

<p style="text-align: center;"><b>ARTICLE V. PRIVILEGES</b></p> <p style="text-align: center;"><b>Rule 501. General Rule</b></p>	<p style="text-align: center;"><b>ARTICLE V. PRIVILEGES</b></p> <p style="text-align: center;"><b>Rule 501. Privilege in General</b></p>
<p>Except as otherwise required by the Constitution of the United States or provided by Act of Congress or in rules prescribed by the Supreme Court pursuant to statutory authority, the privilege of a witness, person, government, State, or political subdivision thereof shall be governed by the principles of the common law as they may be interpreted by the courts of the United States in the light of reason and experience. However, in civil actions and proceedings, with respect to an element of a claim or defense as to which State law supplies the rule of decision, the privilege of a witness, person, government, State, or political subdivision thereof shall be determined in accordance with State law.</p>	<p>The common law — as interpreted by United States courts in the light of reason and experience — governs a claim of privilege unless any of the following provides otherwise:</p> <ul style="list-style-type: none"> <li>• the United States Constitution;</li> <li>• a federal statute; or</li> <li>• rules prescribed by the Supreme Court.</li> </ul> <p>But in a civil case, state law governs privilege regarding a claim or defense for which state law supplies the rule of decision.</p>

**Committee Note**

The language of Rule 501 has been amended as part of the restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.

<b>Rule 502. Attorney-Client Privilege and Work Product; Limitations on Waiver</b>	<b>Rule 502. Attorney-Client Privilege and Work Product; Limitations on Waiver</b>
<p>The following provisions apply, in the circumstances set out, to disclosure of a communication or information covered by the attorney-client privilege or work-product protection.</p>	<p>The following provisions apply, in the circumstances set out, to disclosure of a communication or information covered by the attorney-client privilege or work-product protection.</p>
<p><b>(a) Disclosure made in a Federal proceeding or to a Federal office or agency; scope of a waiver.</b> When the disclosure is made in a Federal proceeding or to a Federal office or agency and waives the attorney-client privilege or work-product protection, the waiver extends to an undisclosed communication or information in a Federal or State proceeding only if:</p> <ul style="list-style-type: none"> <li>(1) the waiver is intentional;</li> <li>(2) the disclosed and undisclosed communications or information concern the same subject matter; and</li> <li>(3) they ought in fairness to be considered together.</li> </ul>	<p><b>(a) Disclosure Made in a Federal Proceeding or to a Federal Office or Agency; Scope of a Waiver.</b> When the disclosure is made in a federal proceeding or to a federal office or agency and waives the attorney-client privilege or work-product protection, the waiver extends to an undisclosed communication or information in a federal or state proceeding only if:</p> <ul style="list-style-type: none"> <li>(1) the waiver is intentional;</li> <li>(2) the disclosed and undisclosed communications or information concern the same subject matter; and</li> <li>(3) they ought in fairness to be considered together.</li> </ul>
<p><b>(b) Inadvertent disclosure.</b> When made in a Federal proceeding or to a Federal office or agency, the disclosure does not operate as a waiver in a Federal or State proceeding if:</p> <ul style="list-style-type: none"> <li>(1) the disclosure is inadvertent;</li> <li>(2) the holder of the privilege or protection took reasonable steps to prevent disclosure; and</li> <li>(3) the holder promptly took reasonable steps to rectify the error, including (if applicable) following Federal Rule of Civil Procedure 26(b)(5)(B).</li> </ul>	<p><b>(b) Inadvertent Disclosure.</b> When made in a federal proceeding or to a federal office or agency, the disclosure does not operate as a waiver in a federal or state proceeding if:</p> <ul style="list-style-type: none"> <li>(1) the disclosure is inadvertent;</li> <li>(2) the holder of the privilege or protection took reasonable steps to prevent disclosure; and</li> <li>(3) the holder promptly took reasonable steps to rectify the error, including (if applicable) following Federal Rule of Civil Procedure 26(b)(5)(B).</li> </ul>

<p><b>(c) Disclosure made in a State proceeding.</b> When the disclosure is made in a State proceeding and is not the subject of a State-court order concerning waiver, the disclosure does not operate as a waiver in a Federal proceeding if the disclosure:</p> <p>(1) would not be a waiver under this rule if it had been made in a Federal proceeding; or</p> <p>(2) is not a waiver under the law of the State where the disclosure occurred.</p>	<p><b>(c) Disclosure Made in a State Proceeding.</b> When the disclosure is made in a state proceeding and is not the subject of a state-court order concerning waiver, the disclosure does not operate as a waiver in a federal proceeding if the disclosure:</p> <p>(1) would not be a waiver under this rule if it had been made in a federal proceeding; or</p> <p>(2) is not a waiver under the law of the state where the disclosure occurred.</p>
<p><b>(d) Controlling effect of a court order.</b> A Federal court may order that the privilege or protection is not waived by disclosure connected with the litigation pending before the court—in which event the disclosure is also not a waiver in any other Federal or State proceeding.</p>	<p><b>(d) Controlling Effect of a Court Order.</b> A federal court may order that the privilege or protection is not waived by disclosure connected with the litigation pending before the court — in which event the disclosure is also not a waiver in any other federal or state proceeding.</p>
<p><b>(e) Controlling effect of a party agreement.</b> An agreement on the effect of disclosure in a Federal proceeding is binding only on the parties to the agreement, unless it is incorporated into a court order.</p>	<p><b>(e) Controlling Effect of a Party Agreement.</b> An agreement on the effect of disclosure in a federal proceeding is binding only on the parties to the agreement, unless it is incorporated into a court order.</p>
<p><b>(f) Controlling effect of this rule.</b> Notwithstanding Rules 101 and 1101, this rule applies to State proceedings and to Federal court-annexed and Federal court-mandated arbitration proceedings, in the circumstances set out in the rule. And notwithstanding Rule 501, this rule applies even if State law provides the rule of decision.</p>	<p><b>(f) Controlling Effect of this Rule.</b> Notwithstanding Rules 101 and 1101, this rule applies to state proceedings and to federal court-annexed and federal court-mandated arbitration proceedings, in the circumstances set out in the rule. And notwithstanding Rule 501, this rule applies even if state law provides the rule of decision.</p>
<p><b>(g) Definitions.</b> In this rule:</p> <p>(1) “attorney-client privilege” means the protection that applicable law provides for confidential attorney-client communications; and</p> <p>(2) “work-product protection” means the protection that applicable law provides for tangible material (or its intangible equivalent) prepared in anticipation of litigation or for trial.</p>	<p><b>(g) Definitions.</b> In this rule:</p> <p>(1) “attorney-client privilege” means the protection that applicable law provides for confidential attorney-client communications; and</p> <p>(2) “work-product protection” means the protection that applicable law provides for tangible material (or its intangible equivalent) prepared in anticipation of litigation or for trial.</p>

**Committee Note**

Rule 502 has been amended by changing the initial letter of a few words from uppercase to lowercase as part of the restyling of the Evidence Rules to make style and terminology consistent throughout the rules. There is no intent to change any result in any ruling on evidence admissibility.

<p style="text-align: center;"><b>ARTICLE VI. WITNESSES</b></p> <p style="text-align: center;"><b>Rule 601. General Rule of Competency</b></p>	<p style="text-align: center;"><b>ARTICLE VI. WITNESSES</b></p> <p style="text-align: center;"><b>Rule 601. Competency to Testify in General</b></p>
<p>Every person is competent to be a witness except as otherwise provided in these rules. However, in civil actions and proceedings, with respect to an element of a claim or defense as to which State law supplies the rule of decision, the competency of a witness shall be determined in accordance with State law.</p>	<p>Every person is competent to be a witness unless these rules provide otherwise. But in a civil case, state law governs the witness's competency regarding a claim or defense for which state law supplies the rule of decision.</p>

**Committee Note**

The language of Rule 601 has been amended as part of the restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.

<b>Rule 602. Lack of Personal Knowledge</b>	<b>Rule 602. Need for Personal Knowledge</b>
<p>A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the witness' own testimony. This rule is subject to the provisions of rule 703, relating to opinion testimony by expert witnesses.</p>	<p>A witness may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may consist of the witness's own testimony. This rule does not apply to a witness's expert testimony under Rule 703.</p>

**Committee Note**

The language of Rule 602 has been amended as part of the restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.

<b>Rule 603. Oath or Affirmation</b>	<b>Rule 603. Oath or Affirmation to Testify Truthfully</b>
<p>Before testifying, every witness shall be required to declare that the witness will testify truthfully, by oath or affirmation administered in a form calculated to awaken the witness' conscience and impress the witness' mind with the duty to do so.</p>	<p>Before testifying, a witness must give an oath or affirmation to testify truthfully. It must be in a form designed to impress that duty on the witness's conscience.</p>

#### **Committee Note**

The language of Rule 603 has been amended as part of the restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.

<b>Rule 604. Interpreters</b>	<b>Rule 604. Interpreter</b>
<p>An interpreter is subject to the provisions of these rules relating to qualification as an expert and the administration of an oath or affirmation to make a true translation.</p>	<p>An interpreter must be qualified and must give an oath or affirmation to make a true translation.</p>

**Committee Note**

The language of Rule 604 has been amended as part of the restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.

<p><b>Rule 605. Competency of Judge as Witness</b></p>	<p><b>Rule 605. Judge’s Competency as a Witness</b></p>
<p>The judge presiding at the trial may not testify in that trial as a witness. No objection need be made in order to preserve the point.</p>	<p>The presiding judge may not testify as a witness at the trial. A party need not object to preserve the issue.</p>

**Committee Note**

The language of Rule 605 has been amended as part of the restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.

<p><b>Rule 606. Competency of Juror as Witness</b></p>	<p><b>Rule 606. Juror’s Competency as a Witness</b></p>
<p>(a) <b>At the trial.</b> A member of the jury may not testify as a witness before that jury in the trial of the case in which the juror is sitting. If the juror is called so to testify, the opposing party shall be afforded an opportunity to object out of the presence of the jury.</p>	<p>(a) <b>At the Trial.</b> A juror may not testify as a witness before the other jurors at the trial. If a juror is called to testify, the court must give a party an opportunity to object outside the jury’s presence.</p>
<p>(b) <b>Inquiry into validity of verdict or indictment.</b>                      Upon an inquiry into the validity of a verdict or indictment, a juror may not testify as to any matter or statement occurring during the course of the jury’s deliberations or to the effect of anything upon that or any other juror’s mind or emotions as influencing the juror to assent to or dissent from the verdict or indictment or concerning the juror’s mental processes in connection therewith. But a juror may testify about (1) whether extraneous prejudicial information was improperly brought to the jury’s attention, (2) whether any outside influence was improperly brought to bear upon any juror, or (3) whether there was a mistake in entering the verdict onto the verdict form. A juror’s affidavit or evidence of any statement by the juror may not be received on a matter about which the juror would be precluded from testifying.</p>	<p>(b) <b>During an Inquiry into the Validity of a Verdict or Indictment.</b></p> <p>(1) <b><i>Prohibited Testimony or Other Evidence.</i></b>                      During an inquiry into the validity of a verdict or indictment, a juror may not testify about any statement made or incident that occurred during the jury’s deliberations; the effect of anything on that juror’s or another juror’s vote; or any juror’s mental processes concerning the verdict or indictment. The court may not receive a juror’s affidavit or evidence of a juror’s statement on these matters.</p> <p>(2) <b><i>Exceptions.</i></b> A juror may testify about whether:</p> <p>(A) extraneous prejudicial information was improperly brought to the jury’s attention;</p> <p>(B) an outside influence was improperly brought to bear on any juror; or</p> <p>(C) a mistake was made in entering the verdict on the verdict form.</p>

**Committee Note**

The language of Rule 606 has been amended as part of the restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.

<b>Rule 607. Who May Impeach</b>	<b>Rule 607. Who May Impeach a Witness</b>
The credibility of a witness may be attacked by any party, including the party calling the witness.	Any party, including the party that called the witness, may attack the witness's credibility.

### Committee Note

The language of Rule 607 has been amended as part of the restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.

<p><b>Rule 608. Evidence of Character and Conduct of Witness</b></p>	<p><b>Rule 608. A Witness’s Character for Truthfulness or Untruthfulness</b></p>
<p><b>(a) Opinion and reputation evidence of character.</b> The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, but subject to these limitations: (1) the evidence may refer only to character for truthfulness or untruthfulness, and (2) evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence or otherwise.</p>	<p><b>(a) Reputation or Opinion Evidence.</b> A witness’s credibility may be attacked or supported by testimony about the witness’s reputation for having a character for truthfulness or untruthfulness, or by testimony in the form of an opinion about that character. But evidence of truthful character is admissible only after the witness’s character for truthfulness has been attacked.</p>
<p><b>(b) Specific instances of conduct.</b> Specific instances of the conduct of a witness, for the purpose of attacking or supporting the witness’ character for truthfulness, other than conviction of crime as provided in rule 609, may not be proved by extrinsic evidence. They may, however, in the discretion of the court, if probative of truthfulness or untruthfulness, be inquired into on cross-examination of the witness (1) concerning the witness’ character for truthfulness or untruthfulness, or (2) concerning the character for truthfulness or untruthfulness of another witness as to which character the witness being cross-examined has testified.</p> <p>The giving of testimony, whether by an accused or by any other witness, does not operate as a waiver of the accused’s or the witness’ privilege against self-incrimination when examined with respect to matters that relate only to character for truthfulness.</p>	<p><b>(b) Specific Instances of Conduct.</b> Except for a criminal conviction under Rule 609, extrinsic evidence is not admissible to prove specific instances of a witness’s conduct in order to attack or support the witness’s character for truthfulness. But the court may, on cross-examination, allow them to be inquired into if they are probative of the character for truthfulness or untruthfulness of:</p> <ul style="list-style-type: none"> <li><b>(1)</b> the witness; or</li> <li><b>(2)</b> another witness whose character the witness being cross-examined has testified about.</li> </ul> <p>By testifying on another matter, a witness does not waive any privilege against self-incrimination for testimony that relates only to the witness’s character for truthfulness.</p>

**Committee Note**

The language of Rule 608 has been amended as part of the general restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.

The Committee is aware that the Rule’s limitation of bad-act impeachment to “cross-examination” is trumped by Rule 607, which allows a party to impeach witnesses on direct examination. Courts have not relied on the term “on cross-examination” to limit impeachment that would otherwise be permissible under Rules 607 and 608. The Committee therefore concluded that no change to the language of the Rule was necessary in the context of a restyling project.

<p><b>Rule 609. Impeachment by Evidence of Conviction of Crime</b></p>	<p><b>Rule 609. Impeachment by Evidence of a Criminal Conviction</b></p>
<p>(a) <b>General rule.</b> For the purpose of attacking the character for truthfulness of a witness,</p> <p>(1) evidence that a witness other than an accused has been convicted of a crime shall be admitted, subject to Rule 403, if the crime was punishable by death or imprisonment in excess of one year under the law under which the witness was convicted, and evidence that an accused has been convicted of such a crime shall be admitted if the court determines that the probative value of admitting this evidence outweighs its prejudicial effect to the accused; and</p> <p>(2) evidence that any witness has been convicted of a crime shall be admitted regardless of the punishment, if it readily can be determined that establishing the elements of the crime required proof or admission of an act of dishonesty or false statement by the witness.</p>	<p>(a) <b>In General.</b> The following rules apply to attacking a witness's character for truthfulness by evidence of a criminal conviction:</p> <p>(1) for a crime that, in the convicting jurisdiction, was punishable by death or by imprisonment for more than one year, the evidence:</p> <p>(A) must be admitted, subject to Rule 403, in a civil case or in a criminal case in which the witness is not a defendant; and</p> <p>(B) must be admitted in a criminal case in which the witness is a defendant, if the probative value of the evidence outweighs its prejudicial effect to that defendant; and</p> <p>(2) for any crime regardless of the punishment, the evidence must be admitted if the court can readily determine that establishing the elements of the crime required proving — or the witness's admitting — a dishonest act or false statement.</p>
<p>(b) <b>Time limit.</b> Evidence of a conviction under this rule is not admissible if a period of more than ten years has elapsed since the date of the conviction or of the release of the witness from the confinement imposed for that conviction, whichever is the later date, unless the court determines, in the interests of justice, that the probative value of the conviction supported by specific facts and circumstances substantially outweighs its prejudicial effect. However, evidence of a conviction more than 10 years old as calculated herein, is not admissible unless the proponent gives to the adverse party sufficient advance written notice of intent to use such evidence to provide the adverse party with a fair opportunity to contest the use of such evidence.</p>	<p>(b) <b>Limit on Using the Evidence After 10 Years.</b> This subdivision (b) applies if more than 10 years have passed since the witness's conviction or release from confinement for it, whichever is later. Evidence of the conviction is admissible only if:</p> <p>(1) its probative value, supported by specific facts and circumstances, substantially outweighs its prejudicial effect; and</p> <p>(2) the proponent gives an adverse party reasonable written notice of the intent to use it so that the party has a fair opportunity to contest its use.</p>

<p><b>(c) Effect of pardon, annulment, or certificate of rehabilitation.</b> Evidence of a conviction is not admissible under this rule if (1) the conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted, and that person has not been convicted of a subsequent crime that was punishable by death or imprisonment in excess of one year, or (2) the conviction has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence.</p>	<p><b>(c) Effect of a Pardon, Annulment, or Certificate of Rehabilitation.</b> Evidence of a conviction is not admissible if:</p> <ul style="list-style-type: none"> <li><b>(1)</b> the conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding that the person has been rehabilitated, and the person has not been convicted of a later crime punishable by death or by imprisonment for more than one year; or</li> <li><b>(2)</b> the conviction has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence.</li> </ul>
<p><b>(d) Juvenile adjudications.</b> Evidence of juvenile adjudications is generally not admissible under this rule. The court may, however, in a criminal case allow evidence of a juvenile adjudication of a witness other than the accused if conviction of the offense would be admissible to attack the credibility of an adult and the court is satisfied that admission in evidence is necessary for a fair determination of the issue of guilt or innocence.</p>	<p><b>(d) Juvenile Adjudications.</b> Evidence of a juvenile adjudication is admissible under this rule only if:</p> <ul style="list-style-type: none"> <li><b>(1)</b> it is offered in a criminal case;</li> <li><b>(2)</b> the adjudication was of a witness other than the defendant;</li> <li><b>(3)</b> an adult’s conviction for that offense would be admissible to attack the adult’s credibility; and</li> <li><b>(4)</b> admitting the evidence is necessary to fairly determine guilt or innocence.</li> </ul>
<p><b>(e) Pendency of appeal.</b> The pendency of an appeal therefrom does not render evidence of a conviction inadmissible. Evidence of the pendency of an appeal is admissible.</p>	<p><b>(e) Pendency of an Appeal.</b> A conviction that satisfies this rule is admissible even if an appeal is pending. Evidence of the pendency is also admissible.</p>

**Committee Note**

The language of Rule 609 has been amended as part of the restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.

<p><b>Rule 610. Religious Beliefs or Opinions</b></p>	<p><b>Rule 610. Religious Beliefs or Opinions</b></p>
<p>Evidence of the beliefs or opinions of a witness on matters of religion is not admissible for the purpose of showing that by reason of their nature the witness' credibility is impaired or enhanced.</p>	<p>Evidence of a witness's religious beliefs or opinions is not admissible to attack or support the witness's credibility.</p>

**Committee Note**

The language of Rule 610 has been amended as part of the restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.

<b>Rule 611. Mode and Order of Interrogation and Presentation</b>	<b>Rule 611. Mode and Order of Examining Witnesses and Presenting Evidence</b>
<p><b>(a) Control by court.</b> The court shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to (1) make the interrogation and presentation effective for the ascertainment of the truth, (2) avoid needless consumption of time, and (3) protect witnesses from harassment or undue embarrassment.</p>	<p><b>(a) Control by the Court; Purposes.</b> The court should exercise reasonable control over the mode and order of examining witnesses and presenting evidence so as to:</p> <ol style="list-style-type: none"> <li><b>(1)</b> make those procedures effective for determining the truth;</li> <li><b>(2)</b> avoid wasting time; and</li> <li><b>(3)</b> protect witnesses from harassment or undue embarrassment.</li> </ol>
<p><b>(b) Scope of cross-examination.</b> Cross-examination should be limited to the subject matter of the direct examination and matters affecting the credibility of the witness. The court may, in the exercise of discretion, permit inquiry into additional matters as if on direct examination.</p>	<p><b>(b) Scope of Cross-Examination.</b> Cross-examination should not go beyond the subject matter of the direct examination and matters affecting the witness's credibility. The court may allow inquiry into additional matters as if on direct examination.</p>
<p><b>(c) Leading questions.</b> Leading questions should not be used on the direct examination of a witness except as may be necessary to develop the witness' testimony. Ordinarily leading questions should be permitted on cross-examination. When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party, interrogation may be by leading questions.</p>	<p><b>(c) Leading Questions.</b> Leading questions should not be used on direct examination except as necessary to develop the witness's testimony. Ordinarily, the court should allow leading questions:</p> <ol style="list-style-type: none"> <li><b>(1)</b> on cross-examination; and</li> <li><b>(2)</b> when a party calls a hostile witness, an adverse party, or a witness identified with an adverse party.</li> </ol>

### Committee Note

The language of Rule 611 has been amended as part of the restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.

<p><b>Rule 612. Writing Used To Refresh Memory</b></p>	<p><b>Rule 612. Writing Used to Refresh a Witness’s Memory</b></p>
<p>Except as otherwise provided in criminal proceedings by section 3500 of title 18, United States Code, if a witness uses a writing to refresh memory for the purpose of testifying, either—</p> <p style="padding-left: 40px;">(1) while testifying, or</p> <p style="padding-left: 40px;">(2) before testifying, if the court in its discretion determines it is necessary in the interests of justice,</p> <p>an adverse party is entitled to have the writing produced at the hearing, to inspect it, to cross-examine the witness thereon, and to introduce in evidence those portions which relate to the testimony of the witness. If it is claimed that the writing contains matters not related to the subject matter of the testimony the court shall examine the writing in camera, excise any portions not so related, and order delivery of the remainder to the party entitled thereto. Any portion withheld over objections shall be preserved and made available to the appellate court in the event of an appeal. If a writing is not produced or delivered pursuant to order under this rule, the court shall make any order justice requires, except that in criminal cases when the prosecution elects not to comply, the order shall be one striking the testimony or, if the court in its discretion determines that the interests of justice so require, declaring a mistrial.</p>	<p>(a) <b>Scope.</b> This rule gives an adverse party certain options when a witness uses a writing to refresh memory:</p> <p style="padding-left: 40px;">(1) while testifying; or</p> <p style="padding-left: 40px;">(2) before testifying, if the court decides that justice requires the party to have those options.</p> <p>(b) <b>Adverse Party’s Options; Deleting Unrelated Matter.</b> Unless 18 U.S.C. § 3500 provides otherwise in a criminal case, an adverse party is entitled to have the writing produced at the hearing, to inspect it, to cross-examine the witness about it, and to introduce in evidence any portion that relates to the witness’s testimony. If the producing party claims that the writing includes unrelated matter, the court must examine the writing in camera, delete any unrelated portion, and order that the rest be delivered to the adverse party. Any portion deleted over objection must be preserved for the record.</p> <p>(c) <b>Failure to Produce or Deliver the Writing.</b> If a writing is not produced or is not delivered as ordered, the court may issue any appropriate order. But if the prosecution does not comply in a criminal case, the court must strike the witness’s testimony or — if justice so requires — declare a mistrial.</p>

**Committee Note**

The language of Rule 612 has been amended as part of the restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.

<b>Rule 613. Prior Statements of Witnesses</b>	<b>Rule 613. Witness's Prior Statement</b>
<p><b>(a) Examining witness concerning prior statement.</b> In examining a witness concerning a prior statement made by the witness, whether written or not, the statement need not be shown nor its contents disclosed to the witness at that time, but on request the same shall be shown or disclosed to opposing counsel.</p>	<p><b>(a) Showing or Disclosing the Statement During Examination.</b> When examining a witness about the witness's prior statement, a party need not show it or disclose its contents to the witness. But the party must, on request, show it or disclose its contents to an adverse party's attorney.</p>
<p><b>(b) Extrinsic evidence of prior inconsistent statement of witness.</b> Extrinsic evidence of a prior inconsistent statement by a witness is not admissible unless the witness is afforded an opportunity to explain or deny the same and the opposite party is afforded an opportunity to interrogate the witness thereon, or the interests of justice otherwise require. This provision does not apply to admissions of a party-opponent as defined in rule 801(d)(2).</p>	<p><b>(b) Extrinsic Evidence of a Prior Inconsistent Statement.</b> Extrinsic evidence of a witness's prior inconsistent statement is admissible only if the witness is given an opportunity to explain or deny the statement and an adverse party is given an opportunity to examine the witness about it, or if justice so requires. This subdivision (b) does not apply to an opposing party's statement under Rule 801(d)(2).</p>

#### Committee Note

The language of Rule 613 has been amended as part of the restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.

<b>Rule 614. Calling and Interrogation of Witnesses by Court</b>	<b>Rule 614. Court's Calling or Examining a Witness</b>
<b>(a) Calling by court.</b> The court may, on its own motion or at the suggestion of a party, call witnesses, and all parties are entitled to cross-examine witnesses thus called.	<b>(a) Calling.</b> The court may call a witness on its own or at a party's request. Each party is entitled to cross-examine the witness.
<b>(b) Interrogation by court.</b> The court may interrogate witnesses, whether called by itself or by a party.	<b>(b) Examining.</b> The court may examine a witness regardless of who calls the witness.
<b>(c) Objections.</b> Objections to the calling of witnesses by the court or to interrogation by it may be made at the time or at the next available opportunity when the jury is not present.	<b>(c) Objections.</b> A party may object to the court's calling or examining a witness either at that time or at the next opportunity when the jury is not present.

### Committee Note

The language of Rule 614 has been amended as part of the restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.

<p><b>Rule 615. Exclusion of Witnesses</b></p>	<p><b>Rule 615. Excluding Witnesses</b></p>
<p>At the request of a party the court shall order witnesses excluded so that they cannot hear the testimony of other witnesses, and it may make the order of its own motion. This rule does not authorize exclusion of (1) a party who is a natural person, or (2) an officer or employee of a party which is not a natural person designated as its representative by its attorney, or (3) a person whose presence is shown by a party to be essential to the presentation of the party's cause, or (4) a person authorized by statute to be present.</p>	<p>At a party's request, the court must order witnesses excluded so that they cannot hear other witnesses' testimony. Or the court may do so on its own. But this rule does not authorize excluding:</p> <ul style="list-style-type: none"> <li>(a) a party who is a natural person;</li> <li>(b) an officer or employee of a party that is not a natural person, after being designated as the party's representative by its attorney;</li> <li>(c) a person whose presence a party shows to be essential to presenting the party's claim or defense; or</li> <li>(d) a person authorized by statute to be present.</li> </ul>

**Committee Note**

The language of Rule 615 has been amended as part of the restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.

<p style="text-align: center;"><b>ARTICLE VII. OPINIONS AND EXPERT TESTIMONY</b></p> <p style="text-align: center;"><b>Rule 701. Opinion Testimony by Lay Witnesses</b></p>	<p style="text-align: center;"><b>ARTICLE VII. OPINIONS AND EXPERT TESTIMONY</b></p> <p style="text-align: center;"><b>Rule 701. Opinion Testimony by Lay Witnesses</b></p>
<p>If the witness is not testifying as an expert, the witness' testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a) rationally based on the perception of the witness, and (b) helpful to a clear understanding of the witness' testimony or the determination of a fact in issue, and (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702.</p>	<p>If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is:</p> <ul style="list-style-type: none"> <li>(a) rationally based on the witness's perception;</li> <li>(b) helpful to clearly understanding the witness's testimony or to determining a fact in issue; and</li> <li>(c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702.</li> </ul>

**Committee Note**

The language of Rule 701 has been amended as part of the general restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.

The Committee deleted all reference to an "inference" on the grounds that the deletion made the Rule flow better and easier to read, and because any "inference" is covered by the broader term "opinion." Courts have not made substantive decisions on the basis of any distinction between an opinion and an inference. No change in current practice is intended.

<p><b>Rule 702. Testimony by Experts</b></p>	<p><b>Rule 702. Testimony by Expert Witnesses</b></p>
<p>If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise, if (1) the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case.</p>	<p>A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if:</p> <ul style="list-style-type: none"> <li>(a) the expert’s scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;</li> <li>(b) the testimony is based on sufficient facts or data;</li> <li>(c) the testimony is the product of reliable principles and methods; and</li> <li>(d) the expert has reliably applied the principles and methods to the facts of the case.</li> </ul>

**Committee Note**

The language of Rule 702 has been amended as part of the restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.

<p><b>Rule 703. Bases of Opinion Testimony by Experts</b></p>	<p><b>Rule 703. Bases of an Expert’s Opinion Testimony</b></p>
<p>The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to the expert at or before the hearing. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence in order for the opinion or inference to be admitted. Facts or data that are otherwise inadmissible shall not be disclosed to the jury by the proponent of the opinion or inference unless the court determines that their probative value in assisting the jury to evaluate the expert’s opinion substantially outweighs their prejudicial effect.</p>	<p>An expert may base an opinion on facts or data in the case that the expert has been made aware of or personally observed. If experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject, they need not be admissible for the opinion to be admitted. But if the facts or data would otherwise be inadmissible, the proponent of the opinion may disclose them to the jury only if their probative value in helping the jury evaluate the opinion substantially outweighs their prejudicial effect.</p>

**Committee Note**

The language of Rule 703 has been amended as part of the general restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.

The Committee deleted all reference to an “inference” on the grounds that the deletion made the Rule flow better and easier to read, and because any “inference” is covered by the broader term “opinion.” Courts have not made substantive decisions on the basis of any distinction between an opinion and an inference. No change in current practice is intended.

<p><b>Rule 704. Opinion on Ultimate Issue</b></p>	<p><b>Rule 704. Opinion on an Ultimate Issue</b></p>
<p>(a) Except as provided in subdivision (b), testimony in the form of an opinion or inference otherwise admissible is not objectionable because it embraces an ultimate issue to be decided by the trier of fact.</p>	<p>(a) <b>In General — Not Automatically Objectionable.</b> An opinion is not objectionable just because it embraces an ultimate issue.</p>
<p>(b) No expert witness testifying with respect to the mental state or condition of a defendant in a criminal case may state an opinion or inference as to whether the defendant did or did not have the mental state or condition constituting an element of the crime charged or of a defense thereto. Such ultimate issues are matters for the trier of fact alone.</p>	<p>(b) <b>Exception.</b> In a criminal case, an expert witness must not state an opinion about whether the defendant did or did not have a mental state or condition that constitutes an element of the crime charged or of a defense. Those matters are for the trier of fact alone.</p>

**Committee Note**

The language of Rule 704 has been amended as part of the general restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.

The Committee deleted all reference to an “inference” on the grounds that the deletion made the Rule flow better and easier to read, and because any “inference” is covered by the broader term “opinion.” Courts have not made substantive decisions on the basis of any distinction between an opinion and an inference. No change in current practice is intended.

<b>Rule 705. Disclosure of Facts or Data Underlying Expert Opinion</b>	<b>Rule 705. Disclosing the Facts or Data Underlying an Expert’s Opinion</b>
The expert may testify in terms of opinion or inference and give reasons therefor without first testifying to the underlying facts or data, unless the court requires otherwise. The expert may in any event be required to disclose the underlying facts or data on cross-examination.	Unless the court orders otherwise, an expert may state an opinion — and give the reasons for it — without first testifying to the underlying facts or data. But the expert may be required to disclose those facts or data on cross-examination.

### Committee Note

The language of Rule 705 has been amended as part of the general restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.

The Committee deleted all reference to an “inference” on the grounds that the deletion made the Rule flow better and easier to read, and because any “inference” is covered by the broader term “opinion.” Courts have not made substantive decisions on the basis of any distinction between an opinion and an inference. No change in current practice is intended.

<b>Rule 706. Court Appointed Experts</b>	<b>Rule 706. Court-Appointed Expert Witnesses</b>
<p><b>(a) Appointment.</b> The court may on its own motion or on the motion of any party enter an order to show cause why expert witnesses should not be appointed, and may request the parties to submit nominations. The court may appoint any expert witnesses agreed upon by the parties, and may appoint expert witnesses of its own selection. An expert witness shall not be appointed by the court unless the witness consents to act. A witness so appointed shall be informed of the witness' duties by the court in writing, a copy of which shall be filed with the clerk, or at a conference in which the parties shall have opportunity to participate. A witness so appointed shall advise the parties of the witness' findings, if any; the witness' deposition may be taken by any party; and the witness may be called to testify by the court or any party. The witness shall be subject to cross-examination by each party, including a party calling the witness.</p>	<p><b>(a) Appointment Process.</b> On a party's motion or on its own, the court may order the parties to show cause why expert witnesses should not be appointed and may ask the parties to submit nominations. The court may appoint any expert that the parties agree on and any of its own choosing. But the court may only appoint someone who consents to act.</p> <p><b>(b) Expert's Role.</b> The court must inform the expert of the expert's duties. The court may do so in writing and have a copy filed with the clerk or may do so orally at a conference in which the parties have an opportunity to participate. The expert:</p> <ol style="list-style-type: none"> <li><b>(1)</b> must advise the parties of any findings the expert makes;</li> <li><b>(2)</b> may be deposed by any party;</li> <li><b>(3)</b> may be called to testify by the court or any party; and</li> <li><b>(4)</b> may be cross-examined by any party, including the party that called the expert.</li> </ol>
<p><b>(b) Compensation.</b> Expert witnesses so appointed are entitled to reasonable compensation in whatever sum the court may allow. The compensation thus fixed is payable from funds which may be provided by law in criminal cases and civil actions and proceedings involving just compensation under the fifth amendment. In other civil actions and proceedings the compensation shall be paid by the parties in such proportion and at such time as the court directs, and thereafter charged in like manner as other costs.</p>	<p><b>(c) Compensation.</b> The expert is entitled to a reasonable compensation, as set by the court. The compensation is payable as follows:</p> <ol style="list-style-type: none"> <li><b>(1)</b> in a criminal case or in a civil case involving just compensation under the Fifth Amendment, from any funds that are provided by law; and</li> <li><b>(2)</b> in any other civil case, by the parties in the proportion and at the time that the court directs — and the compensation is then charged like other costs.</li> </ol>
<p><b>(c) Disclosure of appointment.</b> In the exercise of its discretion, the court may authorize disclosure to the jury of the fact that the court appointed the expert witness.</p>	<p><b>(d) Disclosing the Appointment to the Jury.</b> The court may authorize disclosure to the jury that the court appointed the expert.</p>
<p><b>(d) Parties' experts of own selection.</b> Nothing in this rule limits the parties in calling expert witnesses of their own selection.</p>	<p><b>(e) Parties' Choice of Their Own Experts.</b> This rule does not limit a party in calling its own experts.</p>

**Committee Note**

The language of Rule 706 has been amended as part of the restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.