

Presenting Evidence in a Trial

Reading Preview

Key Concepts

- What are the assigned roles of a judge, an impartial jury, and the lawyers at a criminal trial?
- How do lawyers use exhibits in court?
- How do lawyers use witnesses to present evidence?

Key Terms

- bailiff
- exhibit
- testimony
- cross-examination
- expert witness

Target Reading Skill

Previewing Visuals When you preview, you look ahead. Look at Figure 6. Then write two questions you have about the illustration in a graphic organizer like the one below. As you read, answer your questions.

Question	Answer
What does a bailiff do?	A bailiff helps keep order in the court.

Jurors who watch crime shows may have a false picture of what typically happens in a crime lab or during a trial.

Discover Activity

What Makes a Good Juror?

A lawyer often asks potential jurors questions like these.

1. Do you have any personal connection to the defendant or the lawyers in this case? If so, what is that connection?
2. Have you heard or read news reports about this case? If so, have you formed an opinion about the defendant's guilt or innocence?
3. Do you think that people who are charged with crimes are usually guilty of those crimes?

Think It Over

Making Judgments Why would a lawyer want to know the answers to these questions?

Many people like to watch crime shows on television. They enjoy seeing how the detectives and the scientists solve crimes. These shows are designed to entertain the audience. So the writers are drawn to unusual cases. Jurors who watch these shows may come to court with unrealistic expectations. They may, for example, expect to see fingerprints or DNA evidence in every case.

The high expectations of jurors can be a challenge for the lawyers. It helps if the lawyers have a logical story to tell. It also helps if they can present a mix of visual and oral evidence.



In the Courtroom

Figure 6 shows how a typical courtroom is organized. In a courtroom, each person has a role and an assigned place. The roles include a judge, an impartial jury, and the lawyers.

The Judge The judge sits at the front on a raised bench. This arrangement makes it clear who controls what happens in court. **The judge makes sure that everyone behaves and follows the law.** If people fail to follow the rules, the judge can charge them with “contempt of court.” The punishment for this crime may be a fine or a jail term.

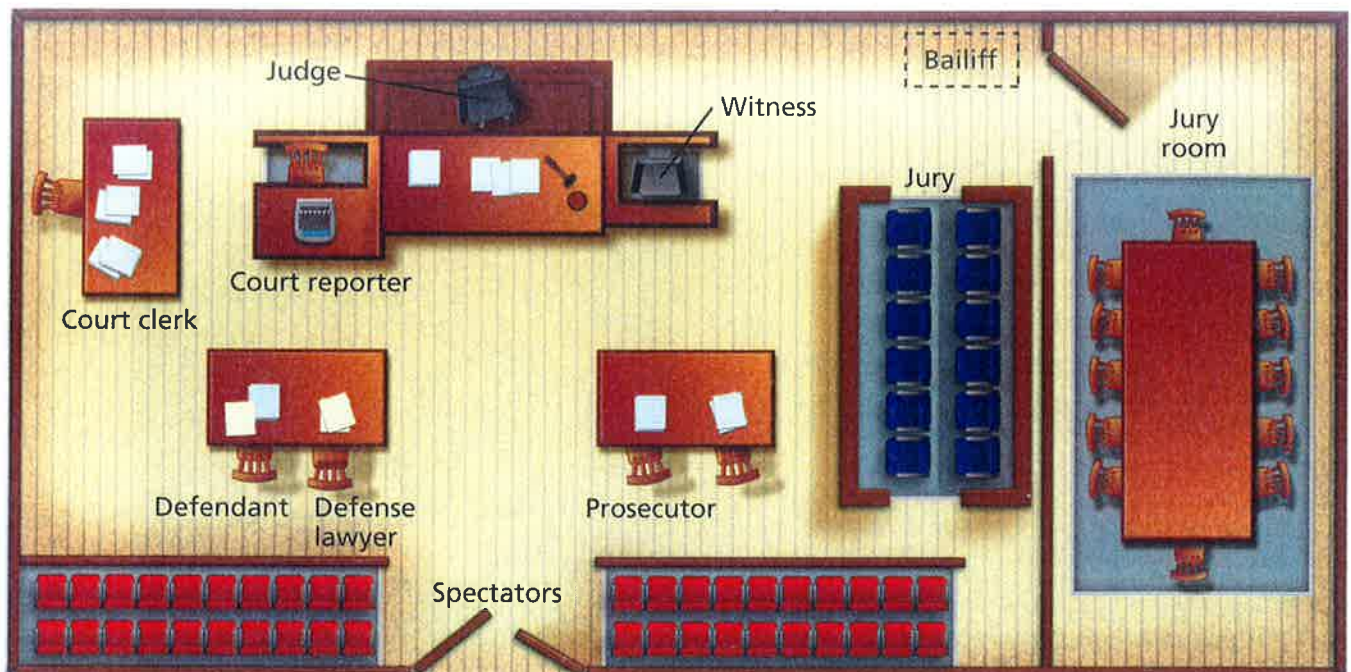
Lawyers often disagree about what questions a witness can be asked or what evidence can be used. Judges use what they know about the law to decide who is right.

Other Court Employees Three court employees who help a trial run smoothly are the bailiff, the court reporter, and the court clerk. A law enforcement officer called a **bailiff** helps the judge keep order in the court.

A court reporter makes a record of everything that the lawyers, judge, and witnesses say. The reporter types as people talk. Sometimes a reporter is asked to search through and read back part of the record. Court reporters often tape what is said so they can check and correct their typed notes later.

The court clerk keeps the schedule of cases and makes notes summarizing what happens in each case. The clerk has other tasks, too, such as swearing in witnesses.

FIGURE 6
The Courtroom
 People have specific roles and assigned places in a courtroom.
Interpreting Diagrams Where do the prosecutor, defense lawyer, and defendant sit?





A Jury Is Chosen

A case may be settled before trial. If not, a defendant has the right to a trial by an impartial, or fair, jury. **An impartial jury makes its decision based only on the facts presented in court.** The way a jury is selected can help to ensure a fair jury.

The Jury People who live in the United States have duties as well as rights. One duty is to serve on a jury. To serve on a jury, a person must be a citizen who is age 18 or older. The person must live in the district where the court is located.

In most criminal trials, there are 12 jurors. A jury is likely to have people of different ages. There will be men and women. In many communities, the people will come from different ethnic groups. With a variety of people, the chances are better that the jury will be fair.

The Selection Process Potential jurors are often asked questions by a judge or by the opposing lawyers. The judge and lawyers want to eliminate people who might not make a fair decision. Lawyers also may ask questions to figure out which people are more likely to support their side of the case.

A lawyer can ask the judge to dismiss a juror for cause. For example, a juror might know the defendant. Lawyers often have the right to dismiss a few jurors for no stated reason.

Before the trial begins, the judge gives some instructions to the jury. The jurors may be told not to discuss the case with anyone, not even with other jurors. The jurors may be asked to avoid reading or listening to news reports about the case.

FIGURE 7

The Jury Is Sworn In

A court clerk swears in the jurors. They promise to listen to the evidence and make a fair decision.

Skills Activity

Calculating

A person arrives for jury duty. There are a total of 150 people waiting to serve on a jury. At noon, the bailiff announces that a jury will be selected for one trial. What is the probability that any one of the people waiting will end up on the jury?



Reading
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Which people can serve on a jury?

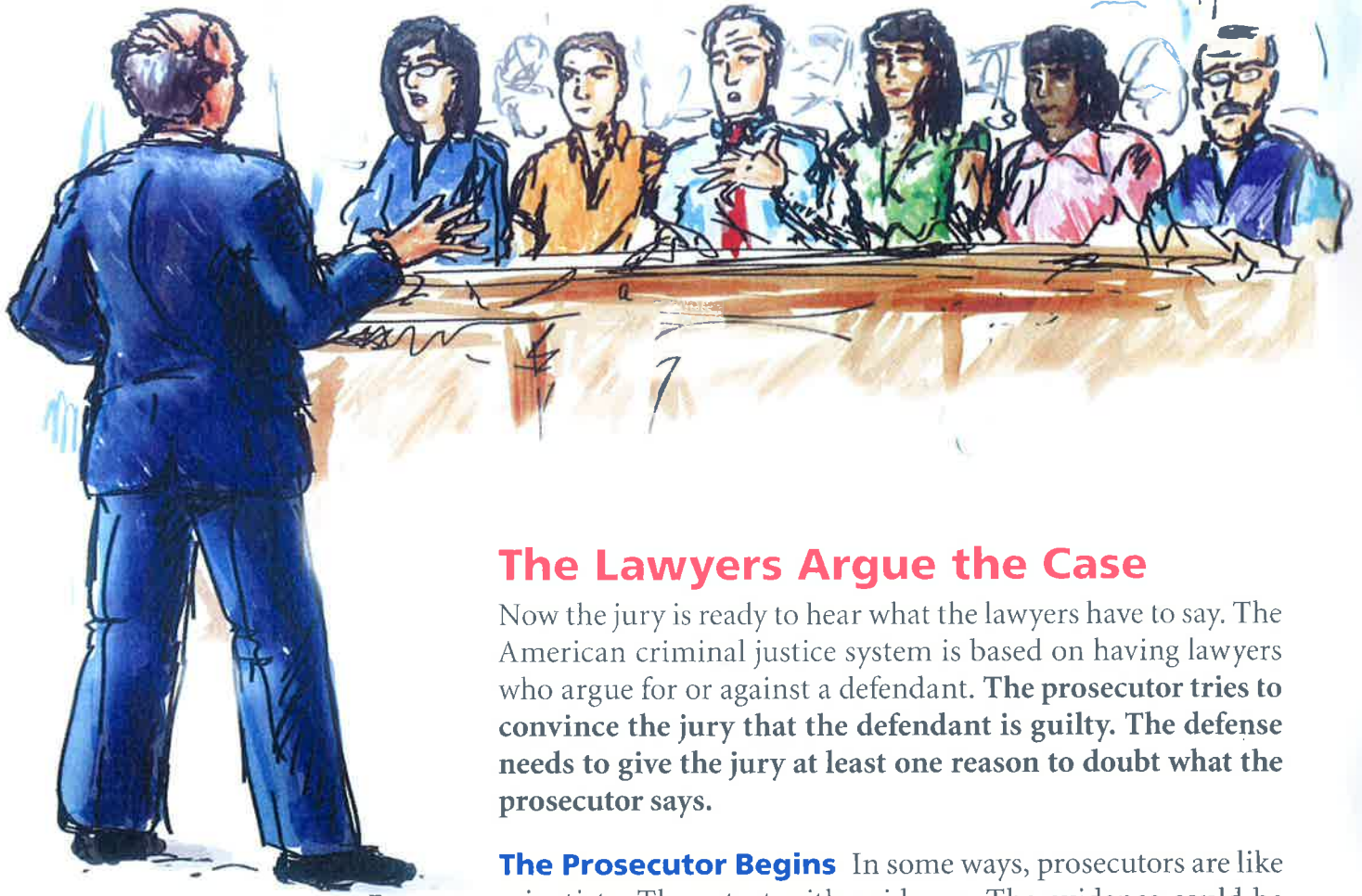


FIGURE 8

Opening Arguments

The prosecutor speaks to the jury first. He begins by stating his hypothesis about the case.

Applying Concepts *Why does the prosecutor direct his arguments to the jury instead of the judge?*

The Lawyers Argue the Case

Now the jury is ready to hear what the lawyers have to say. The American criminal justice system is based on having lawyers who argue for or against a defendant. **The prosecutor tries to convince the jury that the defendant is guilty. The defense needs to give the jury at least one reason to doubt what the prosecutor says.**

The Prosecutor Begins In some ways, prosecutors are like scientists. They start with evidence. The evidence could be photos, interviews, or data from lab tests. Like a scientist, a prosecutor will develop a hypothesis to explain the evidence.

In his opening statement to the jury, the prosecutor will state his hypothesis. He will tell the jury what he thinks the defendant did, and why. The jury may get a preview of the evidence that they will see and hear.

The Defense Responds A lawyer for the defense also makes an opening statement. She will point out places where the prosecutor's case is weak. She may offer a hypothesis of her own that can explain the evidence. Then she may call her witnesses. She may use some of these witnesses to disprove evidence that was presented by the prosecutor.

Closing Arguments Once all the witnesses have spoken, the lawyers make their closing arguments. They review the evidence. Each side tries to use the evidence to persuade the jury to decide in its favor.



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How is a prosecutor like a scientist?

Visual Evidence

An **exhibit** (eg zIB it) is a physical object that is used to make a point in court. Each exhibit has a label, such as P102 or D116. The clerk keeps a list of the exhibits. **Lawyers use exhibits to present a crime scene, connect a defendant to a crime, or explain scientific evidence.**

Presenting a Crime Scene Jurors may take a field trip to the crime scene. More often, they are shown enlarged crime scene photos and drawings, or a video of the crime scene. A lawyer may show jurors a three-dimensional (3-D) scale model of the crime scene. Or he may use a computer to give the jury a virtual tour of the crime scene.

Connecting a Defendant to a Crime Lawyers often use exhibits to connect a defendant to a crime. They might show a weapon or enlarged photos of prints. There may be a credit card receipt from a gas station. The jury might even watch a video of the defendant being questioned by the police.

Explaining Scientific Evidence Suppose there is DNA evidence in a case. Before jurors can judge the evidence, they need to learn about DNA. A forensic scientist will likely use diagrams and charts to help explain the scientific concepts.



Reading Checkpoint

What are three ways a lawyer can present the crime scene to a jury?

Discovery
EDUCATION™

Forensic Science Video
Virtual Crime Scenes

FIGURE 9
Using Exhibits

This witness is using an exhibit to show where she was standing when the crime took place.

Observing What type of exhibit is the witness using?

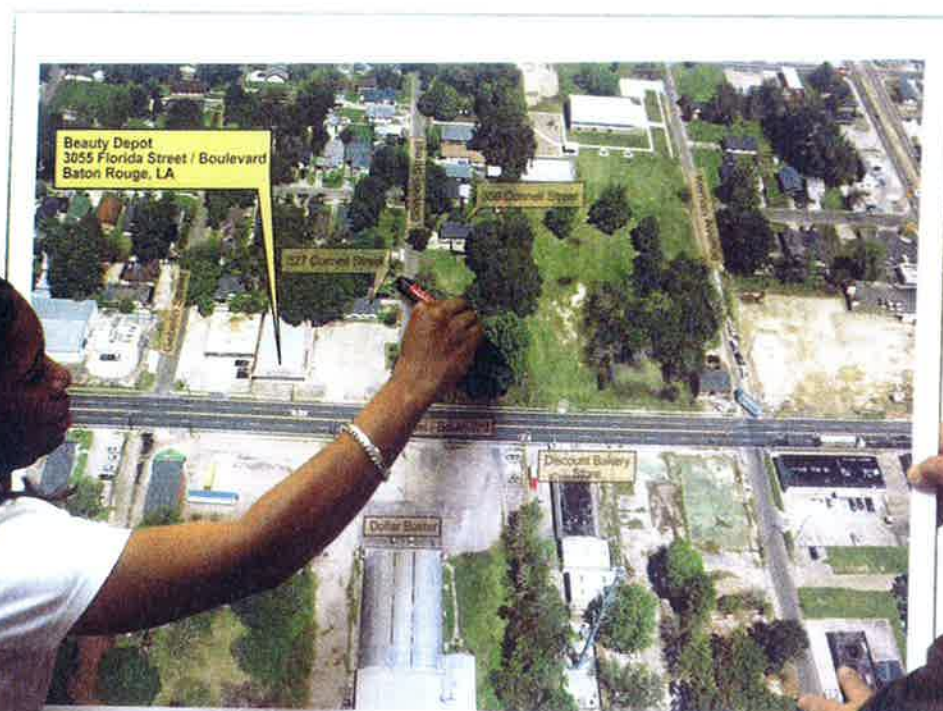




FIGURE 10

Direct Examination

The prosecutor is questioning a witness that he called to testify.

Interpreting Diagrams How does a lawyer typically behave during direct examination?

Oral Evidence

Exhibits are never used on their own in a trial. They are used along with the statements of witnesses. **Both eyewitnesses and expert witnesses can provide oral evidence in a trial.** This oral evidence is called **testimony**. Police officers, for example, may testify about what they found at a crime scene.

Before a witness can testify, he or she must take an oath. The witness swears to “tell the truth, the whole truth, and nothing but the truth.” People who lie during sworn testimony can be charged with a crime.

No matter what type of witness is called to the stand, the general process is the same. The lawyer who calls a witness does a direct examination. The opposing lawyer may cross-examine the witness.

Direct Examination Before a trial, lawyers prepare their witnesses. They ask questions like the ones they plan to ask in court. They remind witnesses to answer only the questions that are asked and to keep their answers brief and to the point.

Some questions are not allowed during a direct examination. For example, a lawyer cannot ask a leading question—one that contains the answer the lawyer wants. “When you entered the room, was Miss Bell holding this knife?” isn’t allowed. “What did you see when you entered the room?” is.

The opposing lawyer may object to a question being asked or to the answer. If the judge agrees with the lawyer, the judge will say, “objection sustained.” If the judge does not agree, the judge will say, “objection overruled.”



FIGURE 11

Cross-Examination

When the prosecutor is done, the defense lawyer may ask the witness some questions.

Interpreting Diagrams How does a lawyer typically behave during cross-examination?

Cross-examination The direct examination is over. Now the opposing lawyer gets a chance to ask questions. The process in which one lawyer asks questions of another lawyer's witness is called **cross-examination**. Each side is given a list of witnesses that the other side plans to call during the trial. This gives the lawyers time to prepare for cross-examination.

There are rules about the questions a lawyer can ask during a cross-examination. The questions must relate to facts that were revealed during the direct examination. The lawyer, however, is allowed to ask leading questions.

A lawyer will try to make the testimony of a witness seem less believable. For example, a woman witnesses a robbery in a store. When she is asked to identify the robber, she points to the defendant. The defense lawyer may ask questions like these. "Wasn't your view blocked by a magazine rack?" "Didn't you accuse my client of stealing your jacket?"

The Defendant as Witness Recall that a person has the right to refuse to be a "witness against himself." This right protects a defendant from having to make statements that prove he is guilty.

Suppose a defendant who is innocent decides not to testify. The jurors may infer that the defendant is guilty. But the judge will explain to the jurors that the law does not allow them to make this inference.

Skills Activity

Posing Questions

You are the defense lawyer for a person on trial for a burglary. A witness states the following. "At around 11 P.M., I saw the defendant cross the street, climb the fire escape, and enter the apartment through a window." Prepare three questions to use when you cross-examine the witness.



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What is the goal of cross-examination?



FIGURE 12

Expert Witnesses


This firearms expert is showing the jury a rifle. He will explain how he knows that this rifle was used by the defendant.

Expert Witnesses An **expert witness** is a person who has knowledge of a specific area of study. Forensic scientists may have to testify as expert witnesses. Their role is not to prove a defendant guilty. Their role is to help explain technical evidence to the jury. If they do this job well, the jury will be better able to evaluate the evidence. Unlike other witnesses, expert witnesses can give their opinions. They are also asked to draw conclusions.

The lawyer who calls an expert as a witness starts by asking questions about the expert's education and experience. The goal is to show that the witness is qualified and worthy of trust. The lawyer for the other side may try to show that the expert is not qualified. This lawyer may also question the methods the expert used to test the evidence. The goal is to make the jury doubt the expert's opinion on the test results.

Just knowing the science is not enough. To be a good expert witness, scientists must have good communication skills. They must know how to present technical evidence in a clear way. They must also appear confident.

Lesson 2 Assessment

 **Target Reading** **Previewing Visuals** Use the graphic organizer you made for Figure 6 to help you answer these questions.

Reviewing Key Concepts

- Summarizing** What are the roles of a judge, a prosecutor, and a defense lawyer in a trial?
 - Defining** What is an impartial jury?
 - Posing Questions** A teen is accused of stealing a car. What is a question a lawyer could ask to find out if a juror might have sympathy for the teen?
- Defining** What is an exhibit?
 - Describing** List three reasons that lawyers have for using exhibits during a trial.
 - Predicting** Who do you think is more likely to present exhibits, a prosecutor or a defense lawyer? Why?
- Reviewing** What type of evidence do witnesses provide?
 - Identifying** Who does the direct examination of a witness? Who may do the cross-examination?
 - Predicting** A judge allows a lawyer to ask a leading question. Is the lawyer doing a direct examination? Why or why not?

At-Home Activity

Mapping Justice Work with family members to make a map of your community that shows locations where a defendant might be before, during, or after a trial. Include courthouses and police stations. Is there a local jail or a state prison in your community? Use a phone directory or search online to find related locations, such as a legal aid clinic.