

# Bluebooking, Editing, Time-Management

## Advanced Legal Writing

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# Outline

Bluebooking

Editing

Time Management

Assignment

# Bluebook Organization

- ▶ Blue Pages and Regular Pages
- ▶ Cases: B10, R10
- ▶ Statutes: B12, R12
- ▶ Common Abbreviations: BT1, T6
- ▶ Jurisdictional Information: BT2, T1, T2

# Bluebook Traps for the Unwary

- ▶ Signals
- ▶ Italics/Underline
- ▶ Spacing
- ▶ Case Names and Abbreviations
- ▶ Pinpoint Citations

## Bluebook Example 1

The civil service has not been immune from racial inequity. In the early 1970s, the U.S. Attorney General brought suit alleging discriminatory policies and practices in the recruitment and hiring of racial minorities in several fire departments across the Commonwealth, including Brookline. *See Boston Chapter, NAACP, Inc. v. Beecher*, 371 F. Supp. 507, 509–10 (D. Mass. 1974), *aff'd*, 504 F.2d 1017 (1st Cir. 1974). The proceedings culminated in hearings during which the U.S. district court found that these fire departments had in fact engaged in discriminatory hiring practices. *See id.* at 520. The district court entered a consent decree intended “to rectify a situation in which many fire departments within Massachusetts had remained lily-white, or nearly so, despite dramatic increases in the African-American and Hispanic populations.” *Quinn v. City of Boston*, 325 F.3d 18, 24 (1st Cir. 2003).

## Bluebook Example 2

The Seventh Circuit reached the same result in *Trujillo*. *United States v. Trujillo-Castillon*, 692 F.3d 575, 579–80 (7th Cir. 2012). There, the district court directly compared the defendant and his record with “when the Mariel people came over here and created crime waves all over the place.” *Id.* at 577. The district court juxtaposed American values with perceived Cuban values: “unlike in Cuba, ‘in America, private property is sacrosanct. It’s not the Government’s property.... And that’s the way we live in America. And that’s why it’s a serious offense when you do this.’” *Id.* On appeal, the Seventh Circuit vacated and remanded for resentencing, finding simply that the district court’s commentary muddled the waters enough to require clarification, since national origin is a forbidden factor. *Id.* at 579–80.

## Bluebook Example 3

For example, Georgia's statutes provided that "[i]f a person under arrest or a person who was involved in any traffic accident resulting in serious injuries or fatalities refuses, upon the request of a law enforcement officer, to submit to a chemical test designated by the law enforcement officer as provided in subsection (a) of this Code section, no test shall be given." Ga. Code Ann. § 40-5-67.1(d) (2019). In light of this statutory language, the Georgia Supreme Court held that "the police may not use a search warrant to circumvent the plain statutory bar to a forced chemical test following a suspect's refusal of the police-requested testing." *State v. Collier*, 279 Ga. 316, 318-19 (2005). The Alaska Supreme Court has held similarly for its then-analogous statute. See *Pena v. State*, 684 P.2d 864, 867 (Alaska 1984) (holding that the clause stating that "a chemical test shall not be given" prohibited the use of a search warrant to circumvent a refusal). The Kansas Supreme Court held likewise in interpreting its since-superseded "shall not be given" clause. *State v. Adey*, 241 Kan. 825, 832 (1987).

# General Tips for Editing

- ▶ Take time off between writing and editing
- ▶ Split editing into phases
  - ▶ Edit for substance
  - ▶ Edit for clarity
  - ▶ Edit for style



# Editing for Substance

- ▶ Do you address the right problem?
- ▶ Have you identified the applicable rules?
- ▶ Have you used an appropriate organization to present your analysis?
- ▶ Have you used specific facts and rules to explain your reasoning?
- ▶ Is your analysis convincing?

# Editing for Substance: Persuasion

Warning signs of weak arguments:

- ▶ “Clearly” and “obviously”
- ▶ Analyses that merely parrot the thesis
- ▶ Missing or ambiguous citations

# Editing for Clarity

- ▶ Check for appropriate headings
- ▶ Check for appropriate paragraph breaks
- ▶ Check for appropriate topic sentences

# Editing for Style

- ▶ Use “search”/“find” features to find common mistakes (e.g., passive voice, misspellings).
- ▶ Rewrite long sentences into shorter ones.
- ▶ Read sentences out loud to identify potential errors.
- ▶ Use “spell check.”

# MPT: Multistate Performance Test

## Skills Tested<sup>1</sup>:

1. sort detailed factual materials and separate relevant from irrelevant facts;
2. analyze statutory, case, and administrative materials for applicable principles of law;
3. apply the relevant law to the relevant facts in a manner likely to resolve a client's problem;
4. identify and resolve ethical dilemmas, when present;
5. communicate effectively in writing; and
6. complete a lawyering task within time constraints.

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<sup>1</sup>Nat'l Conf. of Bar Examiners, Preparing for the MPT, <https://www.ncbex.org/exams/mpt/preparing/> (last visited Mar. 2, 2022).

# MPT: Time Limits

- ▶ 90 Minutes
- ▶ “Although there are no restrictions on how you apportion your time, you should allocate approximately half your time to reading and digesting the materials and to organizing your answer before you begin writing it.”<sup>2</sup>

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<sup>2</sup>Na'tl Conf. of Bar Examiners, *July 2016 MPTs and Point Sheets* at iii (2016), available at

<https://www.ncbex.org/pdfviewer/?file=%2Fdocsdocument%2F299>.

# MPT: Time Management

- ▶ Reviewing materials:
  - ▶ Identifying issues and rules
  - ▶ Outlining and organizing your response
- ▶ Writing: Address as many points as possible
- ▶ Editing: As time permits

# Time Management for Larger Projects

- ▶ Set aside sufficient time to review materials and research.
- ▶ The writing process should be relatively straightforward.
- ▶ Set aside sufficient time to edit and revise.



Assignment: Bluebook Assignment

Grade: pass/fail

Deadline: March 16, 2022, at 6PM

URL: <https://www.cali.org/lessonlink/561/LWR01/8882/>

## Assignment Details

Your assignment this week is to complete the “Cases” and “Statutes” portions of the CALI lesson “Citation Form for Briefs and Legal Memoranda.”

Here is a link to the assignment:

<https://www.cali.org/lessonlink/561/LWR01/8882/jq>

To gain access to the assignment, you will need to register for an account on CALI. During the registration, you should use BOSTUNstu17 as your “Authorization Code.”

The “Secondary Authorities” section of the CALI lesson is optional, but helpful.