voice and nominalizations, you can focus the reader's attention on subjects and verbs that emphasize actors and actions that support your argument. Second, you can alternate independent and dependent clauses in sentences to emphasize the information in the independent clauses and deemphasize the information in the dependent clauses. Finally, using short sentences in the middle of a series of long sentences can pique the reader's interest.

a. Subject-Verb Combinations

Just as readers pay more attention to information at beginnings and endings of documents and sections, they place subconscious emphasis on the information in the verb position of a sentence. They also subconsciously look for the verb's actor—that is, the noun that is "doing" the action of the verb. You can control what information is in the subject position and the verb position, and where (or whether) you include information about the verb's actor.[17] How you arrange that information will affect how your reader comprehends your message. To take a simple example:

The dog bit the child.
The child was bitten by the dog.
The child was the victim of a dog bite.
A dog bite occurred.
A bite occurred.

Most of these sentences could describe a dog bite. In some of the sentences, the reader can instantly understand the complete story. In others, however, the reader has to work harder to get that information; in others, even when working hard, the reader can get only a vague idea of what has happened.

Thus, the way you arrange the information within a sentence can have a big impact on how quickly the reader understands the message. Information arrangement can sometimes have an impact on how the reader feels about the message as well. Take a look at these two versions of a sentence that might appear in a letter from a law school to its students:

We are increasing your tuition by $5,000 per year.

A tuition increase of $5,000 will occur.

The first sentence is more likely to make the student angry at the law school administration. Through their use of subjects and verbs, they have taken direct responsibility for the tuition increase. The reader instantly understands the message, and its clarity may intensify the reader's reaction. The second sentence is a more typical example of how to deliver bad news. No one takes responsibility for the dramatic tuition increase; it

[17] *See, e.g.*, Williams & Colomb, *supra* note 14, at Lesson 3.

seems to come from the outside. Thus, the clarity that is helpful when easy understanding is beneficial ("the dog bit the child") has quite a different impact on those rare occasions when the writer wants to blunt the impact of the message ("we are increasing your tuition").

Writers can learn a wide variety of techniques to control the clarity of a sentence. Two of the most important are (1) using or avoiding nominalizations, and (2) using or avoiding passive voice.

i. Nominalizations

A nominalization is, quite simply, a verb that has been turned into a noun. Turning a verb into a noun does not violate any rules of grammar, but it does slow down the reader's comprehension of the information in that word. For example, the word *decision* is a nominalization of the verb *decide*. When you move the word *decide* from the verb position into the noun position, you lessen the impact of that verb:

We decided to raise your tuition.

We made a decision that a tuition increase is necessary.

Look at these two different questions presented that describe the actions of a police officer looking into the windows of a basement apartment from a distance of 12 to 14 inches. Notice how nominalizations in one illustration and concrete verbs and other language in the other may change the perception of what the officer did:

Under the Fourth Amendment, does an officer's sight observation into a home, made while standing a foot or more from the apartment and peering through gaps in the covered window of the apartment, constitute an unlawful invasion of curtilage?

Under the Fourth Amendment, does an officer invade the curtilage of an apartment house when he stands within inches of the building and looks through a gap in the blinds of a basement apartment?

Neither sentence is wrong; they are just different ways of conveying the same information, depending on what the writer wants to emphasize.

You can often find nominalizations by looking for words that end in *-ence*, *-ment*, or *-ion*. In the alternative, review your sentences (particularly overlong sentences) and circle just the verbs. When you find sentences in which all of the verbs are weak words without a lot of concrete meaning—e.g., *was*, *is* (or other *to be* verbs), *had*, *made*, *occurred*, *existed*, etc.—look for verbs that are "hidden" in nominalizations in that sentence.

When deciding whether or how to change nominalizations back into verbs, ask yourself whether you want to put more emphasis on the information that you nominalized. The answer may not always be yes. Sometimes, as in the tuition letter example above, you may want to deemphasize certain negative information. Unless that is the case, however, identify your hidden verbs, find the actor that is "verbing" (i.e., doing the action of that verb), and create a stronger, more easily comprehensible sentence.

When looking for nominalizations, you might find a sentence like this:

This case is a recognition of the coercion that may happen during an arrest.

If you circled the verbs in this sentence, you would identify the rather weak verbs *is* and *may happen*. Once you identify the hidden verbs *recognize*, *coerce*, and *arrest*, you can work on making the sentence more clear:

In this case, [someone] recognized that [someone] may coerce [someone] when [someone] arrests [someone].

Revising to avoid nominalizations provides a hidden benefit: You may realize when information is missing from the sentence. Thus, your next step might be to include some of the missing information. On the other hand, you may decide to leave some of the nominalizations as is:

In this case, the Court recognized that police officers may coerce citizens during an arrest.

Knowing how nominalizations can affect your writing can help you to make your points more explicitly when clarity is your goal and to blunt your message when it is appropriate to do so.

ii. Active and Passive Voice

Most writers know about "tense" as it relates to verbs; they consciously decide, for example, whether to write in present tense or past tense. Many, however, are unfamiliar with the concept of "voice." No matter what its tense, a verb can be cast in active or passive voice. Voice relates not to the tense of the verb, but to whether the verb's actor is in the subject position of the sentence or clause. If the verb's actor is in the subject position, the verb is said to be cast in "active voice"; if the verb's actor is not in the subject position, the verb is said to be cast in "passive voice." In almost every case in which the verb is cast in passive voice, the subject of the sentence is receiving the action of the verb rather than doing the action of the verb. Thus, in most cases, the subject of an active voice sentence or clause is "verbing"; the subject of a passive voice sentence or clause is "being verbed." Think of the subject passively receiving the action of the verb to help you remember the meaning of "passive voice":

The court decided the case. (Active voice; the subject [court] is verbing [deciding].)

The case was decided by the court. (Passive voice; the subject [case] is being verbed [being decided].)

Passive and active voice verbs, like nominalizations, are grammatically correct. Because active voice verbs can be understood more quickly,

however, you should use active voice unless you have a specific reason to use passive voice. Passive voice is preferred on occasion:

1. if you don't know who the actor is or you want to hide or deemphasize the actor ("a decision was made to raise your tuition" hides the decision maker);
2. when you want to emphasize the object of the verb rather than the subject ("she was hit by a car" emphasizes the victim of the accident); or
3. when your sentence just works better with the object of the verb in the subject position (e.g., when the subject is unusually long or when the object is a more familiar person or concept than the subject).[18]

Look at these examples of similar information included in passive voice and active voice sentences. Try to decide which sentence might be better given various rhetorical situations:

The statute was designed to limit the number of aliens who can bypass INS-mandated citizenship procedures.

Congress designed the statute to limit the number of aliens who can bypass INS-mandated citizenship procedures.

The evidence in question was obtained by observations made by a police officer looking into the window of an apartment.

A police officer obtained the information for the warrant when he looked into the window of the apartment.

A person's home, the place where he lives, has been recognized by this Court as the most important place in which to invoke Fourth Amendment protection.

This Court has recognized that a person's home, the place where he lives, is the most important place in which to invoke Fourth Amendment protection.

As at least two of these illustrations show, using active voice results in shorter, more direct sentences. The point of this section, however, is not to say that you must eliminate all nominalizations and all uses of passive voice; rather, the point is that you should use nominalizations and passive voice only when you have a good reason to do so. When there is no reason to use them, use more direct, easier-to-understand subjects and verbs.

b. Independent and Dependent Clauses

A second way that a writer can use sentence structure to persuade is by using dependent clauses to "hide" information that the writer wants

[18] *See* Mary Barnard Ray & Jill J. Ramsfield, *Legal Writing: Getting It Right and Getting It Written* 279-81 (4th ed., Thomson/West 2005).

to deemphasize. In grammatical terms, an independent clause is a clause that can stand on its own as a sentence, while a dependent clause cannot. Readers subconsciously put more emphasis on information in independent clauses and less emphasis on information in dependent clauses. It may help to think of information in a dependent clause as being in parentheses: The reader often sees it as a less important part of the sentence. Notice how switching information between the dependent and the independent clauses subtly changes the impression that the sentence gives the reader:

First, although the area where the officer stood is close to Thompson's apartment, the communal nature of the grounds makes the claim of curtilage less valid.

First, even though the officer stood in a communal area, the place where he stood was so close to Thompson's apartment that it increases the validity of the curtilage claim.

Though the blinds were drawn at the time of the alleged search, there is no indication that Respondents drew them.

Although there was no testimony at the trial about who closed the window blinds, the fact remains that at the time of the search the blinds were drawn.

On the night in question, the blinds, though drawn, had a gap in them large enough for a citizen who passed by and an officer who stood a foot or more from the window to view easily the entire illuminated interior scene.

On the night in question, the blinds had been drawn to cover the entire window, even though a small gap remained.

Again, all of these sentences are grammatically correct. The sentence you choose to write will depend on which information you want to emphasize and deemphasize.

c. Using Short Sentences for Emphasis

One guideline for sentence structure and length is the same for legal writing as for any kind of expository writing: Sentence variety is good. One short sentence can be effective. More than two short sentences are not. Compare the two examples below, and notice the impact of a short sentence and concrete language as compared to a long sentence and more abstract language:

Thus, society will be prepared to recognize Respondents' expectation of privacy in Thompson's apartment as reasonable only if they were present on the premises for a purpose society deems permissible and valuable. Respondents, who introduced no evidence that they were anything other than temporary, transient visitors on the premises for