

# **guidelines for writing**

# **VOICE ARTICLES**

*by Cynthia L. Hampton*

The *Voice for the Defense* welcomes submissions for publications. We do, however, expect authors to write in a clear, professional manner, using correct grammar, citation forms, etc. If you decide to submit an article to the *Voice*, please adhere to the following guidelines. Also please be sure your paper is up-to-date. Remember, the law changes every week in Texas, so if you don't keep up, it is easy to fall behind. (For example, a significant decisions paper from 2004 is not acceptable for publication in 2006.) Non-conforming papers will be returned to the authors for revision, correction or updating. We cannot publish hard copies of papers, or those that have been scanned. You must submit your paper in Word or Word Perfect format. Also, please remember to put your name on your paper with contact information so that we will know how to get in touch with you prior to publication.

## I. Citation form.

Remember that blue plastic spiral bound book you had in law school that everyone hated? Well dig it out of your closet and keep it somewhere in your office. The “Blue Book” contains the proper citation forms used in legal writing. We don’t expect you to adhere to every little nit-picky rule and regulation. (We’re not Blue Book experts ourselves.) However, we do expect attorneys and other people writing for a professional lawyers’ magazine to use correct citation forms. If the thought of using the Blue Book makes you want to gag, at least get a copy of the Texas Rules of Form (the “Green Book”) published by the UT Law School, which is much smaller and far more “user-friendly.” It may be purchased online from the Texas Law Review:

<http://www.utexas.edu/law/journals/tlr/trof.html>.

### A. Case Cites

#### 1. General Rules:

Case citations generally have three components:

- case name
- reporter
- court
- date.

All must be included: *State v. Jones*, 22 S.W.3d 354 (Tex. Crim.App. 2005).

If you are quoting from a case, you must also include a “jump” cite:

*State v. Jones*, 22 S.W.3d 354, 356 (Tex.Crim.App. 2005).

For short forms you can cite: *Jones* at 356, or *Id.* at 356. Also, remember that “*Id.*” refers only to cases, not statutes or other materials.

We prefer that you italicize case names. Please do not bold or underline them.

#### 2. United States Supreme Court:

*Published cases:*

If there is a U.S. Reporter citation, it is proper to cite only that one.

- *United States v. Smith*, 123 U.S. 254 (1992)

However, if you wish to use parallel cites, the following is proper.

- *United States v. Smith*, 123 U.S. 254, 225 S.Ct. 884,

29 L.Ed.2d 208 (1992).

United States is NOT abbreviated “U.S” or U.S.A.

*Not yet published:*

- *United States v. Smith*, \_\_\_ U.S. \_\_\_ (No. 04-789, delivered March 12, 2005).

If there are Supreme Court and/or Lawyer’s Edition cites, but no U.S. Reporter, use those:

- *United States v. Smith*, \_\_\_ U.S. \_\_\_, 992 S.Ct. 342, 85 L.Ed.2d 143 (2005).

You can also use U.S. Law Week or Lexis/Westlaw.

- *United States v. Smith*, \_\_\_ U.S. \_\_\_, 12 U.S.L.W. 225 (2005).

- *United States v. Smith*, \_\_\_ U.S. \_\_\_, 332 U.S. LEXIS 1245 (2005).

#### 3. Fifth Circuit:

*Published cases:*

- *United States v. Smith*, 79 F.3d 336 (5th Cir. 2001).

Not F.3rd, Not Fed.3d, Not (CA5 2001), and Not (5th Cir. Texas 2001).

*Not yet published:*

- *United States v. Smith*, \_\_\_ F.3d \_\_\_ (5th Cir. No. 02-0005, delivered March 24, 2001).

*Unpublished decisions:*

- *United States v. Smith*, No. 02-0005 (5th Cir. 2001) (not designated for publication).

#### 4. Court of Criminal Appeals:

*Published cases:*

- *Jones v. State*, 954 S.W.2d 225 (Tex.Crim.App. 1994).

The following are not acceptable: (Tex.Cr.App. 1994); (Crim. App. 1994).

Not yet published:

- *Jones v. State*, \_\_S.W.3d\_\_ (Tex.Crim.App. No. 1234-05, delivered January 22, 2005).

## 5. Courts of Appeal:

Published cases:

- *Jones v. State*, 98 S.W.3d 443 (Tex.App. – Houston [14th Dist.] 2003, pet. ref'd)

\*Note that the 1st and 14th courts in Houston are the only two which have the district number designated. For example, the Third Court would be (Tex.App. – Austin 2003), NOT (Tex.App. – Austin [3rd Dist.] 2003).

Not yet published:

- *Jones v. State*, \_\_S.W.3d\_\_ (Tex.App. No. 13-05-442-CR – Corpus Christi, delivered January 22, 2005).

Not designated for publication:

- *Jones v. State*, No. 13-05-442-CR (Tex.App. – Corpus Christi 2005) (not designated for publication).

## B. Statutes.

United States Constitution:	U.S. Const, amend. XIV.
United States Code:	42 U.S.C. §1983
Texas Constitution:	Tex.Const., Art. I, §9.
Code of Criminal Appeals:	Tex.Code Crim.Proc. Art. 32.04, §5(b)

Do not cite the Code as “Art. 32.04, §5(b), V.A.C.C.P.”

Texas Penal Code:	Tex.Penal Code §19.05
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Do not cite, Sec. 19.05, “V.A.P.C.” or “V.T.C.A. Penal Code.” And you don’t need to put (Vernon 2004) or (Vernon Supp. 2005) after a Code citation. We don’t care about that unless you are citing to an old version of a statute.

## C. Secondary Sources

### 1. Law Journals & Periodicals

Jane Doe & John Smith, *How to Lose a DWI Trial without Really Trying*, 22 Tex. L. Rev. 541 (2004).

Dexter E. Gilford, *Constructive Waiver and Compelled Defendant Interviews: Understanding the Lagrone Doctrine and Implementing Strategies for Limiting its Effect, Part II*, 35 Voice for the Defense 14 (April 2006)

## 2. Books

Murl A. Larkin, *Criminal Trial Evidence Manual for Texas Lawyers*, 3d ed. (2005).

Wayne R. LaFave, 1 *Search & Seizure* §1.3(f) (1987).

## II. Signals

If you are going to use signals, please be aware of the meaning and proper usage of each one. If you are uncertain about a signal, either look it up in the Blue Book (it’s rule 1.2, in case anybody even has one) or just don’t use it. For example, many people feel compelled to use “see” before every case citation. According to the Blue Book, “see” doesn’t actually mean see. It means:

Cited authority clearly supports the proposition. “See” is used instead of “[no signal]” when the proposition is not directly stated by the cited authority but obviously follows from it, there is an inferential step between the authority cited and the proposition it supports.

Now, if this seems a little confusing (not to mention irritating), consider the meaning of “no signal.”

Cited authority (i) clearly states the proposition, (ii) identifies the source of a quotation, or (iii) identifies an authority referred to in text.

No signal is generally better unless either you are familiar enough to know what signals really mean, or you want to spend all your time looking up their meanings in the Blue Book. Remember that signals are generally used only by law students and others who write for law reviews and must adhere strictly to Blue Book form. The rest of us don’t have to be so picky.

## III. Footnotes and Endnotes

Please do not use footnotes. Remember, the Voice is not a law review, so every sentence does not need to be footnoted with a citation or countless “Ids.” If you feel it necessary to reference something in a note, please use endnotes instead, and use them sparingly. It is much easier for us if we don’t have to reformat your article by converting footnotes to endnotes.

## IV. Punctuation.

Please pay attention to the following common punctuation errors.

Incorrect	Correct
<p>Possessive of words ending in “s:” witness’s (three s’s together are never correct) or witnesses’s</p>	<p>witness’ witnesses’</p>
<p>Ellipsis at the beginning or end of a sentence. “... there was no probable cause to justify the arrest.”  “The court held there was no probable cause . . . .”</p>	<p>Instead write: [T]here was no probable cause to justify the arrest.  Instead write: “The court held there was no probable cause[.]”</p>
<p>Brackets used in place of parentheses, or anytime they are not being used in a quotation.</p>	<p>Brackets are correctly used only if you are either removing from or adding to a quotation. “The case were [sic] overruled.” Or “The case[s] were overruled.” “As the Court stated in <i>Smith</i>[ v. <i>State</i>, 12 S.W.3d 465 (Tex. Crim.App. 2001)], supra, no probable cause existed.”</p>
<p>Quotations with punctuation: The Court ruled that “no probable cause existed”.  Period outside quote is incorrect.</p>	<p>Period goes inside the quote: The Court ruled that “no probable cause existed.” The same rule applies to other punctuation:  The Court ruled that “no probable cause existed,” but held the error was harmless.</p>
<p>Parenthesis with punctuation: The Court ruled (that no probable cause existed.).</p>	<p>Don’t use double periods. The Court ruled (that no probable cause existed).</p>
<p>Run-on sentence: The Court ruled the trial court erred, however, the error was harmless.</p>	<p>Use a semi-colon. The Court ruled the trial court erred; however, the error was harmless.</p>

## V. Grammar.

### A. Noun-Pronoun agreement:

*Wrong:* There are many people that don't like flying. "That" refers to a "thing," not a person.

*Right:* There are many people who don't like flying.

-or-

*Wrong:* A person should use their umbrella when it's raining. "Person" is singular; however "their" is plural.

*Right:* A person should use his (or her) umbrella when it's raining.

### B. Subject-Object agreement:

*Wrong:* All parents should bring their child to the assembly.

*Right:* All parents should bring their children to the assembly.

### C. Overuse of "That."

It is unnecessary to use "that" at the beginning of each clause of a sentence. For example:

- The Court held that the defendant was entitled to a charge that instructed jurors to find him guilty of the lesser included offense only if they found that he had not stolen the victim's purse.

The above sentence contains three "thats." See how much more smoothly it reads without them:

- The Court held the defendant was entitled to a charge instructing jurors to find him guilty of the lesser included offense only if they found he had not stolen the victim's purse.

## VI. Proper judicial terminology.

The Court of Criminal Appeals members are Judges, not Justices. Members of the other Texas appellate courts and the U.S. Supreme Court are Justices. The 5th Circuit is also comprised of Judges, not Justices. The Court of Criminal Appeals has a Presiding Judge, not a Chief Justice.

## VII. Passive Voice.

Try not to use passive voice. For example:

- It was noted by the Court of Criminal Appeals that the Supreme Court has declared the Fourth Amendment a relic, which should be removed from the Constitution.

Active voice is more forceful:

- The Court of Criminal Appeals noted the Supreme Court has declared the Fourth Amendment a relic, which should be removed from the Constitution.

## VIII. Miscellaneous.

Use of "it."

- Possessive of it: "its."
- "It's" means "it is."

All right, not "Alright."

Past tense of plead is pled, not plead.

- "She pled guilty," not, "She plead guilty."

Use of "this." Try to avoid sentences with "this" as the subject:

- This occurs frequently in such a situation. Instead, write: This situation occurs frequently.

Use of "all" with "of."

- She ate all her macaroni.

Not:

- "She ate all of her macaroni."

## IX. Conclusion.

As stated in the introduction, TCDLA always welcomes submissions to the *Voice*. Use of these guidelines will vastly increase the chance of your article being published. If you have any questions or concerns, please feel free to contact any of the following persons:

- David Richards, Voice editor,  
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- Cynthia Hampton, assist. executive director/general counsel  
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