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Getting Organized: Part I

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Getting Organized

by K.K. DuVivier



Good organization is fundamental to effective writing. No matter how brilliant your argument is, it may be misunderstood—or completely ignored—if its organization does not work. The argument becomes accessible to the reader through intelligent organization.

Gross Organization

Your pathway in researching a problem may have been circuitous. Before you begin writing, refine your analysis by preparing an outline. Outlining helps you think through the problem and avoid the omission of any significant step.¹ Let the principal legal issues revealed by the outline control your overall organization.

Develop an organizational approach that presents the information in an order that will be most helpful and efficient for a reader not versed in the relevant law. If a problem requires resolution of a threshold question or a question that logically must precede the others, then you should analyze it first. If there is no threshold question, you may want to organize the claims by degree of difficulty. In some cases you should dispose of the simpler claims first, but in others it will be advantageous to attack the most complex claims first.²

Fine Organization

A few standard organizational paradigms have evolved for analyzing fact-based legal problems. Although there are some slight variations, the most prevalent is designated by the acronym IRAC.³ The following elements define the IRAC organizational paradigm:

I—Identify the *issue* being addressed through a summarizing topic sentence. Logically, the reader must know the issue to make sense of the remainder of the analysis. Topic sentences, which set forth the issue and the writer's conclusion first, were described in depth in a previous *Scrivener*.⁴

R—Explain the *rules* of law—derived from cases, statutes or other authorities—that support your conclusion. Because the relevant rules provide a framework for your analysis, you should state them first. Beginning with the applicable

rules also enables you to write more concisely than you could if you were to begin with the facts, proceed to the rules, and then apply the rules to the facts.

A—Apply the law (the rules' elements) to the specific issue you are analyzing. Always make your argument easy for the reader to follow. Never skip a step in the analysis or assume the reader knows the facts and will see how the law discussed is relevant.

C—Finally, evaluate the arguments and counterarguments to reach a *conclusion* concerning the issue being discussed. Tie the pieces of your analysis together and give the reader a definite resolution.

As an editing technique, go back and check that your discussion of each issue and sub-issue contains all four elements of the IRAC paradigm. Complete the paradigm for each sub-issue separately, concluding your analysis of that sub-issue before continuing to the next.

The IRAC paradigm is a useful guide for logically ordering the steps necessary to analyze a fact-based legal problem, but avoid using it too rigidly. Variations and modifications of the paradigm may be appropriate. Some of these will be discussed in the next column.

NOTES

A reader asked me to recommend a book or two dealing with appellate advocacy and legal writing. Those cited here are some of the best texts covering both areas. They vary in the level of sophistication expected from the reader. Future columns will list some outstanding books that are quick and easy to read and specifically address writing and style.

1. Dernbach and Singleton, *A Practical Guide to Legal Writing and Legal Method* 76-90 (Littleton, CO: Rothman & Co, 1981).

2. Shapo, Walter and Fajans, *Writing and Analysis in the Law* 87-115 (Westbury, New York: Foundation Press, 1989).

3. Pratt, *Legal Writing: A Systematic Approach* 107-112 (St. Paul, MN: West, 1989).

4. See, DuVivier, "Bold Beginnings," 20 *The Colorado Lawyer* 919 (May 1991). If the issue component does not include a conclusion, it does not work well in decision-making documents. Neumann, *Legal Reasoning and Legal Writing* 124 (Boston, MA: Little, Brown & Co, 1990).

DO YOU HAVE QUESTIONS ABOUT LEGAL WRITING?

K.K. DuVivier will be happy to address them through *The Scrivener* column. Send your questions to: K.K. DuVivier, University of Colorado School of Law, Campus Box 401, Boulder, CO 80309-0401.

K.K. DuVivier is an instructor of Legal Writing and Appellate Court Advocacy at the University of Colorado School of Law, Boulder.

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