



## GUIDING LEGAL READERS THROUGH YOUR LEGAL DOCUMENT

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No matter how much time you spend on research and analysis, readers are not going to understand your analysis unless they understand how the ideas connect to each other. Fortunately, legal writers can organize their documents to help guide their readers. This handout will discuss techniques that can help readers understand the organization of your document within sections, paragraphs, and sentences. These techniques include:

- At the macro level, organizing your analysis using a hierarchical structure and previewing the structure of the law through roadmap paragraphs.
- At the micro level, ordering sentences to clearly present new information, using transition words and phrases to link sentences together, and including “summative modifiers” to reinforce concepts.

### 1. At the Macro Level

You should organize each level of your legal analysis in a hierarchical structure. This structure can help readers understand complex issues. You can then include roadmaps and mini-roadmaps in your document so readers can follow the progression of your document.

#### A. Organize your analysis around the law in a hierarchical structure.

Legal documents are often organized around whether the elements of a cause of action are met under a particular situation’s facts. In other words, the structure of the document should match the structure of the relevant statute, test, or standard. Frequently, at least one element will consist of sub-elements which must be established independently. In turn, whether a particular sub-element is met may depend on a rule with two or more parts. These elements, sub-elements, and rules together usually form a nested “hierarchical structure.”

Simpler issues can often be easily organized into a hierarchical structure. For instance, a document addressing an issue with only a few elements may just discuss those elements in order.

**Example:** Under Pennsylvania law, an insurance company can void an insurance policy if a customer lied about whether he smoked cigarettes when he bought the policy.<sup>2</sup> In order to void the policy, the insurance company has to prove three elements: (1) the customer made a

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<sup>1</sup> Updated in 2019 by Connor McCleskey. Originally written by Brad Leneis.

<sup>2</sup> Adapted from *New York Life Ins. Co v. Johnson*. 923 F.2d 279, 281 (3d. Cir. 1991).

misrepresentation, (2) the customer made this misrepresentation in bad faith, and (3) the customer misrepresented information that was “material” to the value of the insurance policy.

These three elements form a simple outline. If necessary, each one of these questions could be discussed in a separate sub-section with its own point heading.<sup>3</sup>

Is the insurance policy void?

1. Was there a misrepresentation?
2. Was this misrepresentation in bad faith?
3. Was the misrepresented information material?

More complex issues can also be split up into a hierarchical structure. Using this technique can help ensure that a reader does not get lost when analyzing complex legal issues. This structure is particularly helpful when mapping out issues involving multi-factor tests or multiple sub-issues.

**Example:** In certain situations, a police officer can stop people on the street and frisk them for weapons (also called a “*Terry* stop” or an “investigative detention”). An officer can only search an individual to find concealed weapons if she has a “reasonable” fear for her safety, which courts decide by weighing competing factors. A hierarchical structure could look like this:

Was the officer’s decision to frisk the suspect justified?

1. Were there specific and articulable facts indicating a threat to the officer’s safety?
  - a. Did the officer observe a crime involving a dangerous weapon?
  - b. Did the officer observe the suspect concealing a dangerous weapon under his clothing?
  - c. Was the suspect behaving in a threatening manner during the stop?
    - i. Were the suspect’s hands in an area of the body where weapons are commonly hidden?
    - ii. Was the suspect agitated or aggressive?
  - d. Was the officer prevented from detecting and reacting to a sudden threat?
  - e. Was the officer experienced enough to detect signs that this was a threatening situation?
2. Do these factors, considered together, indicate that the officer’s fear was reasonable?

## **B. Preview the structure of the legal issue by using roadmaps and mini-roadmaps.**

You can help guide readers by providing a roadmap paragraph each time your analysis moves to a more specific level in the hierarchy. Often, the first paragraph of your analysis

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<sup>3</sup> For more on crafting effective headings, see the Writing Center’s handout on “Writing Effective Point Headings.” <https://www.law.georgetown.edu/wp-content/uploads/2018/07/pointheadings.pdf>.

section will provide an overall roadmap setting forth the cause of action's elements or providing an overview of the law. Then, as you transition between levels of generality in your analysis, include smaller mini-roadmaps to guide the reader through the sub-elements and factors at each level.

Each roadmap paragraph should identify the elements, sub-elements, or factors that fit together at that level of the hierarchy, citing authority where needed to support that assertion of law. That way, your reader will know what to expect in each section. Be sure to limit the scope of each roadmap or mini-roadmap to the elements or factors present at that level of analysis. Otherwise, the reader might get overwhelmed with too much information up front.

**Example<sup>4</sup>:** Here is an example of a roadmap for a three-element test.

An insurance company must meet three elements to void the customer's policy. The company must prove that the customer made a misrepresentation of facts when buying the policy, the customer made this misrepresentation in bad faith, and the misrepresented information was material.

If you're discussing more complicated issues, you may want to use multiple mini-roadmaps throughout the document. These mini-roadmaps are most useful if a document changes levels of analysis or if the reader may need a reminder about the structure of a sub-issue. For simpler sub-issues, a single sentence may sometimes be enough.

**Example:** Here is an example of where a document may include an overall roadmap and multiple mini-roadmaps for each sub-issue.

Was the officer's decision to frisk the suspect justified?

*Roadmap here for how the document will analyze reasonableness:*

The officer's decision to frisk the suspect was justified because "specific and articulable" facts show that the suspect was a threat. These circumstances demonstrate that the officer had a reasonable fear when she stopped the suspect.

1. Were there specific and articulable facts indicating a threat to the officer's safety?

*Mini-roadmap here for how the document will analyze threats:*

The suspect was a threat to the officer's safety. The officer observed the suspect commit a crime, conceal a dangerous weapon, and behave threateningly. Moreover, the officer had to search the suspect because the environment prevented her from reacting a sudden threat. Lastly, the officer was sufficiently experienced to know that the situation was threatening.

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<sup>4</sup> For purposes of this handout, the examples do not include citation to authority. Nonetheless, when setting out the elements or factors in a roadmap, one would support such statements with citation to supporting authority.

- a. Did the officer observe a crime involving a dangerous weapon?
- b. Did the officer observe the suspect concealing a dangerous weapon under his clothing?
- c. Was the suspect behaving in a threatening manner during the stop?

*Mini-roadmap here for how the document will analyze threatening behavior:*

The suspect behaved in a threatening manner during the stop because he placed his hands in his pockets and behaved aggressively.

- i. Were the suspect's hands in an area of the body where weapons are commonly hidden?
  - ii. Was the suspect agitated or aggressive?
- d. Was the officer prevented from detecting and reacting to a sudden threat?
  - e. Was the officer experienced enough to detect signs that this was a threatening situation?
2. Do these factors, considered together, indicate that the officer's fear was reasonable?

## **2. At the Micro Level**

A document's small-scale organization can also help guide readers through the analysis. Legal analysis is most effective when it explains the logical relationships between propositions with clarity. You can structure passages to clearly present new information to the reader and connect back to earlier analysis. You can also use linking words and summative modifiers to connect sentences and explain the relationship between ideas.

### **A. Use sentence order to present familiar information before new information.**

The order of sentences within a paragraph should help guide the reader.<sup>5</sup> One way to help guide readers is to structure sentences so that familiar information is presented before new information. This structure helps readers understand the logical relationship between two ideas. If readers encounter unfamiliar information before they learn how it relates to the previous analysis, they are less likely to follow the progression of a passage.

Placing new information at the end of the sentence will help readers better understand the content. You can use the last few words of a sentence to set up the content in the next sentence. With this technique, each passage starts off with familiar, general ideas, and then guides the reader down to new, more specific conclusions.

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<sup>5</sup> JOSEPH M. WILLIAMS & JOSEPH BIZUP, *STYLE: LESSONS IN CLARITY AND GRACE* 69 (11th ed. 2014).

**Example:** Compare the structure of these two pairs of sentences.

- A. The Fourth Amendment’s exclusionary rule discourages officer misconduct by ensuring that wrongfully obtained evidence cannot be admitted in court. **One reason why the Supreme Court applied the doctrine in *Mapp v. Ohio* is this deterrent effect.**

Passage A introduces new information (“the Supreme Court applied the doctrine in *Mapp v. Ohio*”) before it connects back to the previous sentence. Readers may have to read the second sentence twice before they understand how the two sentences relate.

- B. The Fourth Amendment’s exclusionary rule discourages officer misconduct by ensuring that wrongfully obtained evidence cannot be admitted in court. **This deterrent effect is one reason why the Supreme Court applied the doctrine in *Mapp v. Ohio*.**

Passage B places the familiar information from the first sentence (“this deterrent effect”) at the beginning of the second sentence. Passage B also places the new information (“the Supreme Court applied the doctrine in *Mapp v. Ohio*”) at the end of the sentence. This structure reinforces the concept for readers and helps them understand how the two sentences are connected.

#### 4. Use summative modifiers to reinforce concepts and connect sentences.

Legal writing often deals with abstract concepts. It can be tempting to refer to large ideas by pronouns like “this,” or “that.” But, these pronouns can be confusing for the reader, who may not understand to which concept these words are referring.

You can clear up the linkage between sentences with abstract subjects by adding a summative modifier to the start of the second sentence. A summative modifier is a word that sums up the concept in the previous sentence. By using summative modifiers to connect sentences, you can guide your reader through each step of your analysis.

**Example:** Here are two pairs of sentences, one with a summative modifier and one without:<sup>6</sup>

- A. The Fourth Amendment’s exclusionary rule discourages officer misconduct by ensuring that wrongfully obtained evidence cannot be admitted in court. **This** is one reason why the Supreme Court applied the doctrine in *Mapp v. Ohio*.

Passage A is less clear because the reader may not know what “this” refers to. “This” could refer to “discouraging officer misconduct” or “ensuring that wrongfully obtained evidence cannot be admitted in court.”

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<sup>6</sup> *Id.* at 155. Williams and Bizup also discuss using summative and other types of modifiers within a long sentence to keep your reader oriented.

- B. The Fourth Amendment’s exclusionary rule discourages officer misconduct by ensuring that wrongfully obtained evidence cannot be admitted in court. **This deterrent effect** is one reason why the Supreme Court applied the doctrine in *Mapp v. Ohio*.

Passage B is clearer because it has a summative modifier (“deterrent effect”). Adding the summative modifier gives the second sentence a definite subject and lets the reader know that the second sentence is describing something new about the concept from the first sentence.

## 5. Include transition words to link sentences and ideas.

You can use transition words and phrases to guide the reader from one idea to the next. Transition words can be used to reinforce your roadmap, signal a comparison, or show the reader that you are drawing a conclusion.

These transitions can be at the beginning of a paragraph or between sentences.<sup>7</sup> When readers encounter one at the start of a sentence, they do not have to puzzle out the relationship between the sentences while also digesting the substance of the current sentence. In effect, the linking word or phrase serves as a roadmap for the sentence that follows.

Transitions should mirror your roadmap in content and structure. This way, the reader will know where they are at in the document. For instance, if your roadmap states elements in a numbered list, you can use “First,” or “Second,” as a transition to let the reader know when you are discussing each element. You can also use transitions to show the reader when you are drawing a comparison or distinguishing a case. Using words and phrases like “Like in the previous case” can signal that you are about to draw a case comparison.<sup>8</sup> Words like “However” or “In contrast” can be used to show juxtaposition. Finally, you can use transitions to signal when you are concluding on an element or sub-element. Words and phrases like “Therefore” or “As a result” will help lead to into your conclusion for each idea.

Legal writers should not limit themselves to using only a few linking words in only a few specific situations. Indeed, strong legal analysis is characterized by making strong logical connections between sentences. Linking words and phrases can also provide you with an opportunity to use elegant variation. . For example, in addition to using “although” and “even if,” when you are about to refute a counterargument, you could use “at the same time,” even so,” “still,” or “on the other hand.” Likewise, legal writers need not rely only on “because” or “as a result” to show cause and effect. Other choices include “on that basis” or “to that end.”<sup>9</sup> Using a variety of logical connectors can add spice to your legal writing and at the same time strengthen your substantive analysis.

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<sup>7</sup> DIANA R. DONAHOE, TEACHINGLAW (2016), <https://teachinglaw.com/writingRewriting/samplePages/transitions.htm>.

<sup>8</sup> For more about case comparisons, see the Writing Center’s Handout on “How to Craft an Effective Case Comparison.” <https://www.law.georgetown.edu/wp-content/uploads/2018/07/How-to-Craft-an-Effective-Case-Comparison.pdf>.

<sup>9</sup> For a list of transition words, see ROSS GUBERMAN, POINT MADE, 213–15 (2011).