

## Meta-Questions for Legal Writers

*Dreyer's English: An Utterly Correct Guide to Clarity and Style*  
Benjamin Dreyer (Random House 2019), 320 pages

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In today's complicated modern world, what are the rules of good writing? If you have come to *Dreyer's English* looking to answer this question with a rote set of rules, you have come to the wrong place. But the good news is, despite his rule-breaking and -bending, the eponymous Dreyer still has a lot to say about good writing. This raises, not begs (as the author notes on page 151), the question: what insights might Dreyer have for the legal writer?

Benjamin Dreyer, who is vice president, executive managing editor and copy chief at Random House, began his publishing career as a proof-reader.<sup>1</sup> He starts his Introduction by describing his current job as, “to lay my hands on [a] piece of writing and make it . . . better,” “to burnish and polish it and make it the best possible version of itself that it can be.”<sup>2</sup> Dreyer calls this book a “conversation,” his “chance to share . . . some of what I do, from the nuts-and-bolts stuff that even skilled writers stumble over to some of the fancy little tricks I’ve come across or devised that can make even skilled writing better.”<sup>3</sup>

In many ways, the book reinforces traditional ideas about good writing, including the fact that “there are fewer absolutes in writing than you might think.”<sup>4</sup> The book is divided into two sections: “The Stuff in the Front” and “The Stuff in the Back.” (The overall tone of the book, as one might have already deduced, is wry.)

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<sup>1</sup> BENJAMIN DREYER, *DREYER'S ENGLISH: AN UTTERLY CORRECT GUIDE TO CLARITY AND STYLE* 293 (2019).

<sup>2</sup> *Id.* at xi.

<sup>3</sup> *Id.* at xvii.

<sup>4</sup> *Id.* at xv.

“The Stuff in the Front” includes advice, rules, and commentary about everything from clarity to punctuation to style. “The Stuff in the Back” is broken out into lists of common writing mistakes. The book is meant to be read sequentially, though there is an index for readers in search of specific content. Like its elder-sibling predecessors “Eats, Shoots & Leaves” and “Woe is I,” the book reinforces its rules with amusing examples and anecdotes throughout.

Both sections offer a mix of useful, irrelevant, and (occasionally) conflicting information with respect to the “stuff” of legal writing. The Stuff in the Front (Chapters 1–7) introduces some of Dreyer’s governing principles. Chapter 1 challenges writers to spend a week avoiding what he calls “Wan Intensifiers and Throat Clearers” (such as “very,” “in fact,” and “actually”) that plague everyone’s writing.<sup>5</sup> Chapter 2 digs deeper and includes Dreyer’s “Nonrules of the English Language”—traditional rules of writing that he deems “unhelpful, pointlessly constricting, feckless, and useless.”<sup>6</sup> Legal writers should feel free to (and possibly already do) break the “Big Three” and start their sentences with “And” or “But,” split infinitives, and end sentences with prepositions.<sup>7</sup> But among the “lesser seven” are a few “nonrules” that a legal writer might think twice about breaking: formal legal writing still eschews contractions, (non-purposeful) passive voice, and sentence fragments.

Occasionally, the book’s advice is mooted by established principles and conventions of legal writing. Chapter 4 is all about numbers,<sup>8</sup> and Chapter 5 discusses foreign language words,<sup>9</sup> but legal writers are already duty-bound to follow Rules 6.2 and 7 of the Bluebook, respectively. However, I would be glad for all new legal writers—including my students—to take heed of the convention for U.S.-style dates, so that August 11, 1965 is no longer presented to me as August 11th, 1965.<sup>10</sup>

The Stuff in the Front also provides a few points that present interesting food for thought for an experienced legal writer. For example, Chapter 6’s extensive consideration of “a little grammar” ends with a discussion of the subjunctive mood. Dreyer calls this the mood used “to convey various flavors of nonreality.”<sup>11</sup> This creates an interesting dilemma for a legal writer’s discussion of what a client might or might not have done. Is it “if the Defendant *was* at the crime scene” or “if the Defendant *were* at the crime scene?” (Turns out the answer is also familiar to most legal writers: it depends.) Dreyer’s chapter about “The Realities of Fiction”

5 *Id.* at 3–4.

6 *Id.* at 7–8.

7 *Id.* at 9–12.

8 *Id.* at 67–73.

9 *Id.* at 74–83.

10 *Id.* at 71.

11 *Id.* at 99.

might at first glance seem not useful to legal writers who trade in facts, but his advice about checking and double-checking details and “the basics of storytelling” might be an interesting read for someone crafting a Statement of Facts or other factual narrative.<sup>12</sup>

The Stuff in the Back is a mixed bag with respect to useful advice for legal writers. Chapter 8 and 9’s lists of misspelled and misused words, respectively, are worth a skim (especially for writers who identify as bad spellers or challenged grammarians) but also include a lot of words not often used in legal English (cappuccino, anyone?). Chapter 10’s “confusables” is useful both for words a writer can’t remember and words spellcheck won’t catch, and experienced legal writers might benefit from a reminder to set up an auto correct shorthand for commonly mistyped words (and to proofread carefully, to avoid references to a “statue” of limitations).

Chapter 11, on common mistakes using proper nouns, is one of the funniest in the book but probably not useful unless you are representing Hollywood’s Gyllenhaal siblings (note the “aa”), romance author Danielle Steel (not Steele), or Patti LuPone (“This is not a woman you want to mess with, so get it right.”<sup>13</sup>). Chapter 12 harkens back to the opening chapter with its useful call for elimination of redundancies.

It is worth noting that there is some particularly good advice lurking in Dreyer’s footnotes. For example, in a footnote, Dreyer notes that he typed out the above-the-line excerpt from Shirley Jackson’s *The Haunting of Hill House*, and that he once typed out a full short story to see if he might better appreciate the construction of the story.<sup>14</sup> Legal readers—sure to see such advice, as we are well-trained to read all the footnotes—might apply this advice to quoted passages from electronic research sources. Might we better appreciate the text if we typed it out instead of copying and pasting? In so doing, might we find that we need less borrowed text than we originally thought?

I am often asked to recommend a grammar book or manual for both new and experienced legal writers. Is *Dreyer’s English* a book I can recommend? Upon reading it, my answer was that there are two types of legal readers and writers who might benefit from reading this. First, this can be a handy refresher (or recharger) on the business of good writing for an experienced legal writer who can discern the places where standard grammatical rules and practical legal English diverge. Second, it would be an interesting read for any legal writer interested in the craft of writing. I can imagine there are many. Thus, my first thought was that *Dreyer’s English* is less suitable for new legal writers, and better in the hands of

<sup>12</sup> *Id.* at 102–14.

<sup>14</sup> *Id.* at 45 n.30.

<sup>13</sup> *Id.* at 220.

experienced legal writers with either a need or an interest in reading about writing and editing (including a 46-page romp through the rules of punctuation).<sup>15</sup>

My second thought, however, is that maybe *all* experienced legal writers would benefit from reading it. This isn't a rule book—it's meant to be read from cover to cover, to immerse the reader in the rules and non-rules it contains. As a reader, you are forced to confront points of agreement and disagreement, and in so doing to contemplate meta-questions about your own writing. Why do you write the way you do? How do you get better when you are no longer being formally taught? How does legal writing evolve as new lawyers arrive in practice with very different approaches and expectations regarding formal writing?

Viewed from 10,000 feet, *Dreyer's English* becomes a meditation on the reader-as-writer in the modern age. Reading Dreyer's book cover-to-cover requires one to reflect about one's own breakable rules, pet peeves, and, perhaps, a white-knuckled clutch to rules that are no longer justified or necessary. Dreyer himself pivots from a relaxation of traditional rules in Chapter 2 to Chapter 3's admonition that "[o]nly godless savages eschew the series comma."<sup>16</sup> We all have rules we cling to and those we are willing to let go. But without an eye on what's next, we can be left out of entire conversations. Some of us are still fighting over the correct number of spaces following a period,<sup>17</sup> while younger writers are finding sentence-ending periods in text messages suggest the writer is being insincere.<sup>18</sup>

Calling himself an "old dog,"<sup>19</sup> Dreyer notes his own evolution using the singular "they." Originally he eschewed it, then acknowledged it was the wave of the present but found he was unable to use it himself.<sup>20</sup> Later, he avoided the topic of chosen pronouns until he worked with a colleague whose chosen pronoun was "they." Ultimately, he wrote around the "they" for months until eventually, he reflexively used it, and "that was the end of that."<sup>21</sup>

<sup>15</sup> *Id.* at 20–66.

<sup>16</sup> *Id.* at 24.

<sup>17</sup> It's one, period.

<sup>18</sup> Rachel Feltman, *Study Confirms That Ending Your Texts with a Period Is Terrible*, WASH. POST, Dec. 8, 2015, <https://www.washingtonpost.com/news/speaking-of-science/wp/2015/12/08/study-confirms-that-ending-your-texts-with-a-period-is-terrible/?noredirect=on> ("According to [Celia] Klin and her fellow researchers, that's an indication that the text message period has taken on a life of its own. It is no longer just the correct way to end a sentence. It's an act of psychological warfare against your friends. In follow-up research that hasn't yet been published, they saw signs that exclamation points—once a rather uncouth punctuation mark—may make your messages seem *more* sincere than no punctuation at all").

<sup>19</sup> DREYER, *supra* note 1, at 93.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at 90–95.

At the end of the day,<sup>22</sup> *Dreyer's English* offers the opportunity to engage in self-reflection to find out what rules and non-rules matter to each of us. As a “relatively green” copy editor, Dreyer hung a quote from *The New Yorker's* Wolcott Gibbs on his office door: “Try to preserve an author’s style if he is an author and has a style.”<sup>23</sup> The sign plays a significant role in an anecdote about an encounter Dreyer had with an author he was editing. For the legal writer, though, it raises another question. We are all authors. What is our style?

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<sup>22</sup> Here I have cheekily violated one of the miscellaneous Rules offered in Chapter 12: “Clichés should be avoided like the plague.” *Id.* at 254.

<sup>23</sup> *Id.* at 120.