

An excerpt I call "The madman and his friends"

§ 2. For maximal efficiency, plan your writing projects.

Try nonlinear outlining.

Writers work differently and often experiment with many methods before settling into certain habits. But most writers need a way to set down their yet-unformed ideas in some way other than a top-to-bottom order.

Once you have your points in mind—even if they're not fully formed—you're ready to begin. But you're not yet ready to begin writing sentences and paragraphs. You're ready to start outlining, which itself can be a multistep process. Here we'll discuss producing an outline that probably won't resemble the outlines you've tried for other writing projects. More on this in a moment. First, let's break down the writing process into its component parts.

It's useful to think of writing as a four-step process:

1. You think of things you want to say—as many as possible as quickly as possible.
2. You figure out a sensible order for those thoughts; that is, you outline.
3. With the outline as your guide, you write out a draft.
4. After setting the draft aside for a matter of minutes or days, you come back and edit it.

These four steps derive from a system developed by Dr. Betty Sue Flowers, a University of Texas English professor. She has named each of the steps: (1) *Madman*, the creative spirit who generates ideas; (2) *Architect*, the planner who ensures that the structure is sound and appealing; (3) *Carpenter*, the builder who makes the corners square and the counters level; and (4) *Judge*, who checks to see whether anything has gone wrong.¹ Each character represents a separate intellectual function that writers must work through.

The Madman, essentially, is your imagination. This character, though brilliant, is almost always sloppy. When you're in the Madman phase, you're going for copious thoughts—as many as possible. Ideally, though,

§ 2 1. See Betty S. Flowers, *Madman, Architect, Carpenter, Judge: Roles and the Writing Process*, 44 *Proceedings of the Conference of College Teachers of English* 7-10 (1979).

you won't be writing out sentences and paragraphs. Rather, you'll be jotting down ideas. And if you get into the swing of it, your jottings will be fast and furious.

You'll need to protect the Madman against the Judge, who detests the Madman's sloppiness. If you don't save the Judge for later stages in the writing, the Madman could be at considerable risk. Writers commonly have little battles in their heads if the hypercritical Judge is allowed to start censoring ideas even as the Madman is trying to develop them. The result is writer's block. So learn to keep the Judge out of the Madman's way.

The other steps are equally important.

Once you've let the Madman come up with ideas—in no particular order—the Architect must arrange them. But it's virtually impossible for the Architect to work well until the Madman has had free rein for a while. Although initially the Architect's work might be nonlinear, you'll ultimately need a linear outline—a plan that shows the steps on the way from the beginning, through the middle, to the end. Typically, in legal writing, you'll arrange your points from the most important to the least—and then clinch the argument with a strong closer.

Next is the Carpenter's turn as leader. This is where the writing begins in earnest. Following the Architect's specifications, the Carpenter builds the draft. Of course, these specs make the Carpenter's job much easier. Ideally, the Carpenter writes quickly, treating the outline as a series of gaps that need filling in.

For many people, the carpentry is the least pleasant part of writing. They find it difficult to sit down and produce a draft. This problem stems largely from skipping the Madman and Architect stages—as if any writer could do three things at once: think of ideas, sequence them, and verbalize them. That's not the way it works, even for superb writers. In any event, the Carpenter's job becomes relatively easy if the Madman and Architect have done their work.

Another thing to do, while playing the role of Carpenter, is again to keep the Judge out of the way. If you're constantly stopping yourself to edit the Carpenter's work, you're slowing yourself down. And you're getting into a different frame of mind—that of editor, as opposed to writer. Still, though, the Carpenter exercises considerable discretion in following the Architect's plans. The Carpenter will make architectural refinements here and there when producing paragraphs and sections.

When you have a draft, no matter how rough, the Judge can finally take over. For many writers, this is where the fun begins. You have the makings of a solid piece of writing, but now you can fix the ragged edges. The Judge does everything from smoothing over rough transitions to correcting grammar, spelling, and typos. An alternative name for the Judge is "Janitor" because a big part of what the Judge does is tidy up little messes.

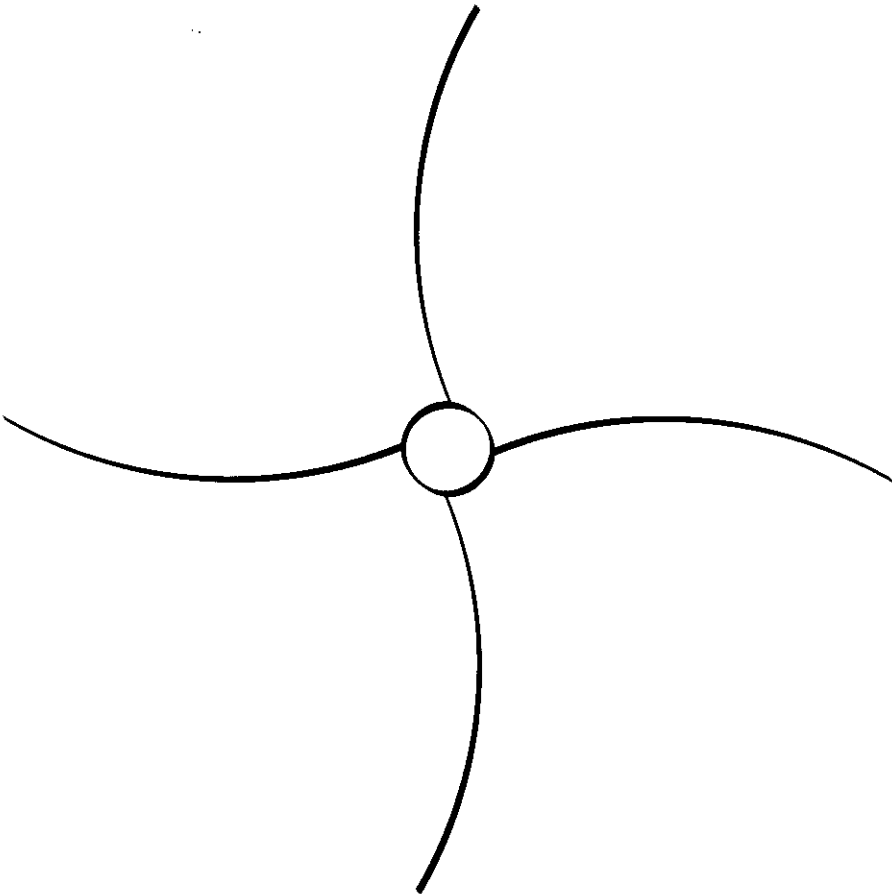
Each character has an important role to play, and to the extent that you slight any of them, your writing will suffer. If you decide, for example, to "rough out" a draft by simply sitting down and writing it out, you'll be

starting at the Carpenter phase. You'll be asking the Carpenter to do not just the carpentry, but also the Madman's and the Architect's work. That's a tall order. People who write this way tend to procrastinate.

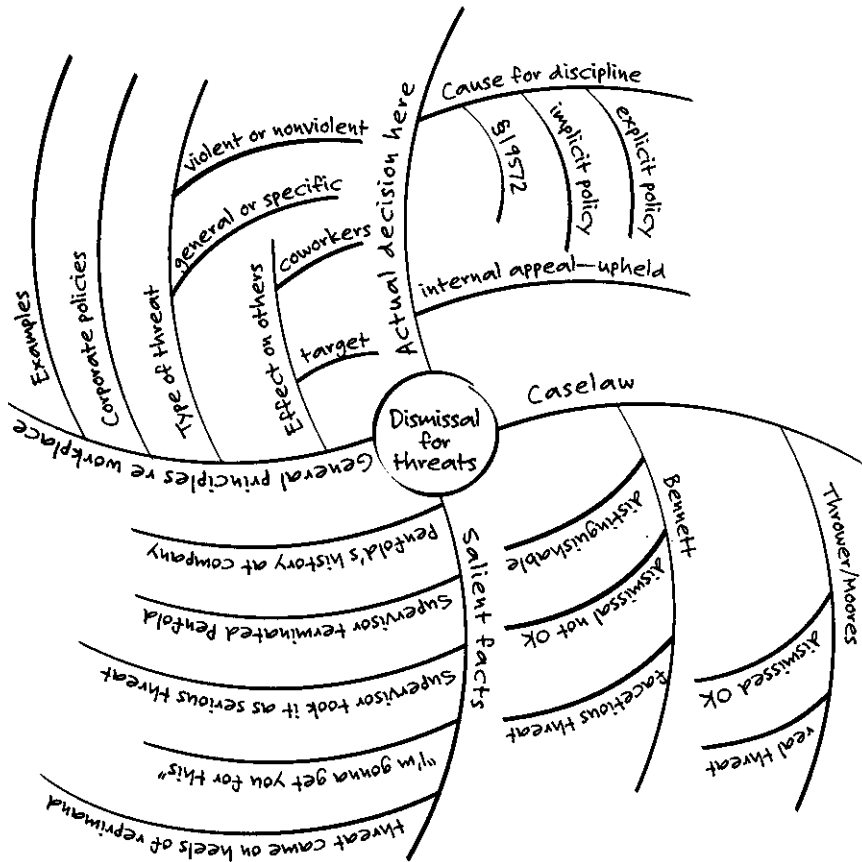
If you decide that you can begin with Roman numeral I in an outline, you'll still be asking a lot: the Architect will have to dream up ideas and sequence them simultaneously. And whatever your I-II-III order happens to be will probably become fossilized in later drafts. Most writers' minds aren't supple enough to allow part IV to become part I(D) in a later draft, even if it logically belongs there.

That's why it's critical to allow the Madman to spin out ideas in the early phases of planning a piece. In a perfect setting, the ideas come to you so rapidly that it's hard to get them all down as your mind races.

One way of doing this—and of getting yourself into the Madman frame of mind—is to use a nonlinear outline. Among lawyers, the most popular type of nonlinear outline is the whirlybird. It starts out looking like this:



A shorthand name for the project goes in the center. Then you begin adding ideas—the more the better. For every major idea you have, use a branch off the center circle. For supporting ideas, try branching off from a major branch. Everything you might want to mention goes into the whirllybird—which has no top and no bottom. You're striving for copious thoughts without having to worry about getting them in the right order. Here's an example:



Once you've finished a whirllybird—whether it takes you ten minutes or ten hours—you'll probably find it easy to work the elements into a good linear outline. You'll know all the materials. It will just be a matter of having the Architect organize them sensibly. The next step might look like this:

Dismissal for Violence at Work

1. Main issue: Upon being reprimanded, Penfold threatened his supervisor by saying, "I'm gonna get you for this!" The supervisor immediately fired Penfold. Was the termination justified?
2. Detailed factual statement
3. General principles re threatened violence at work
 - Corporate policy statements
 - Type of threat involved
 - General/ specific
 - Violent/nonviolent
 - Effect on others
 - Coworkers
 - Target
 - Examples relating to safety in modern workplace: OK City, Airport, Post Office.
4. Caselaw on similar threats: under Thrower/Moores doctrine, dismissal justified if threat seems real to reasonable person.
5. Decision in this case: the facts suggest that threat was real. Internal appellate-review board agreed.
6. Conclusion

Once you have this type of linear outline—something that many writers can create only if they do a nonlinear outline first—writing your first draft becomes much less intimidating. More on this in a moment.

Lawyers who have tried using the whirlybird before drafting a linear outline commonly cite several advantages:

- As a stress-free way of generating ideas, it encourages creativity. You eliminate the straitjacketing effect of As, Bs, and Cs, which can cause you to force ideas into premature categories.
- At the same time, the whirlybird can help in free-form categorizing.
- It makes getting started fairly easy. You can avoid writer's block.
- It helps you think of things you might otherwise miss.
- As the same idea emerges in different contexts, you can see more clearly the interconnections between your ideas.
- It's a great way to find your key points—to distill your thoughts.
- Brainstorming is easier because the creative mind tends to jump back and forth. And the whirlybird is an excellent reminder of ideas that might otherwise get dropped.
- Once you know all the options, you can more confidently select what your lead will be.

Once the Architect has finished organizing the Madman's ideas, the Carpenter's job—the one that writers most often procrastinate on—becomes relatively easy. It's just a matter of elaboration. Further, the Judge will be able to focus on tiny matters of form, and that's what the character is best suited for. The Judge shouldn't have to think on several levels at once.

If you were to give me a pile of writing samples, I'd critique them according to this paradigm. The writer who allows typos in the final draft

needs work on the Judge. The writer who uses no headings (see § 4), and for whom it would be difficult to devise headings once a draft is done, needs work on the Architect. The writer who has problems with bridging (see § 25) needs work on the Carpenter. The writer whose prose is "correct" but dry and dull needs work on the Madman.

Each character in the Flowers paradigm must have its time as leader. What you don't want to do is let one character dominate so much that the others get squeezed out. The writing will suffer.

Perhaps the most crucial phases—because they're the most unpredictable and mysterious—are the first two: Madman and Architect. They will determine the degree of originality and insight in your writing. If you don't consciously involve them, the Carpenter will waste a lot of time. A carpenter must follow *plans*.

So, as you can see, writing well is much more than getting the grammar and spelling right. Those are matters for the Judge, who in the end will tidy things up. Just remember that the Judge part of your brain won't contribute many interesting or original thoughts.

Although you might fear that you'll never have time to go through all four phases, try it: it's one of the surest and quickest ways to good writing. In a one-hour span, you might spend 10 minutes as Madman, 5 minutes as Architect, 25 minutes as Carpenter, and 10 minutes as Judge—with short breaks in between. That's a productive way to spend an hour. But it won't happen without conscious planning. You have to plan how you're going to turn mushy thoughts into polished prose.

Exercises

Basic

While planning and researching a legal memo, fill out a whirlybird. (You're ready to begin once you know enough about the problem to have an idea or two.) Use unruled paper. Take your time. Fill as many major and minor branches as you can, and feel free to add more branches. Then, when the paper starts getting full—and only then—create a linear outline using bullets. Remember that you're working on the basic unit of organization: once you have that, you'll organize further according to issues and answers.

Intermediate

Do the same with a trial or appellate brief.

Advanced

Do the same with a journal article or continuing-legal-education paper. For this one, you might need a large sheet of butcher paper.

§ 3. Order your material in a logical sequence. Use chronology when presenting facts. Keep related material together.

Though ordering your material logically might not seem difficult, it will often be one of your biggest challenges. This is especially so because of some odd conventions in law. One example among many is the stupefying use of alphabetized organization in certain contracts. That is, some forms