

“We concentrate their attention on the application of the *what, why, who, when, and how* questions that are essential to good roadmapping—and good legal writing.”

## ROADMAPPING AND LEGAL WRITING

BY BRADLEY G. CLARY AND DEBORAH N. BEHLES

*Bradley G. Clary is Legal Writing Director at the University of Minnesota Law School in Minneapolis. Deborah N. Behles is a second-year law student and Legal Writing Student Instructor at the University of Minnesota Law School.*

As instructors of legal analysis and writing, we are familiar with the concept of roadmapping.<sup>1</sup> We also know that one of the trickier things for beginning legal writers to do is to convey effectively to a reader how to get to a desired destination. They have trouble explaining the component steps from the reader’s standpoint, the order in which they should go, and the process that is involved.

To help beginning legal writers become acquainted with the kind of “roadmapping” that

they will be doing for the rest of their career, we literally ask our students on the first day of class to give directions to a “traveler” on how to reach a particular endpoint.

### Preparation

First, we divide students into three- or four-person groups. We match local residents with recent arrivals to develop community building among the students and to ensure that each group includes students who are familiar with the metropolitan area.

Then we ask each group to pick a destination or an event in the metropolitan area where they would send a visitor. The students select the destination or event, and then must write down how the visitor will get to that destination or event from the law school. Next, each group of students presents its roadmap on the chalkboard.

Two hypothetical “maps” taking a visitor from the University of Minnesota Law School in Minneapolis to the State Fair Grounds in St. Paul might look like these:

#### Example A [No title]

1. Out of law school parking lot, follow South 2nd Street to Seven Corners.
2. Turn on Washington Avenue.
3. Go over the bridge.
4. Turn left on the continuation of Washington Avenue.
5. Cross the river.
6. Take Washington to University Avenue (the best route if you don’t like freeway driving).
7. Take University to Snelling Avenue.
8. Turn left on Snelling.
9. Turn left onto Fair Grounds.

#### Example B “State Fair Grounds”

1. Turn left out of law school parking lot.
2. At first stoplight, turn left onto 19th Avenue.
3. Go past Carlson School.
4. At second stoplight, turn left onto Riverside.
5. Take Riverside to sixth stoplight (Perkins Restaurant will be at the corner).
6. Turn left onto entrance to East I-94 (the fastest route if not rush hour).
7. Stay on I-94 going east.
8. Watch out for merging traffic on the left.
9. Go 3.4 miles to Snelling Avenue.
10. Exit from right lane at Snelling. Turn left at the end of the exit onto Snelling.
11. Go through six stoplights.
12. At approximately the seventh light, the Fair Grounds will be on your left. Look for the big gate, exhibition buildings, State Fair sign, and the space needle. (It’s fun to go up.)

<sup>1</sup> See, e.g., Kathy L. Cerminara, *Metaphors Help Students Write More Logically*, Law Tchr., Spring 1997, at 2; Brian S. Williams, *Road Maps, Tour Guides, and Parking Lots: The Use of Context in Teaching Overview and Thesis Paragraphs*, 7 Perspectives: Teaching Legal Res. & Writing 27 (1998).

Once we have examples of student-drafted roadmaps, we then explore the process they used to create their maps, focusing both upon how they created them and how a visitor would react to each. As we do so, we also begin to introduce students to the idea that “roadmapping” is an integral part of legal writing. We concentrate their attention on the application of the *what*, *why*, *who*, *when*, and *how* questions that are essential to good roadmapping—and good legal writing.

### What

Our opening questions to the students are two “what” inquiries: “*What* is your goal?” and “*What* did you do first in your discussion?” The ultimate answers to those questions are that the goal is to help a visitor get to a specific place with the least amount of trouble, and the students first decided upon the identity of the place, such as the State Fair. Similarly, we tell the students, the odds of taking a visitor, such as a court, a client, or a partner, with you to a particular legal destination are significantly improved if first you figure out the destination before embarking on the journey. If a writer has no destination, the reader will not arrive at one except by accident. Your results should not depend upon fortuity.

### Why

Our second question to the students is “*Why* did you pick that particular event or destination?” In our experience, the answer is inevitably that the students are sending the visitor to a place or event the visitor would like to go to. Similarly, in a persuasive writing, students should be looking for ways to send their reader to a conclusion the reader will *want* to reach. Students should be looking for arguments to convince the reader that good will come from the result.

### Who

Our third question to the students is “*Who* is your visitor?” Does the visitor know something about the area or lack any prior knowledge? Why will this particular visitor think the State Fair is a good place to go? We tell students to know their audience and to make decisions based on the reader’s perspective. Legal writing is audience-based. Writing for a judge, for example, whose existing opinions demonstrate a prior knowledge

of a legal issue, will be different from writing for a judge who has apparently never considered the question before.

### When

Our fourth question to the students is “*When* are you sending the visitor to the destination?” The typical answer is “We are doing the exercise today, aren’t we?” But the “when” question is not mere redundancy. If the legal writer is taking a reader to a conclusion under today’s law, the writer must pick a currently permissible route. If the writer is sending advance instructions to a “visitor” who is coming to town in six months, the writer must predict a future permissible route. In neither case is it helpful for the writer to describe the route to the destination that was good 10 years ago, unless the comparison helps the visitor understand the relevant current route.

### How

Our fifth question to the students is “*How* are you going to send the visitor to the chosen destination?” At this point, we turn to the roadmaps on the chalkboard. They provide rich opportunities for commentary and comparison to legal writing.

Did students write down the name of the destination or event at the top of their map? (Compare examples A and B.) It helps to tell a visitor at the beginning where he or she is going. Stating the destination in advance comforts the visitor and enhances student credibility as a guide to a known place. The same is true in legal writing because stating the conclusion at the beginning makes the writing more persuasive and clear. The conclusion provides a reference point for the legal reader to understand the direction in which the argument is going. The typical legal reader, whether a court, a client, or a colleague, wants to know what resolution he or she should arrive at.

Did students list in order each sequential piece of the map? Students should not assume that the visitor, especially a visitor with no prior knowledge, knows what direction to turn at the Seven Corners intersection. (See example A, steps 1 and 2.) If the students skipped a step, they should go back and put it in. No visitor should be lost *because of* the roadmap. Then the visitor is not only lost, but also angry. The same is true in legal

“We tell students to know their audience and to make decisions based on the reader’s perspective.”

“Descriptive examples, analogies, charts, graphs, and other similar devices bring alive to a reader the concepts that the writer is trying to convey.”

writing because a brief, to be effective, needs to include each sequential step. We stress to students that legal writing is audience-based. Especially if your reader lacks prior knowledge about an issue, the writer cannot assume that the reader follows the argument when there are missed steps.

Did students offer the visitor a permissible route? If there is road construction standing in the way, the students cannot take the visitor by that route. Or if there is no left turn at the Washington Avenue intersection during certain hours, students could not properly tell the visitor always to turn left. The same is true for legal writers—they must ensure that their authorities are reliable. Thus, they should continually check that cases have not been overruled or modified, and that statutes have not been replaced, amended, or repealed.

Have students identified for the visitor any landmarks to comfort the visitor regarding the correct route? If the visitor should look for a landmark such as a Perkins Restaurant to mark the turn (see example B, step 5), have students adequately and clearly described that step to the visitor (just as they would tell a legal reader about a court decision that marks a legal route)? Writers must connect their authorities to their arguments, and must make evident the connection. The better the explanation of the landmarks, the more likely it is that readers will head in the correct direction.

Did students consider drawing any pictures to supplement their list? Visual aids and word pictures are helpful to many visitors (and legal readers). Descriptive examples, analogies, charts, graphs, and other similar devices bring alive to a reader the concepts that the writer is trying to convey.

Did students use commonly accepted terminology? If the freeway entrance is labeled I-94, students should not tell the visitor to look for the “freeway,” unless they have first identified what that means. Legal readers will expect to see citations to facts and legal rules in commonly

accepted legal formats, such as those described in *The Bluebook*<sup>2</sup> or the *ALWD Citation Manual*.<sup>3</sup> Readers also will not find shorthand labels to be persuasive if the writer has not first explained the shorthand. This is why, we tell the students, they should always give a full citation to an authority first, and only thereafter use short citations.

Did students select the best route for their visitor’s purpose? There are often multiple ways to take a visitor (legal reader) to a particular destination. Some routes are long, some short. Some routes are picturesque, some bland. Some routes are safe, some dangerous. Some routes are fast (the freeway), some have lots of stoplights (University Avenue). So what are the visitor’s goals? Have the students thought about distinguishing among the routes depending upon the goals? In the case of legal writing, has the writer told the reader that a particular route was picked over other choices because of the goals? Many legal readers are busy and must confront every day a huge volume of material. As a result, they want the shortest, straightest, safest route to a proposed legal destination.

Have the students been precise? If the Snelling Avenue exit is 3.4 miles down the road, say so (example B, step 9). Precision helps a visitor (legal reader) avoid incorrect turns. It also enhances credibility from the outset. For example, if four circuit courts of appeals have ruled a particular way on a particular issue, the legal writer should identify those meticulously and not just say “several courts” have ruled on the question. Similarly, the legal writer should not just cite to the cases in general, but should cite to the specific pages in the opinions where the reader can find the relevant specific material.

## Conclusion

We find that this map-making exercise provides a useful analogy to the essentials of legal writing. It helps students think about the what, why, who, when, and how of taking a reader to a desirable destination. (And it has a side benefit: Students now know how to get to the Minnesota State Fair.)

© 2000 Bradley G. Clary and Deborah N. Behles

<sup>2</sup> *The Bluebook: A Uniform System of Citation* (16th ed. 1996).

<sup>3</sup> Darby Dickerson, Ass’n of Legal Writing Directors, *ALWD Citation Manual: A Professional System of Citation* (2000).