e.g. owner or victim robbery). This gives a good tone and atmosphere to continue the testimony. Don't start with someone negative that the jury may dislike, it would be an accomplice testifying, who has a plea agreement with the state. Put any boring or questionable witnesses in the middle. Conclude with a powerful witness (perhaps an articulated expert witness or lead detective) to confirm and connect important facts. Always remember the watch, and use it to the benefit of the state in examining a witness. Plan ahead for breaks and breaks in court, and pay attention to the latest images or testimonies that the jury will see or hear until the case resumes. Also, be aware of how the clock can adversely affect the effectiveness of a witness's testimony. For example, if the expert's unusually complex or technical testimony is interrupted by a weekend break, which may make it difficult for the jury to remember and understand the testimony. Witness training Most law enforcement witnesses will already have experience in testifying in court, but victims and other civilian witnesses often require additional training. The prosecutor must tell the witness during the preliminary conference that he or she cannot testify for the witness - the witness will have to tell the story in his or her own words. Encourage the witness to tell the story as much as possible. However, since the ability of witnesses to speak naturally in other people vary, certain short questions, would be What happened next? or what else did you see? can be helpful to keep the witness moving along. The witness must have been that the prosecutor will be there to help the witness perform well on the stand. Tell the witness the questions (or at least the topics) that he or she will be asked in advance, and also tell the witness what questions to expect in the interrogation. If possible, ask a colleague to attend the training by conducting a simulated cross-examination with the witness to show the witness what to expect. The goal is not to scare the witness, but the interrogation shouldn't be too gentle either. The prosecutor must ensure that the witness is prepared for a vigorous cross-examination. This is especially true when the witness is a small child, an elderly citizen, a sexual assault victim, or an unstable or emotional witness. Show the courtroom witness and the witness to stand in front of the trial. Go through the whole trial with the witness. Be honest about what the witness can expect. Tell the witness about the judge, the likelihood of objections and react or respond to them. Tell the witness to explain his answers to the interrogation and not let the defense attorney put words in the witness' mouth. Tell the witness that he or she is not limited (to questioning) to a yes or no answer if a simple yes or no answer would not correctly represent the facts. In this situation, the witness may give the answer and an explanation. The prosecutor should ensure that the first and last thing he says to the witness is to always tell the truth. When the defense attorney asks the witness about being prepared to testify, and if the prosecutor told you to say that, the witness should be able to answer honestly that the prosecutor just told me to always tell the truth. Talk about sound and noise in the courtroom and make sure the witness understands that he must speak and speak clearly – the witness must be heard and understood by the jury, the judge, the court reporter and the parties. Be sure to tell the witness to dress up, where to go, and be on time. Don't just assume that the witness knows these things. Practice PointerWitness prep meetingsThe proofers are often overworked and busy, and there will always be time to conduct such thorough training with each witness before each trial. And indeed, not all witnesses will need such a high level of preparation. But if the prosecutor can't meet with the witness in person before the trial, he or she should at least try to prepare the witness on the phone. If the D.A. doesn't even have time to make a quick phone call to the witness before the trial, then it's time to ask a colleague for help. You do not intend to speak to a witness for the first time when the witness appears in court and is about to start - or even worse, after the witness has taken a stand. Position. Questions concerning direct examination Article 611(c) generally prohibit the main questions concerning direct examination of witnesses. The main questions are those that contain the answer suggested in the question itself - for example, you didn't actually get there by 8:00, did you? See, in general, state v. Young, 291 N.C. 562 (1977); Stat v. Williams, 304 N.C. 394 (1981). But a question is not automatically leading simply because it asks for a yes/no answer from the witness, draws the person's attention to a particular point or problem, or bridges from one topic to another. In other words, it depends both on the form and context of the question. See Status v. Thompson, 306 N.C. 526 (1982); Stat v. White, 349 N.C. 535 (1998); Stat v. Smith, 135 N.C. App. 649 (1999); Stat v. Howard, 320 N.C. 718 (1987). In addition, it is usually in the interest of the prosecutor to ask open questions directly and let the witness testify naturally, instead of trying to lead the witness, because the jury wants to feel confident that they are hearing the facts from the witness's own memory and in the words of the witness. However, as described in the Official Comment to Article 611, the main questions may be appropriate for use in direct examination in the following circumstances: Use of props and exhibits When a witness is called to testify, the prosecutor may increase the impact of this testimony by using physical evidence as much as possible (within the grounds). Movement and work will help the jury to be fully involved and pay attention. For example, the prosecutor could hand the witness the gun, clothing, stolen items, etc., which were involved in the murder, and he could have the witness identify it. Then ask the witness to resign (with the permission of the court) and show the jury directly the distinguishing marks on the handle, the damage he has caused, the dry blood on his sleeve, etc. The prosecutor can also use photos, maps and diagrams whenever possible to help the witness in illustrating their testimony. The D.A. should never show a witness anything that's not certain the witness can identify. The prosecutor should also bear in mind that very few people can effectively shoot, write, or count in public - especially with twelve jurors and a full gallery of spectators watching them. Keep any drawing, labeling, or counting to a minimum. Voice and posture techniques The Prosecutor must remain seated during the normal questioning of witnesses, but there are many other ways in which the Prosecutor can highlight or draw attention to significant testimony or evidence in this case, for example: (1) tilting backwards or forwards; (2) changing the tone of the voice or (3) the proximity of the witness – with permission; (4) changing the subject or model of questions; or (5) ask the witness to do something (e.g. to stand up and the person who committed the offence). In addition, for jurors who have sat through several hours (or perhaps days) of testimony from witnesses and arguments from lawyers, even a short period of silence can be quite dramatic. For example, when the victim testifies no doubt in my mind – who is the man there who did this, the prosecutor can focus his attention on this testimony by pausing for a moment before asking the next question. Silence allows the meaning of the last answer to completely sink into the minds of the jury before moving on. Refreshing a witness's memory If a witness pulls a blank, becomes unresponsive, freezes on the bar, or becomes upset or confused, the prosecutor must be familiar with the rules and procedures for refreshing a witness's memory and getting the testimony back on track. The two most important tools to do this are Rule 612 for Reinvigorating Memory, and Rule 803(5) for the previous recorded memory. Article 612 provides that a witness may use an object in court to refresh his memory. The element can be virtually anything, from a written note to a physical object, provided that it manages to actually jog the person's memory, so that the resulting testimony comes from the witness's own memory. The accused has the right to inspect any object used to refresh the witness's memory. After the inspection, the defendant shall also be allowed to question the witness with the object and, where appropriate, to enter the part of the document or object relating to the witness's testimony into evidence. If the writings or objects are used before testifying, whether or not they are present in the courtroom, the defendant's lawyer has the right to have those parts relating to the testimony produced, but only if the court determines that the interest of justice so requires. See Status v. Hall, 330 N.C. 808 (1992). For more information, see the entry of related evidence from Refresh Memory [Article 612]. Article 803(5) is an exception to hearsay, which allows the introduction and use of a memorandum or report (recorded memory) of which the witness once had knowledge, but now does not have sufficient memory to testify fully and accurately. For example, when a witness gave a description of the suspect to the police at the time of the murder, but no longer remembers that description when he or she testifies. See Status v. Nickerson, 320 N.C. 603 (1987) (supporting the court's decision to allow the witness to read in evidence a signed statement that the witness gave to the Deputies a few weeks after - witness testified at trial that he could no longer remember what happened after the shooting, but did not remember giving a prior statement about it). For more information, see the related evidence section of the Registered Collection (Article 803(5)). 803(5)]. 803(5)].