**LAY WITNESS OPINION OF INTOXICATION OR DRUG USE**

The proponent must:

1. Show that the witness was in a position to observe;
2. Show that the witness did in fact observe;
3. Show that the observation was based on sufficient data to form a reliable opinion; and
4. Have the witness state the opinion.

 **Predicate questions: Sample**

Where were you on the evening of DATE of this year?

Who else was present?

The witness pointed to and stated the name of the accused.

How long was the accused in your company that evening?

How closely were you observing him?

Are you generally familiar with the effects of [alcohol or specific drug] on people?

How have you gained that familiarity?

Do you drink yourself?

Have you ever observed a person who was intoxicated [or high]?

How often?

Please describe the accused's appearance on the evening of 21 July.

How was he dressed?

Describe his speech.

Describe his muscular coordination.

What odor, if any, could you smell on his breath?

Describe the condition of his eyes.

Describe his complexion.

Describe the clarity and coherence of his speech.

As a result of your observations, did you form an opinion of the accused's sobriety or lack thereof?

Please state that opinion.