



Journal of Local Government Law

Published by the Local Government Section of the Virginia State Bar

Vol. XXVI, No. 2, Fall 2015

Writing Well

Thomas E. Spahn

Introduction

Why do lawyers write so poorly?

We cannot claim ignorance as an excuse. We all recognize good legal writing. It clarifies, persuades, and lingers in our memory.

We cannot argue that we have insufficient chances to practice. We spend much of every day reading our own writing or other lawyers' writing. When it comes to writing, lawyers differ from doctors, accountants, engineers, and other professionals. They write sparingly, usually as an ancillary to their real work. For many lawyers, writing is our work.

We cannot contend that writing well takes God-given talent. Good writing does not require great intelligence or analytical skills. Instead, it

Tom Spahn is a partner at McGuireWoods. He may be reached via email at tspahn@mcguirewoods.com.

requires common sense, self-discipline, and practice.

So why do lawyers write so poorly?

Perhaps the problem begins in grade school. Teachers reward students' use of new vocabulary words rather than simple words the students already know. Teachers praise long complex sentences that demonstrate students' familiarity with the parts of speech and sentence diagramming they just covered in class.

Students learn more bad habits in later grades. Teachers set a minimum number of words that students must use in each assignment. This encourages wordiness. I

recall frequently stopping during my homework to anxiously count the number of words I had already written, and calculate how many more I had to write. Although word processors now automatically determine these numbers, today's young students face the same incentive to use many words when few would do.

Unfortunately, our writing often deteriorates as we move through law school. Proud parents and arrogant professors constantly tell us that we are better people than those who get up early, work hard, and receive hourly pay. We begin to use uncommon and complex words to set us apart from

TABLE OF CONTENTS

Writing Well.....	1
Chairman's Message.....	2
Lights, Camera, Action: Entering the Age of Electronic Law Enforcement with the Use of Body-Worn Cameras.....	12
Membership Notices.....	20
Board of Governors.....	21

Chairman's Message

I hope you are enjoying this fall and the change of seasons, which is always a beautiful time in Virginia. Despite all the negativity associated with the recently concluded elections, we should feel lucky to live in Virginia and to be able to do good work in local government law. To further this good work, we have two very useful articles in this issue of the Journal: one about police body camera use by Michelle Warden of Sands Anderson and one on effective writing by Tom Spahn of McGuire Woods.

Useful articles are the hallmark of this journal, and the Board welcomes ideas from members regarding topics. (Offers to write an article are even more welcome.) Think about taking an interesting issue that you handled recently and turning it into an article. And don't hesitate to call or e-mail me or any member of the Board of Governors with suggestions.

Also, you may want to consider serving on the Board of Governors. The process involves consideration of persons well in advance of the State Bar's Annual Meeting in June, so while June sounds far off as the leaves fall, we would like to hear from anyone interested in serving on the Board.

Finally, the Board of Governors is also already planning a CLE session for the Annual VSB meeting next June, to be jointly sponsored with the Construction Law and Litigation Sections. The topics covered will include "Honest Services Fraud/Official Acts in the Aftermath of *U.S. v. McDonnell*"; "Changes to State Ethics Laws in the Aftermath of *U.S. v. McDonnell*"; and "Impact on Local Elected Officials and Procurement Officials." We are assembling a strong group of speakers, so this should be an interesting way to get ethics credit.

Larry Spencer
Chairman

the general population. The law itself encourages this "special priesthood" concept by arming us with an intimidating vocabulary all our own.

Whatever the reasons, we deserve our reputation for bad writing.

Fortunately, even old lawyers can learn the tricks of good writing. This article gives you some of the tricks. To make it easier, the article follows the sequence all writers follow: starting with words; then discussing sentences; moving on to para-

graphs; concluding with the entire written piece.

Through all of these exercises, the goal remains the same. Your writing should communicate your ideas as concisely, directly, and simply as possible. Be a Hemingway -- not a Faulkner.

To be sure, transactional lawyers and litigators must sometimes use different writing styles. First, transactional lawyers sometimes prepare documents meant to guide peoples' conduct years later. Examples include wills, trusts, and business

agreements. Although most transactional lawyers could use more simple language in such documents, they normally could not use the type of conversational style that litigators can use when writing briefs. Second, as explained below, transactional lawyers must sometimes use arcane and awkward phrases, because the phrases carry defined meanings derived from cases, laws, or regulations. For both of these reasons, transactional lawyers must sometimes use a more formal style than litigators.

However, transactional lawyers may still use this outline's tips when writing more informal and persuasive documents, such as explanatory letters for clients or position papers for government regulators.

As you use these suggested tricks, your writing will improve. As explained below, you will even be able to measure your progress.

Words

Words to Use

Almost without exception, each word you use in your writing should be simple and familiar.

Although lawyers must occasionally use technical words (such as *res judicata* or *collateral estoppel*), these words should be the exception.

Some of history's great writing has been remarkably simple. Author William Zinsser has analyzed the words President Lincoln used in his famous Second Inaugural Address. Lincoln's speech consisted of only 701 words. Of these 701 words, 505 contained only one syllable. Of the remainder, 122 contained only two syllables. As Lincoln proved, one can communi-

cate great things with simple words.

You should also use familiar words. As you write, you should pretend that you are talking to a neighbor.

Where do you find these simple and familiar words? A thesaurus is the best place to start, and you should have one with you when you write and edit.

Words to Avoid

You should avoid at least three kinds of words when you write.

Words You Should Never Use

First, you should never use some words. These include:

- said
- aforementioned
- hereinafter

One author labels these words "professional Pig Latin." You would feel like an idiot using these words in everyday conversation, and you therefore should not use them when you write.

Some otherwise appropriate words become taboo when combined into pairs. Their use is the most commonly parodied habit of legal writers. They include:

- null and void
- true and correct
- free and clear

Using these double words does not add to your writing's content -- almost without exception one or the other word would suffice.

Why do lawyers cling to this habit? Some authors suggest that this peculiar style began after the French-speaking Normans conquered England in 1066. Lawyers used an English word and a French synonym to assure that both the native Englishmen and the Normans would understand their writing.

You have only one excuse for using awful words like these -- their presence in statutes, regulations, or judicial decisions. If a legislator, bureaucrat, or judge has given a defined meaning to certain words, you owe your client the certainty they bring by using them in your writing. You just have to swallow hard and blame some legislator's or judge's third-grade teacher.

"Intelligent" Words

Second, you should avoid words that lawyers use to make themselves sound intelligent. Here are some of these words, with a translation into everyday language.

<u>Bad Word</u>	<u>Good Word</u>
subsequent to	after
prior to	before

How do you know whether to use these words? If you would be embarrassed to use the words in normal conversation, do not include them in your writing. Because you would not say "Prior to seeing the movie, let us proceed to dinner," you should never write a sentence with those phrases.

"Litter" Words

Third, you should watch for words that are not intrinsically evil, but which add nothing to your writing's substance. Because you are trying to write as simply as possible, you cannot afford to have any useless words.

I call this third category of bad words "litter" words. In some ways, they pose the greatest risk to good writing. They drain the vitality from your writing and make it more confusing, yet are more difficult to spot and

eliminate than the bad words discussed above.

How do you identify these "litter" words? Look for small words, such as:

- of
- in
- on
- for
- to
- the

The most dangerous of these "litter" words travel in packs. They form phrases that clog your writing, and make it much more difficult to read.

Try this simple exercise. Hold your writing at arm's length, and squint so you can see the length of your words without actually reading them. If you see long words linked by very short words in a Morse Code-like dot-

dash-dot fashion, I guarantee that the writing will be difficult to read. It includes too many phrases containing "litter" words. On the other hand, if most of your words are about the same length and you see only a few very small words, your writing will be easy to read. You have either consciously or fortuitously avoided the common phrases containing "litter" words.

If your writing fails this "squint" exercise, you should strive to eliminate "litter" words and the phrases they form. You can completely erase some of these phrases, such as "it is worth mentioning that" or "because of the fact that." You can shorten other groups of "litter" words to just one or two words. Here are some examples:

<u>Bad Phrase</u>	<u>Good Word</u>
by reason of	because
for the reason that	because
in the event that	if
on the grounds that	because

Try to avoid "litter" words when you write, and remove them when you edit.

Specific Rules for Specific Words

Now that you know in general terms what words to use and what words to avoid, you are ready to select particular kinds of words.

Verbs

Verbs act as the heart of every sentence. They supply your writing's movement and vitality. If you look carefully, you will see that the difference between good and bad writing often lies in its verbs.

When choosing verbs, follow these four rules:

1. Use Root Verbs, Not Expanded Forms

When we talk in everyday conversation, we use a word like "decide." We say: "Have you decided what movie to see?" But many lawyers expand the verb. Perhaps to sound pretentious, they write: "Have you

reached a decision as to which movie to see?"

Like most other lawyer habits, this is a bad one. Try to shorten your verb forms.

Using the root verb "decide" rather than the expanded form of "reach a decision" makes your writing clearer, because it reduces the num-

ber of words while conveying the identical meaning.

Here are some other examples:

<u>Expanded Form</u>	<u>Root Verb</u>
hold a meeting	meet
impose a requirement	require
make a determination	determine

2. Use Active Verbs, Not Passive Verbs

In the active voice, a subject acts on an object: "John threw the ball." Here, the subject "John" takes some action against the object "ball." The passive voice would be: "The ball was thrown by John."

Here, the subject "ball" is acted upon by the object "John."

Whenever possible, you should use the active instead of the passive voice. Everyone tells you this, but no one tells you why. Here are some possible reasons:

- Most people talk in the active voice. Your writing will sound more familiar and conversational if you use the active voice.

- Using the active voice reduces the number of words you use -- especially the dreaded "litter" words.
- Generally, the actor plays the most important role in your writing. For instance, when discussing a lower court's proceedings, you normally would write: "The lower court denied Smith's motion."

As with most rules, some exceptions apply. For instance, sometimes you will want to emphasize what normally would be the object. If your litigation focuses on a letter that you sent to an adversary, you might be tempted to write "The letter was received by defendant on June 27." Using the same

verb in the active voice would emphasize the wrong thing: "Defendant's office received the letter on June 27."

But don't surrender to the passive too quickly. In some situations, you can simply use another verb -- transforming your sentence back into the active voice without abandoning your emphasis on what normally would be the object. Thus, you might write: "The letter arrived at Smith's office on June 27."

In any event, you should use the passive voice only rarely, and look for alternatives that suit your purpose while maintaining the active voice.

Using the active voice will dramatically improve your writing. Look at these sentences:

<u>Passive</u>	<u>Active</u>
The interrogatory answers were signed by my client on July 9.	My client signed the interrogatory answers on July 9.
It was agreed by the parties that the trial would be postponed.	The parties agreed to postpone the trial.

3. Avoid “Is” Verbs

Good writers avoid “is” verbs whenever possible. “Is” verbs add no movement to your writing. Compare the following sentences:

<u>With “Is” Verb</u>	<u>Without “Is” Verb</u>
There were also briefs filed on the laches defense.	The parties also briefed the laches defense.
The defendant is permitted under Rule 15 to amend his Complaint.	Rule 15 allows Smith to amend his Complaint.

In some cases you cannot avoid using “is” verbs, but keep their use to a minimum.

Remember the following rule: make someone (or something) do something in your sentences. Make courts rule, issues arise, positions include, memoranda address, arguments fail, etc. If someone or something takes action in your sentence, your writing will improve.

4. Use Strong and Vigorous Verbs

While avoiding “is” verbs will instantly improve your writing, you should do more.

You should use robust verbs that describe action.

Review the following portion of Professor Edmund S. Morgan’s The Birth of the Republic, 1763-1789 (1956). Look at the verbs Morgan uses.

As Congress spoke in feebleness, the state governments grew contemptuous of its authority. They violated the Articles of Confederation by ignoring the nation’s treaties with foreign countries, by waging war with the Indians, by building

navies of their own. They sent men with less vision and less ability to represent them and at times failed to send any, so that Congress could scarcely muster a quorum to do business.

Professor Morgan’s verbs give his writing power and movement.

You can improve your writing using the same technique. Listed below are some weak verbs, and possible alternatives.

<u>Weak Verb</u>	<u>Strong Verb</u>
initiate litigation	sue
does not agree with	denies
did not consider	ignored

Using the proper verb also lets you add “spin” to your sentences. When you try to write persuasively, every

sentence should have a “spin.”

Compare the very different meanings conveyed by the

following three sentences, which describe the same event with different verbs.

The plaintiff read the agreement.

Smith examined the agreement.

Smith glanced at the agreement.

Good writers always look for verbs that provide the desired “spin.” For instance, you and your client never “argue.” That verb sounds contentious and insincere. Let the other side “argue” -- you and your client “note” or “recognize.” Similarly, the other side “admits” or “confesses” -- you and your client “acknowledge.” You should pack favorable mean-

ing into every verb you choose.

Nouns

When selecting nouns, follow these two rules.

Use Names Instead of Descriptions

Try to avoid using the terms “plaintiff” and “defendant.” Try even harder to avoid the terms “appellant” and “appellee.” After twenty years

of writing briefs, I still confuse these two terms. All honest lawyers will agree. Using a party’s name makes your writing much easier to follow.

Use the Possessive

Whenever possible, use the possessive. This shortens your sentence by reducing “litter” words.

<u>Bad Phrase</u>	<u>Possessive</u>
ruling of the court	court’s ruling
brief of appellant	Smith’s brief

Adjectives and Adverbs

You can use adjectives and adverbs to eliminate “is” verbs and shorten your sentences.

<u>Without Adjective or Adverb</u>	<u>With Adjective or Adverb</u>
The property that was condemned is just to the west of Hanover Courthouse.	The condemned land lies just west of Hanover Courthouse.
Defendant’s arguments are baseless, and this court should not accept them.	This court should reject Smith’s baseless arguments.

Sentences

When you arrange your words to form sentences, your goals do not change. Your sentences should be simple, direct, and clear.

They should generally have only one thought.

Many lawyers write seemingly endless sentences that confuse their readers. Young lawyers’ increasing use of computers has worsened this

problem. Young lawyers with whom I work claim that they can more efficiently prepare documents by typing documents themselves at their computers, because they “get it right” from the beginning.

However, lawyers who type their own documents must rely on their own self-discipline to avoid wordiness. Unlike lawyers who dictate, typists cannot rely on two important tools for keeping sentences short: (1) running out of breath; and (2) forgetting what you are saying. Those factors generally save us from run-on sentences when we talk, and their absence during the typing process often results in overly long sentences.

If you have a problem with run-on sentences, try this simple exercise. Never use more than twenty words in any sentence. You will still be able to communicate your ideas, but will find yourself forced to use simpler and clearer sentences.

Whatever your sentences' length, you should rely on three techniques to improve your writing. Following these rules requires only simple revisions, but will bring immediate results.

Do Not Begin Your Sentences With Long Clauses

Deleting long introductory clauses makes your writing much clearer. A long introductory clause usually condemns readers to re-read a sentence, because they will not recognize the clause's significance until they have waded through the entire sentence. Compare the clarity of these sentences.

<u>With Clause</u>	<u>Without Clause</u>
Although fraudulent or malicious intent is not a necessary element of conversion, proof of malice is necessary to recover punitive damages.	Smith must prove malice to recover punitive damages for conversion.
In discussing why he waited from the beginning of 1984 until the beginning of 1985 to file his Complaint in this Court, plaintiff does not provide an adequate justification.	Smith offers no justification for his year-long delay in suing Jones.

Give the Punch Line at the Beginning

This second rule relates to the first. Beginning a sentence with a long clause

delays the important point until the end. You should avoid this error with every sentence -- even if you do not begin with a long clause.

Do not force the reader to wait until the end of your sentence to hear the punch line. Here are some examples.

<u>Punch Line at the End</u>	<u>Punch Line at the Beginning</u>
The court found the defendant's practice of manufacturing the gun with the new GP2-78 safety instead of the old GP2-80 safety to be reprehensible.	The court condemned Acme's use of the new safety instead of the old safety.
The plaintiff had reviewed the architect's plans and after an exhaustive survey had found them acceptable.	Smith accepted the architect's plans after carefully reviewing them.

Examine the sentences on the left. Those sentences force the readers to suspend in their minds all the information you give them -- until they arrive at the very last word. Only then can the readers make sense of the sentence. As a writer, you should never force your

readers to work that hard. Instead, you should make your main point as early as possible in each sentence. Your grateful readers will then know how to digest the rest of the information in the sentence.

Keep the Subject and the Verb Close Together at the Very Beginning of Your Sentences

This third rule also improves clarity. It provides your reader an immediate clue to the meaning you intend to convey. Look at the following sentences:

<u>Scattered Verb and Subject</u>	<u>Subject and Verb Close Together at Beginning of Sentence</u>
Clearly, under New Jersey law, to award punitive damages, a court must find defendant's conduct to be wantonly reckless or malicious.	New Jersey courts award punitive damages only if defendant acted with wanton recklessness or maliciousness.
The cases plaintiff cites in support of her proposition in her brief involved the laws of states other than Virginia.	Plaintiff relies solely on decisions from other states.

A quick look at Professor Morgan's writing (see above) reveals that he knows how to use this technique.

You can follow these simple procedures by writing as you would talk. When people talk, they normally avoid long introductory clauses, generally give the punch line first, and usually include the subject and verb at the beginning of each sentence.

In describing a neighborhood incident, you would not say:

"By reason of the confrontation between our dog and the cat that is owned by our neighbor, the cat was chased

by our dog and ran up a tree."

You would say: "Cricket chased Pansy up a tree today." Be sure to write the same way.

Paragraphs

When you join your sentences together to form paragraphs, you should follow the same rules as when you were selecting words for your sentences.

Your paragraphs should be simple, direct and clear. They should not be very long. One-sentence paragraphs can be useful for emphasis or transition.

Just as your sentences should have just one thought, so your paragraphs should have just one thought. That thought should appear in your paragraph's first sentence. You should be able to gather 90% of your writing's meaning by reading just the first sentence of each paragraph. Try this exercise with your writing. If it fails, you must work on your initial sentences.

Your paragraphs should begin with sentences like these:

The Fourth Circuit follows a three-part test.

The statute of limitations also bars Smith's claims.

Entire Written Product

After you have chosen simple and familiar words, and built them into good sentences and short paragraphs, you should look for more ways to make life easier for your readers.

“Signal” Words

You can help your readers by using what can be called “signal” words -- which refer to matters you have already discussed, or to matters that you will discuss. Using “signal” words like this can serve a number of functions.

First, “signal” words help guide your readers through your writing. They tie one sentence to the next, and build momentum. Good writing creates a sense of logical inevitability, pushing readers sentence-by-sentence toward an inescapable conclusion. Logic plays some part in this process, but “signal” words can also contribute.

Second, these internal references induce your readers -- if only for a split second -- to review what you have already written, or to anticipate what you will be writing. And each time your readers think of the ideas you are conveying, they are likelier to understand and remember them.

Some “signal” words can be blunt -- such as “see below” or “as explained above.” Some “signal” words create a more subtle impact. For instance, words like “this,” “that,” or “those” provide

neutral reminders to readers about what they just read. If you want to reinforce or supplement a point, you might use “signal” words such as “also,” “similarly,” “moreover,” “furthermore,” etc.

Your use of “signal” words becomes most important when you are shifting directions or creating contrasts. You owe your reader some warning that you are moving in another direction. The following “signal” words serve this function.

on the other hand

in contrast

unlike

but

As you would expect, using “signal” words in your paragraphs’ opening sentences creates the biggest impact.

Look at the second suggested opening sentence in the “Paragraph” section above: “The statute of limitations also bars Smith’s claims.” This sentence obviously looks forward to a statute of limitations discussion. But by including the simple word “also,” the sentence also looks backward -- at another defense barring Smith’s claims. Using a “signal” word in that opening sentence reinforces the points you made in the previous paragraphs.

Visual Tricks

Even lawyers skilled at preparing attractive annual reports or elaborate trial exhibits seem to forget these

talents when they write. As authors, we often ignore the common-sense visual tricks that we find appealing as readers. As you write, keep your “reader” hat on.

First, use headings and sub-headings as often as you can. These also help your readers understand what you are writing.

Second, use paragraph breaks. Readers’ hearts sink and their attention wanders when they see an unbroken page of writing. Why? A page without paragraph breaks tells the readers that the writer has not taken the time or care to organize the page into digestible chunks. This means that the reader must do this. Successful writers do the work themselves. They never ask their readers to work. There should always be paragraph breaks on every page -- the more, the better.

Third, use bullet points down the page to emphasize, separate, and highlight lists of items. Readers can quickly scan and digest items that each have their own bullet point.

Fourth, use lists within your sentences -- such as (1), (2), (3), or (a), (b), (c). These help the reader follow your writing.

Fifth, use all the punctuation our language provides. Like helpful road signs, punctuation guides your readers through your sentences.

All of these visual tricks make your writing more

inviting to the reader, and help convey your writing's substance.

Editing

As you begin to improve your writing, you will initially find yourself making the same old mistakes. Eventually you will reduce the mistakes, but you will never eliminate them in your first drafts. Instead, you must use the editing process to fine-tune your writing.

As you keep working at it, your first drafts will contain fewer and fewer mistakes. But you will still need to edit.

As you edit, picture someone asking you to defend every word you leave in your writing. If you can eliminate a word without sacrificing substance, cross it out.

As you edit, ask yourself:

- Is there any clearer or more concise way to say this?
- Is there a more active or powerful verb I can use to convey this idea?
- Have I placed my subjects and verbs together at the beginning of my sentences?

Final Tips

For some reason, people seem to communicate better when they talk than when they write. Perhaps this is because people speaking to one another must use fairly short sentences, generally rely on the active rather than the passive voice, usually include subjects and verbs together at the beginnings of their sentences, and provide plenty of "clue" words.

Whatever the reasons, you can prove my theory's accuracy. Ask a colleague to read a page or two of your writing. Then explain to your colleague face-to-face what you want to say in your writing. I guarantee that your oral explanation will always be clearer and more succinct than your written explanation.

You should take advantage of this universal human trait.

First, when you write, pretend that you are explaining something to a nonlawyer. Best of all, pretend that you are explaining something to a ten-year-old child. You will instinctively find yourself using all of the tricks this article has discussed.

Second, read your writing out loud when you finish editing. If you have a stable relationship with a significant other, you might want to read your writing to him or her. In either case, your writing should sound like you are talking to a nonlawyer. If it does, you have earned a place in the small but growing ranks of lawyers who write well.

Measuring Your Progress

As explained above, computers often sabotage lawyers' writing by allowing (if not encouraging) run-on sentences. In contrast, dictaphones force lawyers to mimic their everyday conversation, which yields good writing.

Ironically, computers can also help our writing by providing objective data. You should employ these new tools to measure your progress as you

use the tricks described in this article.

The most common word processing software allows you to analyze your writing's "readability," providing such objective indicia as characters per word, words per sentence, sentences per paragraph, and percentage of passive sentences. The software also determines what it calls "Reading Ease" and "Grade Level."

Try this exercise. Run some of your current writing through the software and then try it again after a week or so of using the tricks I suggest. You should see some improvement.

Recommended Reading

For the best short books on effective legal writing, look for:

Wydick, Plain English for Lawyers

Good, Mightier Than the Sword -- Powerful Writing in the Legal Profession

Litigators may also want to use:

Alterman, Plain and Accurate Style in Court Papers

Useful works of general interest include:

Zinsser, On Writing Well

Strunk & White, The Elements of Style

Kilpatrick, The Writer's Art

A recent book provides superb guidance to grammatically challenged writers:

Good, A Grammar Book for You and I...Oops, Me!

Lights, Camera, Action: Entering the Age of Electronic Law Enforcement with the Use of Body-Worn Cameras

Michelle L. Warden

Rapid technological advancements are putting law enforcement agencies across the country in a difficult position. It is easier than ever for citizens to record police officers' actions while they are on the job. As such, law enforcement agencies are considering whether to implement body-worn cameras (BWC) for their officers, at least in part, to document the officers' perspective in their encounters with the public. Although BWC come with benefits for officers and citizens alike, they also come with obvious and not so obvious downsides. This article explores the push behind implementing BWC, the advantages and limitations of the cameras in policing, and suggestions to properly adopt such technology.

In 2013, the Police Executive Research Forum (PERF) sent surveys to 500 police departments in the United

Michelle Warden of Sands Anderson in Richmond is a member of the Law Enforcement and Public Safety Defense Group. She is a former Fairfax County Police Officer who now represents law enforcement and public safety professionals in all aspects of litigation pertaining to their scope of employment. She may be reached via email at mwarden@sandsanderson.com.

States and conferred with top law enforcement executives from across the country to discuss the use of BWC.¹ PERF designed the survey to examine the main concerns with the usage of these cameras.² The survey included questions such as (i) whether officers are required to wear BWC, (ii) the requirements for recording an encounter, (iii) where to place the cameras on the officers' bodies, and (iv) the collection, storage, and review of the data.³ Of the 254 agencies that responded to the survey, over 75 percent of the agencies reported that they did not utilize BWC as of July 2013.⁴ Importantly, of the 63 agencies who reported using BWC, nearly one-third did not have a written policy governing their usage of the cameras.⁵

Fast-forward only a few years, and now large numbers of law enforcement agencies are investigating their options for this technology. According to a 2015 report by Public Technology Institute, BWC ranked first among technological priorities facing law enforcement officials today.⁶ While it is unknown how many departments within the Commonwealth of Virginia have deployed BWC, most, if not all, have at least considered implementing a program. This growing trend for BWC use by police stems, at least in part, from the prevalence of smartphone users with video capability, recent incidents of police officers use of force, recent inmates deaths while in police

custody, and the subsequent protests across the country that have been widely publicized in the media. As such, federal, state, and local governments are pushing law enforcement agencies to outfit their police officers with BWC.

President Obama's Executive Order

In an effort to strengthen community policing and trust among law enforcement officers and the communities they serve, President Obama signed an Executive Order on December 18, 2014 establishing the Task Force on 21st Century Policing.⁷ Pursuant to the Executive Order, "the Task Force shall, consistent with applicable law, identify best practices and otherwise make recommendations to the President on how policing practices can promote effective crime reduction while building public trust."⁸ Among the proposed initiatives is a 3-year, \$263 million investment package, of which \$75 million would be allocated to issuing 50,000 BWC to law enforcement across this country.⁹ President Obama's program, however, still requires congressional approval. Therefore, there is no ability to compel law enforcement agencies to outfit their officers. At this time, there is simply an attempt to push law enforcement agencies to join the program.

Virginia's Law Enforcement

Technology Sub-Panel

Following the release of the Task Force's Interim Report, Virginia Governor Terry McAuliffe created a special sub-panel of the Secure Commonwealth Panel (an advisory board in the executive branch of state government) to focus on emerging technological advances facing law enforcement.¹⁰ The 31 member sub-panel is chaired by Brian Moran, Secretary of Public Safety and Homeland Security, and is comprised of experts from Governor McAuliffe's Administration, the legislature, law enforcement, the private sector, and other citizens of the Commonwealth of Virginia.¹¹ The sub-panel is currently in the process of exploring constitutional, privacy, economic and public safety issues related to the use of BWC by law enforcement officers.¹² Additionally, the sub-panel is considering data storage and retention, equipment, and how to properly handle the evidence once collected.¹³

The Shift Towards the Use of BWC by Police

Although law enforcement officers have traditionally perceived the use of BWC, and other recording devices such as dashboard cameras, in a negative light, their perspectives are changing and officers are starting to accept or even desire to use BWC as a tool on their belts.¹⁴ At least some of the rationale behind

this shift is that lay persons are starting to expect police officers to have a video recording of an incident in order to view an unbiased and accurate depiction of the incident. In addition, police officers want to have their own video footage of the incident to show their perspective and to quash frivolous complaints. For the officers who continue to oppose a BWC program, it is imperative to raise the officers' awareness of the advantages associated with this technology in order to reach its full potential. Thus, getting the most out of the new technology will require the buy-in of the officers who use it.

Advantages of BWC in Policing

In general, the positive impacts of police use of BWC include enhanced officer safety, significant reduction in the hostility displayed by citizens who are informed or believe that their actions are being recorded, enhanced evidence collection and prosecution, enhanced officer adherence to agency policy and procedures, enhanced officer performance and professionalism, improving officer accountability, and decreased law enforcement liability.¹⁵

Evidentiary Purposes of BWC

Setting aside the time required to review the data, prosecutors should find their jobs are materially easier with effective use of BWC, which can capture evidence such as

victim statements and confessions. BWC have the ability to help officers collect this evidence under circumstances in which officers are focused on securing a scene and providing life-saving measures.¹⁶ Such technology has the added benefit of capturing everything that happens as the officer travels throughout the scene, and interviews witnesses.¹⁷

Some prosecutors have even encouraged officers to use BWC to obtain more reliable evidence that can be used in the courtroom.¹⁸ For example, domestic violence cases are often challenging to prosecute because the victim does not wish to press charges. While the victim may have been a willing participant when the officers responded to the call, that same victim may have a change of heart by the time the court date comes around.¹⁹ The BWC have the ability to capture the victim's statement, the victim's injuries, and the victim's demeanor close in time to the incident—assuming the department's policies permit the videotaping of victims.²⁰

Similarly, BWC have the ability to capture an interview of a suspect including the manner in which the interview was conducted (whether there was coercion involved), whether the suspect was properly informed of his or her Miranda rights, the suspect's confession itself, the suspect's behavior throughout the interview, and potentially even physical evidence from the

crime (i.e., blood on the suspect's body or a tear in the suspect's clothing), all of which let the prosecution focus on other elements of the crime, assured that the recordings are capable of persuading even the most doubtful of jurors.

The Accountability Effect of BWC in Policing

In 2012, the City of Rialto Police Department in Southern California conducted the first known study on the impact of BWC on the number of citizen complaints against officers.²¹ Over the course of a year, the department randomly assigned officers to two groups: the Experimental-Shifts (officers were required to wear BWC during their shift) and the Control-Shifts (officers were forbidden from using BWC during their shift).²² The results were astounding: the use of BWC reduced use of force incidents by 59 percent, and the use of BWC reduced citizens' complaints by 87.5 percent.²³

These results beg the following questions: Were the reduced numbers of complaints because officers were better behaved? Were the reduced numbers of complaints because the citizens knew they were being videotaped and, therefore they were behaving better? Is it a combination of both of these factors?²⁴ Whatever the reason, this study suggests that there are significant advantages to implementing a BWC program.

Limitations and Concerns Regarding the Use of BWC in Policing

While there are a number of advantages to using BWC, it is imperative for law enforcement agencies to consider the limitations of this technology. Some of these limitations are based simply on the functionality of the camera itself, while others are based on the officer's usage and the perceptions surrounding the use of this seemingly new technology.

Functionality of BWC

The video quality in low or high light situations may be poor. Likewise, the audio quality may also be poor due to background noise (e.g., officer responds to a loud party) or, if the camera is of a lower quality, it may have a constant hum throughout the recording. Because BWC function on battery power, there are some concerns as to whether battery life will meet the officer's expectations and whether the officer will properly recharge the battery prior to his or her next shift. In addition, some officers, especially more seasoned officers, may feel that adding new equipment is burdensome. Whether it is the learning process behind using the camera itself, or the hurdles of properly marking the video footage as evidence and properly storing the footage, officers have legitimate concerns about the use of this technology that cannot be ignored.

BWC Require Financial Commitments and Costs

Rightfully so, law enforcement agencies are troubled by the costs associated with BWC and, therefore, agencies should carefully budget for the expenses associated with this technology. While there is some expense to purchasing the cameras itself—the hardware costs between \$800 to \$1,000 per camera—the bigger fear expressed by numerous Virginia police departments is the costs associated with the storage of the video footage, and the personnel costs associated with the data.²⁵ There are costs associated with reviewing the video footage to determine how long such footage should be maintained, there are costs associated with reviewing the footage when there is a use of force incident or citizen complaint. There are costs associated with reviewing the video footage for training purposes. There are also costs associated with redacting any video footage, if permitted by law pursuant to a Freedom of Information Act (FOIA) request. For example, the Chesapeake Police Department has approximately 250 uniformed officers who are required to record every encounter with citizens when performing law enforcement related duties or when responding to calls for service.²⁶ The City of Chesapeake pays roughly \$1,800 per camera, which includes mounting equipment, licensing fees, and maintenance plans over a five-

year period.²⁷ The annual data storage for the entire department costs approximately \$24,000.²⁸ However, larger police departments can expect their expenses to be exponentially higher.²⁹ Charlotte, N.C., recently approved spending \$7 million over five years to purchase and operate 1,400 police body cameras.³⁰ Thus, the costs of using BWC will vary from department to department depending on the size of the department, the crime rate, how frequently the officers record encounters, and how long the department decides to maintain the video footage for evidentiary or other purposes.

Capturing the Encounter

BWC do not have the ability to magically capture an incident that is not within the view of the lens. While law enforcement officers must be aware of the limitations of these cameras to attempt to obtain the best possible footage, the legal community and the citizens must also be mindful that BWC may not capture everything that they want. As an example, the most commonly used BWC are clipped to either an officer's chest or an officer's glasses. When BWC are worn on the chest, the cameras may not be able to record an image that the officer is looking at due to its lack of mobility. On the other hand, cameras attached to an officer's glasses have the ability to capture more of the scene as the officer turns his or her head. For example, Officer Jones responds to a robbery

and observes the suspect flee the store on foot. Officer Jones gets into a foot pursuit with the robbery suspect and observes the suspect throw an item to his left, which lands approximately ten feet away. Depending on the closeness of Officer Jones to the suspect, the camera located on his chest may only record the suspect's arm out to his left side. However, if Officer Jones was wearing the camera attached to his glasses and looked to see what the suspect had thrown, the camera would have recorded the robbery suspect throwing a handgun to the ground. For obvious reasons, the later scenario would provide a much larger picture of the incident, which would be better for evidentiary purposes.

However, the camera attached to an officer's glasses may distract an officer, or be more likely to fall off during physically demanding situations. This scenario occurred in Draper, Utah, where an officer observed a man slumped over in his vehicle.³¹ The officer approached the subject and had him exit the vehicle.³² Because the subject possessed evidence of illegal drugs, the officer handcuffed him and placed him under arrest.³³ During this encounter, another officer arrived on scene and the officers began the process of switching out their handcuffs.³⁴ During this exchange, the subject's hands were freed and he ran back to his vehicle.³⁵ A struggle ensued between the subject

and the officers at which time one of the officers' BWC fell to the ground.³⁶ Seconds later, the officer fired his gun several times shooting and killing the subject.³⁷ What was not captured on the video was the point at which the suspect pulled a knife on the officers.³⁸ Thus, it is imperative that agencies prepare the officers—and perhaps more importantly the public—that BWC are not foolproof and that they must be able to articulate what happened if an incident is not captured on video. In addition, officers should also get into the habit of verbalizing what is occurring during the citizen encounter so that the statements are at least recorded when the video may not be. Similarly, due to officer safety concerns, an officer may not have the time or ability to turn on his camera before the encounter or incident occurs—situations in which officers must also be able to articulate why this inability occurred.

The Fear of Big Brother is Real

While most agencies permit supervisors to review video footage based on a citizen complaint or use of force incident, the real debate surrounds whether the agency should periodically and randomly review videos to identify problems and hold officers accountable for their performance.³⁹ Doing so erodes the trust between the patrol officers who are utilizing the technology and their supervisors.⁴⁰

In addition, some officers feel that they should have the authority to determine when to turn the cameras on and off. Put another way, they feel that they should have the discretion to determine when to use BWC just as they do for their use of handcuffs, pepper spray, baton, Taser gun, handgun, or any other tool on their belt. Thus, one of the most important decisions an agency must make in implementing a BWC program is determining how it will use the camera footage. Agencies should be mindful of the officers' apprehensions and implement policies and procedures that are appropriate for their individual departments.

BWC Create Concerns for Officers' Privacy

Law enforcement officers do not want the cameras to remain running for their entire shift while they are performing non-police related duties or not encountering citizens (such as using the restroom, taking a meal break, or engaging in community policing activities). These concerns should also be considered when implementing policies and procedures.

BWC Create Concerns for Citizens' Privacy

Although civil rights advocates such as the American Civil Liberties Union generally support the use of BWC by law enforcement so long as the officers are not given the discretion to decide when to turn the cameras off, the

impact that the technology has on citizen privacy is not entirely understood.⁴¹ In fact, the public itself also does not want law enforcement to constantly record. In addition, there is a certain level of privacy that should be afforded to confidential informants. If not, there is a potential to lose this valuable tool in law enforcement.

Not only do federal and state laws place some restrictions concerning the expectation of privacy on using audio and video recording, but the use of such technology captures real time traumatic experiences of citizens who are victims of a crime, who are involved in medical emergencies, and who are being detained and arrested.⁴² Recording such events may violate their privacy and exacerbate citizens' trauma.⁴³ Thus, "the Body Worn Video Steering Group cautions law enforcement agencies about the collateral intrusion of the technology, particularly with regard to religious sensitivities, inmate searches, witnesses and confidential informants, victims, and communications governed by legal privilege."⁴⁴

Implementing Policies and Procedures

The limitations and concerns surrounding the use of BWC in law enforcement highlight the importance of implementing policies and procedures governing the usage of this technology by officers. Because law enforcement agencies differ

greatly, each department should evaluate which policies and procedures will best suit their officers in compliance with all existing laws and regulations. The policies need to be specific so that officers have the appropriate guidance, but they must also be flexible to allow for changes as the program evolves.⁴⁵ In 2014, PERF and the Department of Justice's Community Oriented Policies Services (COPS) issued a report identifying 33 recommendations for implementing BWC:

- (1) policies should clearly state which personnel are assigned or permitted to wear BWC and under what circumstances;
- (2) if cameras are assigned to officers on a voluntary basis, policies should include specific provisions when an officer might be required to wear a body-worn camera;
- (3) agencies should not permit officers to use privately owned BWC while on duty;
- (4) policies should specify where on the body the cameras should be worn;
- (5) if the BWC is activated during the officer's shift, the officer should be required to note the existence of the recording on the incident report;
- (6) officers wearing the BWC should be required to articulate their reasoning if they fail to record an activity required to be recorded by departmental policy;

(7) officers should be required to activate their BWC when responding to calls for service and during all law enforcement related encounters unless an exception arises;

(8) officers should be required to inform the subjects when they are being recorded unless it would be unsafe, impractical, or impossible to do so;

(9) once the technology is activated, it should remain in recording mode until the encounter ends;

(10) officers should be required to obtain consent prior to recording interviews with crime victims (e.g. sexual assault cases);

(11) officers should have the discretion to turn off the BWC during conversations with crime witnesses and citizens reporting criminal activity in their neighborhood;

(12) agencies should prohibit recording of other agency personnel during routine, non-enforcement activities;

(13) policies should clearly state any types of recordings that are prohibited by the department;

(14) policies should designate the officer as the person responsible for downloading recorded data from his BWC unless in use of force or in-custody injuries or death (where the supervisor should take immediate custody and be responsible for downloading the data);

(15) policies should include measures to prevent tampering, deleting, or copying of the video footage;

(16) data should be downloaded by the end of each shift;

(17) officers should properly categorize the video footage;

(18) policies should specify the length of time the video footage will be retained by the agency (e.g. 60 or 90 day retention times for non-evidentiary data, but longer for evidentiary data);

(19) policies should state where the video-footage is to be stored;

(20) officers should be permitted to review video footage of an incident prior to making any statement about the incident;

(21) written policies should clearly describe when supervisors are permitted to review an officer's video footage;

(22) if the agency decides to conduct random reviews of the video footage, it should be handled by an internal audit unit rather than the officer's direct supervisor;

(23) policies should prohibit personnel from accessing data for personal use and from uploading the data to social media;

(24) policies should include specific measures for preventing prohibited access or release of recorded data;

(25) agencies should have clear protocols for releasing

video footage to the public in accordance with FOIA;

(26) personnel using or otherwise involved with BWC should be required to undergo training;

(27) before personnel are equipped with BWC, they must receive all mandated training;

(28) BWC training should include the procedures specified herein;

(29) manuals on the use of BWC should be created in both digital and hard-copy format and available to agency personnel;

(30) agencies should require refresher courses on BWC and protocols on a yearly basis (at least);

(31) agencies should collect statistical data concerning the usage of BWC (e.g. when video footage is used for criminal prosecution or internal affairs matters);

(32) agencies should conduct evaluations to analyze the financial impacts of implementing a BWC program; and

(33) agencies should conduct periodic reviews of their protocols and procedures for BWC.⁴⁶

Because BWC are relatively new in law enforcement, the issues associated with the cameras are just recently becoming understood.⁴⁷ By reviewing the policies and procedures on a routine basis, agencies will be in a better position to ensure that they are

in compliance with any new laws that may arise surrounding the usage of this technology. More importantly, they will maximize the benefits of the technology.

Training of Officers

With the adoption of BWC in policing, training remains as crucial as ever. Use of force training for law enforcement officers will need to change as juries may be more willing to scrutinize an officer's judgment based on the video footage available in the courtroom. As law enforcement agencies ramp up their training on the escalation of use of force in a world of BWC, they must also address officers' perceptions of BWC.⁴⁸ In fact, "one of the most challenging issues an agency may face is officer acceptance. If officers feel that the video cameras are being used as a tool to monitor officer behavior," they may be resistant to using the technology.⁴⁹ Thus, it is imperative that agencies listen to their officers' concerns, emphasize the advantages of BWC, and ensure the officers understand that the primary purpose behind the use of the cameras is for officer safety and protection and evidence collection.⁵⁰ To assist in this process, agencies should consider having officers from all different ranks involved in the decision making process (e.g., start a pilot program and obtain the officers' feedback), start the officers earlier on in their careers whenever possible (e.g., during academy

training), and roll out the cameras in smaller increments. Officers need to know that random monitoring of the cameras—if the department chooses to do so—is part and parcel of using the cameras.

Courts and the Law

Because the use of BWC is relatively new to law enforcement, the legal implications are not entirely known. However, with the growing number of departments beginning to outfit their officers with this technology, the legal community can expect to see new law develop surrounding criminal cases, civil cases, and FOIA requests. Although the production of exculpatory evidence is well appreciated, much uncertainty still exists regarding the following:

- (i) When does the video footage need to be produced in discovery?
- (ii) When does the video footage need to be produced pursuant to a FOIA request?
- (iii) How do agencies handle the privacy concerns contained in video footage—such as when a BWC captures an uninvolved citizen who just happened to walk by the camera's lens?
- (iv) Why was the officer unable to capture the incident on video?
- (v) Why did the officer fail to turn on the BWC?

Thus, it is only a matter of time before legal questions on

the use of BWC flood our courtrooms.

Summary

BWC are a tool in law enforcement's arsenal and should be treated as such. While BWC provide a host of benefits to agencies and the public across the Commonwealth and the Nation, agencies should be mindful of their limitations, have proper policies and procedures in place, and continue training their officers in the proper use of force. The use of such technology through proper policies and procedures has the ability to rebuild communities' confidences in law enforcement. Ideally, this technology will decrease unlawful activity—whether by the citizens of the community or by law enforcement. By doing so, law enforcement officers can focus on their day-to-day functions of policing—protecting and serving the communities in which they work.

¹ U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, *Census of State and Local Law Enforcement Agencies, 2008*, written by Brian A. Reaves, NCJ 233982, p. 1, accessed August 24, 2013, <http://www.bjs.gov/content/pub/pdf/csllea08.pdf>.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ Public Technology Institute, *2015 Local Government Law*

Enforcement Technologies: National Survey Results, July 2015, at 1.

⁷ Exec. Order No. 13684, 74 Fed. Reg. 76865 (Dec. 18, 2014).

⁸ *Id.*

⁹ Press Release, David Hudson, *Building Trust Between Communities and Local Police* (Dec. 1, 2014), <https://www.whitehouse.gov/blog/2014/12/01/building-trust-between-communities-and-local-police>.

¹⁰ Press Release, Governor McAuliffe Directs Secure Commonwealth Sub-Panel to Study Law Enforcement Technologies (Apr. 21, 2015), <https://governor.virginia.gov/newsroom/newsarticle?articleId=8234>.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ Police Executive Research Forum, *Implementing a Body-Worn Camera Program Recommendations and Lessons Learned*, Washington, DC: Office of Community Oriented Policing Services, 2014, at 5.

¹⁵ International Associations of Chiefs of Police, *The Impact of Video Enhancement on Modern Policing*, 2003, at 2, <https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=208525>.

¹⁶ Police Executive Research Forum, *Implementing a Body-Worn Camera Program Recommendations and Lessons Learned*, Washington, DC: Office of Community Oriented Policing Services, 2014, at 9.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *See id.*

²⁰ *See id.*

²¹ Eugene P. Ramirez, *A Report on Body Worn Cameras*, at 3; William Farrar, *Operation Candid Camera: Rialto Police Department's Body-Worn Camera Experiment*, *The Police Chief* 81 (Jan. 25, 2014).

²² Eugene P. Ramirez, *A Report on Body Worn Cameras*, at 6.

²³ *Id.* at 7.

²⁴ Police Executive Research Forum, *Implementing a Body-Worn Camera Program Recommendations and Lessons Learned*, Washington, DC: Office of Community Oriented Policing Services, 2014, at 5.

²⁵ *See* Michael D. White, PhD, *Police Officer Body-Worn Cameras: Assessing the Evidence*, Washington, D.C.: Office of Community Oriented Policing Services, 2014, at 7.

²⁶ Mike Maciag, *What We Can Learn From the Police That Pioneered Body Cameras*, *Public Safety & Justice*, Apr. 13, 2015, at 5.

²⁷ *Id.* at 11.

²⁸ *Id.*

²⁹ *Id.* at 11-12.

³⁰ *Id.* at 12.

³¹ Caroline Connolly & Ashton Edwards, *Draper Police Dept. Releases Body Cam Video of Fatal Officer-Involved Shooting*, Jan. 16, 2015, available at <http://fox13now.com/2015/01/16/draper-police-releasing-body-cam-video-after-wvc-officer-shot-armed-suspect/>.

³² *See id.*

³³ *See id.*

³⁴ *See id.*

³⁵ *See id.*

³⁶ *See id.*

³⁷ *See id.*

³⁸ *See id.*

³⁹ Police Executive Research Forum, *Implementing a Body-Worn Camera Program Recommendations and Lessons Learned*, Washington, DC: Office of Community Oriented Policing Services, 2014, at 24.

⁴⁰ *Id.*

⁴¹ Michael D. White, PhD, *Police Officer Body-Worn Cameras: Assessing the Evidence*, Washington, D.C.: Office of Community Oriented Policing Services, 2014, at 7.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ Police Executive Research Forum, *Implementing a Body-Worn Camera Program Recommendations and Lessons Learned*, Washington, DC: Office of Community Oriented Policing Services, 2014, at 37.

⁴⁶ *See id.* at 37-42.

⁴⁷ *Id.* at 49.

⁴⁸ National Law Enforcement and Corrections Technology Center (NLECTC), *A Primer on Body-Worn Cameras for Law Enforcement*, Sept. 2012, at 9.

⁴⁹ *Id.*

⁵⁰ *Id.*

Bibliography & Back Issues Notice: A bibliography of all articles published in the *Journal of Local Government Law* may be accessed at the Section's website: <http://www.vsb.org/site/sections/localgovernment/publications>. Local Government Section members have website access to back issues at the same site. The username is lgmember and the password is Kdqp38fm (reset August 8, 2012).



Notice to Members: The *Journal* is distributed to its member only via electronic distribution. If you become aware that as a member of the Local Government Section you are not receiving the *Journal* via email, please contact the *Journal* Editor, Susan W. Custer, at susan.custer5@gmail.com.

**Virginia State Bar Local Government Law Section
2015-2016 Board of Governors**

Larry S. Spencer, Jr.
Chairman
Town of Blacksburg Attorney
300 S. Main Street
P. O. Box 90003
Blacksburg, VA 24062-9003

Charles Eric Young
Vice Chairman
Tazewell County Attorney
108 E. Main Street
Tazewell, VA 24651

Eric Anthony Gregory
Secretary
King George County Attorney
Suite 200
10459 Courthouse Drive
King George, VA 22485

Bonnie M France
Immediate Past Chairman
McGuireWoods LLP
One James Center
901 E. Cary Street
Richmond, VA 23219-4030

Cynthia Ann Bailey
Suite 549
12000 Government Center Pkwy
Fairfax, VA 22035-0064

Annie Kim
Assistant Dean for Public Service
University of Virginia School of Law
580 Massie Road
Charlottesville, VA 22903

Rebecca Deloria Kubin
City Attorney's Office Annex
Building #20, First Floor
2412 North Landing Road
Virginia Beach, VA 23456-9084

Andrew R. McRoberts
Sands Anderson PC
Suite 2400, 1111 East Main Street
P. O. Box 1998
Richmond, VA 23218-1998

Sharon E. Pandak
Greehan, Taves, Pandak & Stoner
4004 Genesee Place, Suite 201
Woodbridge, VA 22192

Kevin Andrew White
Kaufman & Canoles, P.C.
Two James Center
1021 E Cary St, Ste 1400
Richmond, VA 23219-4058

Lesa J. Yeatts, Esq.
Town Attorney
Town of Herndon
P.O. Box 427
Herndon, VA 20172-0427

Susan Warriner Custer
Journal Editor
7618 Sweetbriar Road
Richmond, VA 23229

Theresa B. Patrick
Liaison
Virginia State Bar
1111 East Main Street, Ste. 700
Richmond, VA 23219-0026

STATEMENTS OR EXPRESSIONS OR OPINIONS APPEARING
HEREIN ARE THOSE OF THE AUTHORS AND NOT
NECESSARILY THOSE OF THE STATE BAR OR SECTION