Communicate Clearly: Improve Your Legal Writing

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Everything should be made to be as simple as possible, but not simpler.

Albert Einstein (attributed)
“I like talking to Rabbit. He talks about sensible things. He doesn’t use long, difficult words, like Owl. He uses short, easy words, like ‘What about lunch?’ and ‘Help yourself, Pooh.’

A. A. Milne, Winnie-the-Pooh
Good Writing

- Good writing is a skill

- Talent helps, but it’s not a substitute for hard work:

  - Hard work=learning what makes writing good;

  - Hard work=practicing good writing;

  - Hard work=taking the time to write well;

  - Hard work=editing
Learning to be a Good Writer

• Read good writing

• Use opportunities to write (email, notes, cards)

• Find good editors and proofreaders

• Find good writing guides
Organize Your Work: Outline

• Like a blueprint for a building

• Writing an outline to organize your work

• Sketch out major themes

• Write captions

• Look at the big picture

• Start early
Passive v. Active Voice

“We talk about how many women were raped last year, not about how many men raped women. We talked about how many girls in a school district were harassed last year, not about how many boys harassed girls. We talk about how many teenage girls in the State of Vermont got pregnant last year, not about how many men and boys impregnated teenage girls.

“So you can see how the use of the passive voice has a political effect. [It] shifts the focus off of men and boys and onto girls and women. Even the term ‘violence against women’ is problematic. It’s a passive construction; there’s no active agent in the sentence. It’s a bad thing that happens to women, but when you look at that term ‘violence against women,’ nobody is doing it to them. It just happens to them...men aren’t even a part of it.”
Vary Sentence Length

• Behold: the power of short sentences!
• Not only do long sentences tend to water down and distract the reader from the content the writer is trying to communicate, but a long sentence is difficult for the writer to control and it has a tendency to wander off the original topic and meander into others areas, leaving the reader metaphorically lost in the woods and confused and pretty soon, the reader gives up on trying to discern the original message the writer hoped to convey.
• Take a long sentence and break it into smaller ones. Sometimes, a sentence should be just a few words. Short sentences have power.
Use Captions Like Headlines

• Introduce a section with a caption

• Write captions like headlines

…the house was dark when the arrived. No lights were on. They talked and decided to go inside.

*Mr. Brown and the Baseball Bat*

Ms. Green walked through the unlocked front door. She later recounted that she didn’t hear anyone inside. Ms. Green said…
Use Pronouns Carefully

• She said she never heard him until he came at her with the bat.

• Ms. Green said she never heard Mr. Brown until he came at her with the bat.

• Ms. Green said Ms. White never heard Mr. Brown until Mr. Black came at Ms. Silver with the bat.
Avoid Superfluous Words and Hyperbole

• Clearly, Obviously

• Definitely, Certainly, Absolutely

• Literally

• Really, Very
Avoid Wordy Phrases: Use “Why”

• the reason for
• for the reason that
• due to the fact that
• owing to the fact
• that because
• considering the fact that
• on the grounds that
Avoid Wordy Phrases: Use “If”

• in the event that

• if it should transpire

• Should it happen that

• under circumstances in which
Writing Exercise: State’s Reply to a Motion to Suppress
If I had more time, I would have written you a shorter letter.”

Mark Twain
The Virtue of “the Other”

• The creative process v. consumption

• “The Other” is detached from the creative process

• “The Other” can observe independently, (somewhat) objectively
Tyson Hamilton: Wasatch 100
Editing Your Work: Content

• Review your outline and compare it to your work: have you addressed the issues? Do you support your arguments? Can it be leaner?

• Review your outline and compare it to your work: does your structure help communicate the content? Does it flow?

• Are you clear?
How to Proofread Your Work (With Others)

• Find a colleague who’s a good writer

• Discuss with your colleague what kind of editing you need/want

• Agree on a plan

• Accept advice and criticism

• Start early
How to Proofread Your Work (Yourself)

• Set your work aside for hours or, better, days

• Change the medium of your work: screen v. paper

• Read your work out loud

• Start at the end and read backwards