

Presenting Evidence

At trial, you will be allowed to present evidence that supports your defense. After the prosecutor presents their evidence and witnesses, you will be allowed to do the same. You can present your evidence before, during, or after a witness testifies. You can also present evidence without witness testimony.

The Federal Rules of Evidence apply in proceedings in Menominee Tribal Court. In preparing for trial, you will need to find evidence that supports your claim that you aren't guilty of the crime(s) as charged. To do this, you will need to think of the facts that create reasonable doubt for at least one of the elements of the alleged crime(s).

Each piece of evidence you want to introduce must be "relevant." The concept of relevancy is difficult to understand. Even lawyers struggle with it. Here's how the Federal Rules of Evidence defines relevancy:

Rule 401. Test for Relevant Evidence. Evidence is relevant if: (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action.

If the definition seems confusing, it's because it is confusing. There's a much simpler way to understand relevance.

Relevant evidence answers the question "So what?" Let's say you have been charged with Battery under § 290-2 of the Menominee Criminal Code. At trial, you ask the Court to accept a report from your cell phone service provider into evidence. The report shows that on the day of the alleged crime, your cell phone didn't ping off any towers in the area where the alleged crime happened. So what? How is it relevant? The evidence is relevant because if you weren't in the area when the alleged crime was committed, you can't be the person who committed the alleged battery, because physical contact is an element of battery.

Let's say you were charged with battery and want to introduce a portion of your medical records that show you have a medical condition that causes uncontrollable limb movement. So what? Well, one of the elements of the crime of battery is that

physical contact with the victim was intentional. If you have a medical condition that prevents you from controlling the movement of your limbs, you raise a reasonable doubt as to the element of intent. You can't intend to do something you can't control.

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