

# So Just What *Is* Your Style?

BY SUSAN McCLOSKEY

Every day, we're reminded that clothing is a robust form of self-expression. When we see a young man with dyed orange hair, multiple nose studs, and raveled jeans, we know that he is saying something about himself that a man dressed in pin stripes and French cuffs would never consider saying.

Like a tattoo or a string of pearls, the words we choose and the way we arrange them on the page tell our readers a great deal about who we are, how we think, and what we value. As a legal writer, you are probably reminded of this fact less often than other professional writers are. The circumstances of your work seldom permit the ongoing conversation about style that journalists, fiction writers, and scholars routinely conduct with their editors. You're often left to develop your style by guess and by golly, testing the effectiveness of one device over another under the pressure of deadlines and the requirements of courts, colleagues, and clients. Without much opportunity for choice or reflection, experimentation or feedback, you realize one day that you *have* a style but are hard-pressed to say what it is.

The questions that follow give you a chance to identify the elements of your style, to make yourself conscious of the way you typically express your thoughts. What you discover may delight you or send you searching for your college copy of Strunk & White. But it will certainly redirect your attention from *what* you've written to the nuts-and-bolts details of *how* you've written it. In reflecting on your answers, you may decide that your present style is perfectly suited to your ends. Or you may see that you've developed some stylistic tics that you and your readers would do better without.

Read all of the questions to orient yourself, then select a 500-word passage of your writing that accurately reflects your style at its best. Look for a passage made up of at least a few paragraphs and only a few quotations and citations. Answer the questions in whatever order you wish, but aim to answer them all, even if you can devote only scattered moments to the work. The few questions that involve word counts and calculations of averages are tedious, but your answers will reveal the bedrock of your style. The commentary after each question will help you interpret what you discover.

## The Style of Your Paragraphs

1. *What is the average length of your paragraphs? Divide the total number of sentences in your sample by the number of paragraphs to determine the average.*

Once you've established the baseline length of your paragraphs (five sentences is fairly typical), take a look at the longest paragraph in your sample. Is it significantly above the average length? Is its length justified by the point you're developing? Bear in mind that readers' hearts often sink when they confront a long, unbroken block of text. Check the paragraph to see if it can be divided into smaller units.

Then look at the shortest paragraph in your sample. If it's made up of only a sentence or two, make sure that you've fully developed your point. If you have, then decide whether the paragraph merits the emphasis that brevity bestows. Remember that a single-sentence paragraph is a piece of heavy stylistic artillery that is most effective when seldom used.

2. *How many of these paragraphs begin with a sentence that accurately indicates the paragraph's focus?*

Caught up in your argument or analysis, you may sometimes omit the topic sentence, which alerts the reader to the paragraph's focus. Be especially critical of any paragraph that opens with a quotation or a reference to a case. Almost always, such a paragraph needs a new opening sentence that tells the reader why the quotation or case merits notice. Remember also that judicial readers often refresh their memories about the content of documents by rereading the topic sentences of each paragraph. Your job is to make sure these sentences reveal the scaffolding of your argument.



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3. Do you use transitions to express the relationship between one sentence and the next in a paragraph?

In a well-written paragraph, the implicit logical connections among sentences may by themselves underscore the coherence of your point. But sometimes it's necessary to make the connections explicit. Legal writers overwhelmingly use conjunctive adverbs and prepositional phrases as a paragraph's glue, opening sentence after sentence with

*Furthermore* or *In addition*. Consider trading in these old stand-bys for transitions with a little more pizzazz, such as coordinate conjunctions (e.g., *and*, *but*), demonstrative adjectives (e.g., *this*, *those*), personal pronouns (e.g., *he*, *they*), consistent grammatical subjects, and repeated words or phrases.

4. Do you use transitions to show your reader how the paragraphs are related to each other?

Readers rely on you to indicate how a new paragraph relates to the one preceding it, especially when you're presenting a complex analysis or argument. The transitional devices mentioned in Question 3 work *between* paragraphs as well as *within* them. Sometimes the usual transitional words or phrases do the job handsomely. Sometimes you can open a new paragraph by referring to the preceding paragraph's point (*As this long history of tax delinquency makes plain . . .*) or by repeating a word or phrase from the previous paragraph's final sentence. Variety of transition is a hallmark of good style.

### The Style of Your Sentences

5. What is the average length of your sentences? Divide the total number of words in your sample by the number of sentences to determine the average. How many sentences are more than ten words above the average? How many are more than five words below?

A mix of sentence lengths—long, short, and in between—gives a passage its rhythm and aids the reader in attending to your points. Variety of sentence length usually indicates that you're also employing a variety of sentence types. Shorter sentences tend to be simple (with a single subject-verb pair). Longer sentences tend to be complex (with an independent clause and one or more subordinate clauses), compound (with two or more independent clauses), or compound-complex (a sometimes unwieldy combination of multiple independent clauses and subordinate clauses). A variety of sentence length and type is an aspect of good style.

If you find that your longest sentences are more than ten words above the average, be careful. Legal writers are justly notorious for single sentences that sprawl across a page in a riot of *ands* and *buts*, semicolons,

dashes, interspersed citations, and parenthetical asides. A good rule of thumb in revision is to reevaluate any sentence over about two-and-a-half lines. It probably contains a natural dividing point, most often at a conjunction. If the sentence is perfectly clear, you may not need to break it up; a long sentence now and then contributes to the rhythm and variety a good writer aims for. But no reader can take in a massive sentence on a single reading, and a single

reading is all a writer is entitled to expect.

After a few longer sentences, readers come upon a short one with relief. If you're inclined to write mostly long sentences, be sure to provide this relief, especially when you want to emphasize a point. Short sentences are especially effective at the beginnings and ends of paragraphs.

6. Are all of your sentences declarative? Does your sample contain any questions, commands, or exclamations?

Most sentences in any legal document are properly declarative, filled with statements about the facts and the law. But it's a good idea to vary the succession of declarative sentences now and then, especially when you wish to emphasize a point. Exclamations are fairly rare in legal writing—even when they're warranted! But rhetorical questions and commands, if seldom used, can be quite powerful: *Do American citizens expect their government to eavesdrop on their telephone conversations? Or, Imagine the circumstances of an employee long subjected to her supervisor's discriminatory practices.* When you're revising, look for opportunities to call attention to a point by rephrasing a declaration as a question or command.

7. How do your sentences characteristically open?

Most sentences open with their grammatical subject: *Consolidated presents this motion for partial summary judgment.* But a string of sentences following this pattern quickly becomes monotonous. Legal writers sometimes vary their openings by using an initial adverb (e.g., *Therefore*, *First*), adjective (*Untimely but unrepentant*, the claimant . . .), prepositional phrase (*On May 12th* or *After the decision by the trial court*), or subordinate clause (*When the judge denied the motion . . .*). Used seldom, expletive constructions (e.g., *It appears that* or *There are*) and coordinating conjunctions (e.g., *And*, *But*, *Or*, *For*, *Yet*, *So*) can join the mix. Your aim is to keep your reader reading attentively. You can achieve that aim by creating an interestingly varied texture of sentence patterns.

8. In how many of your sentences is the subject right next to the verb?

No matter how you open the sentence, you can enhance its clarity simply by keeping the subject and verb

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together. Notice the wide gap between subject and verb in this sentence: *Defendant, having resisted our requests for discovery until the court ordered its compliance, having then produced partial responses or none at all, having sought the shelter of the attorney-client privilege for matters of public record, and having prolonged these proceedings beyond the limits of human patience, drags its feet yet again by seeking a continuance.* The sentence is easier to take in (and its author's exasperation no less apparent) when the litany of the defendant's bad behavior precedes or follows a reunited subject and verb: *The defendant drags its feet yet again by seeking a continuance.*

### The Style of Your Words

9. What percentage of the words in your sample are nouns and verbs?

Count the number of each. Tally as a single verb even those composed of multiple parts—e.g., *will have been waiting, had petitioned, was seeking*. Divide the number of nouns and verbs by the total number of words in your sample to determine the percentage. If you want an even finer sense of your style, cancel the articles (*a, an, the*), prepositions (e.g., *in, over, under, around, through*), and conjunctions (e.g., *and, but, or, so, yet*) from the total and use that figure as the divider.

If the percentage of nouns and verbs is high, your style makes good use of the parts of speech essential to meaning. Well-chosen nouns and verbs make it possible to prune adjectives and adverbs and give your style precision and economy. This sentence needs such pruning: *Multiple requests uniformly directed toward the question of how defendant company made its determination on the matter of plaintiff's entitlement to benefits are plainly objectionable on the ground of relevancy to the matter at hand.* With greater precision of noun and verb, it can be briefly refashioned: *On the ground of relevancy, we object to requests about how the defendant determined the plaintiff's entitlement to benefits.*

If the percentage of nouns and verbs is low, take a closer look at a few sentences to see if you can reduce the number of adjectives and adverbs by choosing more precise nouns and verbs.

Another way to boost your reliance on nouns and verbs is to reduce the number of prepositional phrases in a sentence. Legal prose is often marred by the writer's tendency to construct sentences out of one prepositional phrase after another: *Our examination of the material included a review of the accuracy of selected 1999 billings by the company and an evaluation of procedures employed by the company in the selection of its appraisers.* A revision relying on verbs and nouns to do the sentence's work can easily reduce eight prepositional phrases to two: *We checked the accuracy of selected 1999 billings and evaluated the company's procedures for selecting appraisers.*

10. How many of the substantive words in your sample—that is, everything except articles, prepositions, and conjunctions—are words of one or two syllables? How many are words of more than two syllables?

A vigorous style relies whenever possible on words descended from native English, rather than imported Latin, stock. You can tell one from the other by a simple, fairly reliable, test: Anglo-Saxon derivatives tend to be short, usually one or two syllables; nouns name tangible things. Latin derivatives tend to be many syllables; nouns name abstractions. So if you find your prose filled with Latinate words, such as *initiate, demonstrate, vehicle, and compensation*, restore its energy by substituting English words—in this case, *start, show, car, and wage*.

11. How many of your verbs are in the active voice? How many are passive? How many are linking verbs?

A verb is in the active voice when its subject performs the verb's action: *Smith sued Jones for breach of contract.* Here, *Smith* is the subject, and he did the suing. A verb is in the passive voice when the subject does not perform the verb's action: *Jones was sued by Smith for breach of contract.* Here, *Jones* is the subject, but he did not do the suing. *Smith* did, but he's been demoted from the subject to the mere object of a preposition. Reserve passive verbs for circumstances in which you do not know who acted, the actor is irrelevant, or you wish to be diplomatic. (*Mistakes were made* is famously more face-saving than *My client messed up*.)

The verb is the most important word in a sentence, and a good writer makes the most of it, preferring active verbs to passive and linking ones. Active verbs tend to be brief and vivid: *stop, go, begin, end*; by contrast, passive verbs need two or more words for their formation: *was stopped, had been going, will have been begun, is being ended*. Because active verbs require a writer to specify an actor for the verb's action, they avoid baffling statements such as *A motion was made*. Who made it? The plaintiff? The defendant? Passive verbs prompt such questions; active verbs answer them: *Plaintiff moved the court for a temporary injunction.*

Linking verbs (most often, forms of the verb *to be*) are useful, indeed indispensable. They are also boring. Your style will be stronger if you change the weak *is* in *A judge is an interpreter of the law* to the strong and active *A judge interprets the law*.

12. How many Latin words or phrases appear in your sample? How many words or phrases qualify as "legalese"?

A good legal stylist restricts the use of Latin to recognized terms of art, such as *habeas corpus* or *prima facie*. Commonly used words and phrases, such as *inter alia* or *arguendo*, don't belong in that category and have perfectly serviceable English equivalents (*among other*

things and for the sake of argument, respectively). The best legal prose follows a simple guideline: When you can express your thought in common English words, do.

Clients and courts have united to protest the legalese that makes a 21st century lawyer sound like a Victorian-era scrivener. Most legal writers now feel a prick of conscience when they resort to such language and have banished *aforementioned*, *the undersigned*, *pursuant to*, and other such fiddle-faddle. Some forms of legalese have resisted these outcries, but should still be avoided, including *said*, *such*, and *same*, the use of *within* as an adjective (*the within property*), and all members of the *here*-family (*hereinabove*, *hereinbelow*, *heretofore*, *hereinafter*, etc.).

### A Few Odds and Ends

13. *Is the opening sentence of your sample a bit of legal boilerplate (e.g., Comes now, Such-and-such, to petition this esteemed Court for so-and-so)? Or is it genuinely interesting—the kind of sentence that encourages a reader to keep reading?*

Journalists have long known that a reader's interest diminishes as the column-inches increase. That's why good journalists pack into the opening sentence or paragraph the kinds of information that readers read to get.

By contrast, legal writers have conditioned their readers to skim boilerplate openings and hope that by paragraph two or three the writer will have gotten to the point. Why make your reader wait? A brief that begins with an assertion such as *This is a case of fraud* is likely to make even a jaded reader sit up straight and read with interest. Opening sentences and paragraphs deserve the best, most engaging writing a writer can muster. While it's true that most consumers of legal prose are captive audiences, obliged by their job descriptions to read whatever a lawyer submits, there's no reason to treat captives badly. An engaging opening is the harbinger of good things to come.

14. *Does your passage contain quotations? Have you quoted only what you need to quote to support your point? Have you introduced the quotation in an effective way?*

Most readers of legal documents admit that when a block quotation presents itself, so does the temptation to skip it altogether. Given this fact of human nature, a careful legal writer follows these three guidelines:

First, quote only when you or your reader needs the authority you're quoting. Second, quote only the parts of the passage that genuinely serve your point. When you use ellipses or asterisks to trim a passage to its essence, make sure you don't also skew its meaning. Third, write a lead-in that will preserve the quotation's point even if a reader skips the passage. *The court held* is never a good lead-in. Distill the essence of the quotation

in the sentence that introduces it: *The court held that in imposing punitive damages, the jury acts in a quasi-judicial capacity.*

15. *Does your passage contain any figures of speech?*

Lawyers often insist that figurative language is risky, no matter how striking or memorable it may be. It's certainly the case that a legal document is an unlikely place for irony, humor, or droll understatement. A reader not expecting such rhetorical flourishes may misinterpret them, causing more problems than any neat turn of phrase is likely to solve.

But caution need not banish all the pleasures of language well used. When you have a point you especially wish to emphasize, express it vividly, using all the resources of language. When Justice Marshall wished to oppose discrimination on the basis of gender, he did not content himself with abstraction and generality. Instead he wrote, *A sign that says "men only" looks very different on a bathroom door than a courthouse door.*<sup>1</sup> In everything you write, aim to craft one well-turned sentence. The effort will hone your skill, give you satisfaction, and delight your readers.

### Creating a Profile

When you've finished answering the questions, create a profile of yourself as a writer. If you've discovered, for instance, that you tend to write long paragraphs, long sentences, and long words; that your verbs are usually passive; that you rely on adjectives and adverbs instead of strong nouns and verbs; and that you've searched your sample in vain for a single neatly turned phrase, then reassess the effect of your style on those who read it. You can make your documents more effective and your readers happier to read them by giving your prose greater variety.

If you've discovered that your diction and sentence structures are admirably varied, but that your paragraphs lack strong introductions, internal cohesion, and helpful transitions, focus on developing them with greater care and skill.

And if you've found that every aspect of your prose passes muster, congratulate yourself—and then raise the bar a notch or two.

If you're serious about developing your style, consider completing this questionnaire annually. Doing so will remind you that your style is not simply a happy or unhappy accident, something that happens to you when you sit down to write. Instead, you can make and remake your style, dismantle and make it again. By showing you what your style consists of, these questions will help you decide how the making should go.

1. *City of Cleburne v. Cleburne Living Ctr., Inc.*, 473 U.S. 432, 468-69 (1985).