PRÉCIS — WHAT IS IT?

According to Webster's *New Collegiate Dictionary*, a precis (pronounced prā-sē) is "a concise summary of essential points, statements, or facts." According to me, a precis is the equivalent of an introduction to a law review article. A good introduction gets the reader's attention, explains why the topic of the paper is important, places that topic within a larger legal/social context, and describes what the paper will contribute to the issue. It does all of this in around three pages, or about five or six paragraphs.

The first few paragraphs need to get the reader's attention and simultaneously introduce the topic. The goal should be to convince the reader that the topic is an important one worth writing about. At about the third or fourth paragraph, the precis ought to focus on what the paper will contribute to the topic, by explaining the theme of the paper. The final paragraph of the introduction should be a section-by-section overview of the paper (one sentence per section), the final sentence of which should be a one-sentence description of the paper's conclusion (see Commandment #4, below).

None of these rules are hard and fast ones, but the precis should not be more than three or three-and-one-half pages in length. Ultimately, you must use your own discretion, for the responsibility to write clearly, coherently, and succinctly is yours. It is the most valuable skill you can carry away from law school.

Nevertheless, a precis/introduction must achieve the goals set forth here. Otherwise, you are much more likely to produce a poor paper.

If you're looking for models, open up any law journal and read the introductions to a few articles to get a sense of what you need to do. Most will accomplish what I suggest above. In fact, it's a good idea to read published articles; students who haven't written academic papers probably have not done enough critical reading in the past.

BLUMM'S 19 COMMANDMENTS OF PAPER WRITING

1. Organization

Poor papers are invariably poorly organized. This is due undoubtedly to the fact that a coherently organized paper is the product of a good deal of thought and effort, which requires a certain amount of time. Divide the paper into sections and make sure each section not only has some internal coherence but also logically flows from the preceding section and leads into the succeeding section.

And write simply. (Again) Write simply. (Finally) Write simply.

Shorter sentences are better than longer ones, but variations between short and long sentences are good, too.

2. Use An Outline Format

This is mandatory; I will not read papers which are not divided up into an outline format, and which are not preceded by a table of contents. You may subdivide the paper as you think necessary. Please remember that all section I.'s must be accompanied by at least a II.; all A.'s must at least have a B.; all 1.'s must at least have a 2., and so forth. Also, outline headings should not be full sentences—if you feel like you want to write one, begin the heading with a gerund (for example, establishing, requiring, interpreting, and so forth.). It's bad form to have one heading (for example, "I.," followed immediately by another (for example, "A."). Instead, insert an overview paragraph that previews all of section I. with a sentence for each subsection to the reader before beginning subsection A.

3. Headings

Use them frequently. Generally, you should not go more than two or three pages without a new subdivision (see #2 above).

4. Introduction, including a "Roadmap Paragraph"

The most important part of a paper is the Introduction (which is your edited precis). For this reason, you should write it a number of times, and edit it after the rest of the paper is complete. A good introduction acquaints the reader with the problem the paper addresses, explains why it is important that the problem be resolved, and proposes solutions. In other words, the Introduction must be interesting enough to provoke the reader's interest.

The introduction to your paper also must provide a brief guide to the remaining parts of the paper in a final, "roadmap" paragraph referring to the paper's various sections (see #1 and #2 above) and explaining how these interrelate. The first sentence of the roadmap section begins with: "This paper....[explain what the paper is about]." The second sentence begins with: "Section I provides background....[see below on the nature of the background section]." The next sections all begin with: "Section II".... "Section III".... "Section IV" [using present tense and active voice]. The last sentence of the Introduction begins with: "The paper concludes that....[one-sentence conclusion]."

5. Background Section

Often, you will find yourself writing about a fine point of law in a rather complex field. In order for your reader to appreciate how the particular case, statute, or regulation relates to the larger setting, you will need to set the context with a background section. Here, in one section—immediately following the introduction—is where you can put all the background information that, while not absolutely essential to your analysis, is necessary for the reader to see how the specific development relates to the whole field. A good background section (a) helps to keep the rest of the paper focused, (b) gives the uninitiated reader facts necessary to appreciate the importance of the specific development under consideration, and (c) lets the well-informed reader know that you know your stuff.

6. Documentation

A crucial part of any good paper is its documentation; that is, citations to relevant authority, additional explanations of matters not central (but related) to the textual material, clarifications of apparent contradictions, and so forth. A good lawyer has references to authority for his/her arguments; papers without adequate documentation show a lack of research effort. Put your documentation in footnotes. Do not cite authorities in the text. You are not writing a brief for me.

Try to get some sense of the important authorities in the area you are writing about and cite them. Citing the right authorities will enhance your credibility, as your footnotes will be one of the things a reader will consult after reading the precis/intro.

7. Citation Form

If you cannot learn proper citation form (that is, Bluebook or something similar), you show that you really don't belong in law school. You won't impress anyone with citations such as Reagan, Ronald R.; *Ibid.*; or 500 F.2nd 1 (1980); and so forth. (You ought to know what is wrong with each of these cites.) Learn to employ short cites for repetitive citations to cases; use pinpoint citations for exact page numbers; don't start citations with "*supra* note 1;" and don't use *supra* at all to refer to a previously cited case—-use a short cite with a pinpoint. You can save space and make your paper look more analytic by employing parenthetical holdings for cases in your footnotes.

8. Paragraphs

The lack of familiarity of some law students of the necessity of writing (and thinking) in paragraphs is an embarrassment. Paragraphs have a beginning, a middle, and an end. Therefore, except in unusual circumstances, avoid one-sentence paragraphs. And do not end a paragraph with a quote, especially a long quote (see #12, below) -- end it with your own thoughts. That means you need to draw some intermediate conclusions at the end of paragraphs. A good paragraph also logically flows from the foregoing paragraph and leads into the following paragraph (cf. #1, above). Most good paragraphs are a maximum of six or seven paragraphs long (and sometimes shorter). This means that, except for paragraphs outlining a major section (see #2, above), the sections and subsections of your paper need to have more than one paragraph to them. Paragraphs do not begin with "However, ..." or "Furthermore, ..." And once again, *paragraphs do not end in quotations*; they end in conclusions.

9. Write in Active Voice

This is really a subpart of "write simply" (see #1, above). If you don't know the difference between the active and passive voice, consult a writing book like Strunk and White's *The Elements of Style*. A brief example–don't write: "It was considered a poor piece of legislative drafting." Instead, write: "The Committee considered S.B. 225 to be a poor piece of legislative drafting." Active verbs can be in the past tense, but they have both a subject and an object (again, consult a style book if you don't know what these terms mean). You can avoid a lot of passive voice problems by making sure that your sentences start with subjects.

10. Past Tense

Write in past tense about things that happened in the past. For example, "The legislature decided ...;" "The court ruled..." Also, it's not a bad idea to remind your readers of the time frame. For example, "In 1997, EPA promulgated a regulation..." Most of your paper should be in the past tense.

11. Lists, Charts, and Other Graphics

Largely forget them. If you want to include these things, you still must explain them in the text. Remember, few readers will be able to see the significant points in a long list or a long block quote. Your task as a writer is to make these points clear in prose.

12. Quotes, Especially Long Quotes

Law students over-quote. Quotes are distracting to the reader unless they are used sparingly, when the exact language used by a legislature or a court matters. A better practice is to learn to paraphrase and put the quote in a parenthetical citation in the accompanying footnote. That will make your paper appear to be more analytic and less a string of other people's ideas. When you do quote, make sure that you attribute the quote to the author in the text: for example, According to Justice Brennan, " ....." Or: In Justice Brandeis' view, "....."

And do not make regular use a lot of long, block quotes. No one reads them (see #11 above). If you feel that a block quote (that is, one that must be indented and single-spaced) is especially important, summarize it in the text and reprint it in the accompanying footnote. Although shorter quotes (that is, those that don't need indentation) are okay, in my experience students quote far too much. Use your own language (making, of course, appropriate references to pertinent authority) unless the specific words are critical to your analysis. Confine most of your quotes to footnote parentheticals.

Also, paragraphs don't end in quotes. They end with conclusions (see #8, above).

13. Indefinite Pronouns and First-Person Plural Pronouns

Another habit to avoid. Make sure "it," "he," "she," or "they" refers to something obvious. Please note that "it" often begins a sentence in the passive voice (see #9 above). Also, note that the appropriate pronoun for an agency is "it," not "they" (for example, "The Bonneville Power Administration opposed the bill because it wanted to preserve its discretion").

There's also almost always a better way to start a sentence than with the word "It."

And don't use the first-person plural, as in "we are the problem," or "it's our dilemma." Generally, it's unclear to whom you are referring (and, as a reader, I may not want to be included as a member of your universal "we").

14. Draft Papers

Some students think that because I agree to review drafts, they can throw together a poorly organized regurgitation of half-thoughts from their research and let me worry about how to make some sense of it. The process just doesn't work that way. For one thing, I'm a much better editor of good papers than bad. For another, I am responsible for many papers each semester and, frankly, there are usually more than I can really help. Therefore, I try to use my energy to produce the most publishable efforts that I can. If you write me a lousy draft, you're likely to get an unilluminating edit like "this makes no sense" or (even less helpfully) "huh?"

I only review draft papers that are 30 pages or less.

15. Proscribed Words

Words not to employ: "input," "utilize," "interface," "impact" (when used as a verb; I prefer "effect" to "impact" when used as a noun). And please distinguish between "its" (possessive) and "it's" (a contraction for "it is"). Resolving the "while" vs. "although" dichotomy: most students overuse the word "while." Unless you're discussing a temporal situation, probably better to use "although."

Don't overuse the word "found," as in the court "found." Courts actually "conclude," "determine," "rule," or maybe "suggest." Treasure trove seekers "find."

Words to employ: "because" (see if you cannot fit this word into a sentence on every page) and any active voice verb. But learn to vary your verbs by editing. (It's not a bad idea to consult a synonym finder to avoid overusing verbs like "stated," "concluded," "reasoned," and so forth.) When you finish a paragraph, look over the verbs in it to ensure that you are not overusing certain verbs.

16. Capitalization

Lawyers overcapitalize, perhaps a reflection of their self-importance. I think it's better to write more modestly. So, try to limit capitalization to proper nouns like the title of a statute or a book. Resolve ambiguities in favor of using lower case.

17. Appellate Decisions

Don't discuss the substance of an appellate court's decision without first indicating whether the court was affirming or reversing a lower court decision, briefly explaining the basis of the earlier decision. This is really important, since it's much easier for an appellate court to affirm a lower court decision than to reverse it. The reader would like to know.

18. Reading

Good writers learn from others. When you're having trouble writing, take a break and treat yourself to some good writing. There is some good writing in law reviews: scan the Yale, Harvard, Stanford, Environmental, or other law reviews and read an article or an introduction

and conclusion that seems interesting. If you're fed up with legal analysis, read *The New Yorker*. Remember, good legal writing is little different from good writing; it is simply a higher art. You cannot influence people who do not hear you without good writing.

19. Advice

Here are recent comments on a student paper that typify the types of writing problems I see frequently: "You don't know how to write active-voice verbs consistently; you don't write in past tense about past events; and you use too many quotes as a substitute for analysis. You need to become a better editor of what you write."

George Orwell, a writer worth reading, had the following advice:

A scrupulous writer, in every sentence that she writes, will ask at least four questions:

1. What am I trying to say?
2. What words will express it?
3. What image or idiom will make it clear?

    a. Is this image fresh enough to have an effect?
    b. Could I put it more shortly?

Orwell also provided the following writing rules:

1. Never us a long word where a short one will do.
2. If it is possible to cut a word out, always cut it out.
3. Never use the passive where you can use the active.
4. Never use a foreign phrase, a scientific word, or a jargon word if you can think of an everyday English equivalent.

Orwell's advice, worth reading in its entirely, can be found at:
http://www.k-1.com/Orwell/index.cgi/work/essays/language.html