

Narrative Writing I: Facts

Advanced Legal Writing

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Outline

Review: TREAT

Narrative Writing

Example: The Tiger Story

Example: *Mullenix v. Luna*, 577 U.S. 7 (2015)

Assignment

TREAT

- ▶ Organize your discussion using paragraphs, not outlines.
- ▶ Use topic sentences for each paragraph.
- ▶ Write about the case-law facts using the simple past tense.

Student Example “Explanation” (partial)

In *Brown*, the Appeals Court affirmed a defendant's conviction for operating a motor vehicle under the influence of alcohol because the evidence sufficed to show the public accessibility of the private roads where the defendant drove. *Brown*, 51 Mass. App. Ct. at 710. First, business visitors and others extensively used the roads. *Id.* Second, The roads are paved, with painted lines and lights. *Id.* at 710–11. Third, the evidence showed that many members of the public did in fact use the roads as invitees or licensees. *Id.* at 711. These circumstances supported the trial court's finding that the roads were accessible to the public. *Id.* at 713.

Student Example “Rule”

In determining whether a way falls within the scope of the statute, a court will look at whether the “physical circumstances of the way are such that members of the public may reasonably conclude that it is open for travel to invitees or licensees.” *Commonwealth v. Virgilio*, 79 Mass. App. Ct. 570, 573 (2011). The legislative purpose is “to protect the public from drivers whose judgment, alertness, and ability to respond are diminished.” *Commonwealth v. Brown*, 51 Mass. App. Ct. 702, 713 (2001).

Student Example “Application”

Like the way in *Brown*, the parking lot here shares traits indicating its accessibility to the public. The parking lot is a paved area; a street lamp illuminates the parking lot; white lines and numbers demarcate parking spots; and at least two of the parking spots bear “Guest” labels, unlike the parking lot in *Virgilio*. The “Guest” labels give an impression that the public are welcome to use the parking spots. Moreover, the place has no gate, so members of the public who visit the nearby residents or who go to the CVS pharmacy or the public park may think to use the parking lot to access those accommodations. For the foregoing reason, the place where Ms. Bugsy operated her car was a way “to which members of the public have access as invitees or licensees.” Mass. Gen. Laws ch. 90, § 24(1)(a)(1).

Lawyers as Storytellers

- ▶ Every case is a story
- ▶ Every memo is a statement

The Power of Facts

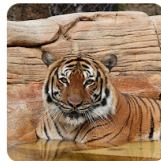
- ▶ What do you include?
- ▶ What do you exclude?
- ▶ How do you organize the facts?

The Tiger Story (1)

**The
Guardian**

**Critically endangered tiger fatally shot at
Florida zoo after biting man's arm**

5 days ago



“Critically endangered tiger fatally shot at Florida zoo after biting man's arm”

The Tiger Story (2)



Tiger fatally shot after biting arm of man near enclosure

5 days ago

“Tiger fatally shot after biting arm of man near enclosure”

The Tiger Story (3)

VERVE **TIMES**

Endangered tiger at Florida zoo killed after biting cleaner

3 days ago

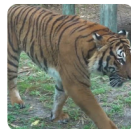


“Endangered tiger at Florida zoo killed after biting cleaner”

The Tiger Story (4)

Tiger shot and killed at Florida zoo after attacking man who stuck arm through enclosure

USA TODAY · 5 days ago



“Tiger shot and killed at Florida zoo after attacking man who stuck arm through enclosure”

The Tiger Story (5)

Person flown to the hospital after tiger attack at Florida zoo

ABC Action News · 6 days ago



“Person flown to the hospital after tiger attack at Florida zoo”

The Tiger Story (6)

Tiger Shot, Killed After Attacking Cleaning Crew Member At A Florida Zoo

CBS Miami · 5 days ago



“Tiger Shot, Killed After Attacking Cleaning Crew Member At A Florida Zoo”

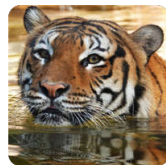
The Tiger Story (7)



msnNOW

Man injured after he put his arm in a tiger's cage at Fla. zoo; tiger was shot and killed

5 days ago



“Man injured after he put his arm in a tiger’s cage at Fla. zoo; tiger was shot and killed”

Mullenix v. Luna, 577 U.S. 7 (2015)

On the night of March 23, 2010, Sergeant Randy Baker of the Tulia, Texas Police Department followed Israel Leija, Jr., to a drive-in restaurant, with a warrant for his arrest. ... When Baker approached Leija's car and informed him that he was under arrest, Leija sped off, headed for Interstate 27. ... Baker gave chase and was quickly joined by Trooper Gabriel Rodriguez of the Texas Department of Public Safety (DPS). ...

Leija entered the interstate and led the officers on an 18-minute chase at speeds between 85 and 110 miles per hour. ... Twice during the chase, Leija called the Tulia Police dispatcher, claiming to have a gun and threatening to shoot at police officers if they did not abandon their pursuit. The dispatcher relayed Leija's threats, together with a report that Leija might be intoxicated, to all concerned officers.

As Baker and Rodriguez maintained their pursuit, other law enforcement officers set up tire spikes at three locations. Officer Troy Ducheneaux of the Canyon Police Department manned the spike strip at the first location Leija was expected to reach, beneath the overpass at Cemetery Road. Ducheneaux and the other officers had received training on the deployment of spike strips, including on how to take a defensive position so as to minimize the risk posed by the passing driver. ... DPS Trooper Chadrin Mullenix also responded. He drove to the Cemetery Road overpass, initially intending to set up a spike strip there.

Upon learning of the other spike strip positions, however, Mullenix began to consider another tactic: shooting at Leija's car in order to disable it. ... Mullenix had not received training in this tactic and had not attempted it before, but he radioed the idea to Rodriguez. Rodriguez responded "10-4," gave Mullenix his position, and said that Leija had slowed to 85 miles per hour. Mullenix then asked the DPS dispatcher to inform his supervisor, Sergeant Byrd, of his plan and ask if Byrd thought it was "worth doing." ... Before receiving Byrd's response, Mullenix exited his vehicle and, armed with his service rifle, took a shooting position on the overpass, 20 feet above I-27. Respondents allege that from this position, Mullenix still could hear Byrd's response to "stand by" and "see if the spikes work first." ...

As Mullenix waited for Leija to arrive, he and another officer, Randall County Sheriff's Deputy Tom Shipman, discussed whether Mullenix's plan would work and how and where to shoot the vehicle to best carry it out. ... Shipman also informed Mullenix that another officer was located beneath the overpass. ...

Approximately three minutes after Mullenix took up his shooting position, he spotted Leija's vehicle, with Rodriguez in pursuit. As Leija approached the overpass, Mullenix fired six shots. Leija's car continued forward beneath the overpass, where it engaged the spike strip, hit the median, and rolled two and a half times. It was later determined that Leija had been killed by Mullenix's shots, four of which struck his upper body. There was no evidence that any of Mullenix's shots hit the car's radiator, hood, or engine block. ...

Example: *Mullenix* Dissent

Chadrin Mullenix fired six rounds in the dark at a car traveling 85 miles per hour. He did so without any training in that tactic, against the wait order of his superior officer, and less than a second before the car hit spike strips deployed to stop it. Mullenix's rogue conduct killed the driver, Israel Leija, Jr.

Choosing Facts to Highlight

- ▶ Materiality may depend on your perspective
 - ▶ Objective analysis requires a rounded approach
 - ▶ Advocacy requires careful placement of emphasis
- ▶ Omission of facts may result in loss of credibility

Ordering Facts

- ▶ Introductory Paragraph
- ▶ Chronological Order
- ▶ **QUERY**: Why don't we organize facts by source?

Sources of Facts

- ▶ Memoranda, reports, and statements
- ▶ Affidavits
- ▶ Testimony
- ▶ Physical evidence and documents

Reconciling Sources

- ☐ Identify sources
- ☐ Iterate through each source, creating a single timeline of events
- ☐ Draft a narrative based on the timeline

Assignment:	Narrative Assignment
Grade:	5% of final grade
Deadline:	February 16, 2022, at 6PM
Word Limit:	500
Special Requirements:	Track hours spent on assignment

Assignment Details

Your assignment this week is to prepare a narrative of the facts in the case.

All of the sources you need for the assignment are in the document library. These are the same documents for the outlining assignment.

You should track how much time you spend on this assignment.

Grading Criteria

► Organization

- ☐ Does the writer organize the narrative appropriately, such as by using an introductory paragraph?
- ☐ Does the writer present the facts in chronological order?

► Narrative

- ☐ Does the writer identify the parties and the nature of the dispute?
- ☐ Does the writer identify potential factual disputes and reconcile them appropriately?
- ☐ Has the writer included all material facts?

► Style

- ☐ Did the writer review the paper for spelling, grammar, and typing errors?

