

PASSIVE VOICE

When writing, especially in the legal field, prefer the active voice.

1. What is active voice?

When you write in **active voice**, the actor (subject) in your sentence is acting (performing the verb).

2. What is passive voice?

When you write in **passive voice**, either no one is performing the action or the actor is acted upon.

3. How to spot passive voice:

The use of the word “by” is often a sign that you have written a passive construction. If you see a “**by**” in your sentence, look after it to see if an actor follows that word. If so, that sentence is in passive voice (e.g., The book was read **by** Craig). “**By**” will, however, only identify instances of passive voice that also contain an actor.

For the more egregious cases of passive voice in which no actor is identified, look for forms of the verbs “is” and “be,” which include **is, am, are, was, were, to be, be, being, and been**. If you see one of those words appear before your main verb, make sure an actor appears before both. If an actor does proceed both verbs, you are still writing in active voice (e.g., Craig **is reading** the book.). If an object rather than an actor appears before those verbs, you are writing in passive voice (e.g., The book **is being read**). If, in those cases without an actor, you know the actor’s identity, put them back into the sentence. If you do not know the actor, choose a general noun like “**someone,**” “**people,**” or “**one.**”

Passive:

The book **was read by** Craig.

The employee **was fired**.

The car **was stolen**.

Active:

Craig read the book.

The company fired its employees.

Someone stole the car.

Note that, in legal writing, the unidentified actor is often “**the court.**”

Passive: It was held that murder **was committed by Johnny** when he ran over Tammy.

Active: The court held that **Johnny committed murder** when he ran over Tammy.

4. Also note that **passive voice is SOMETIMES okay**. For example, if who did the action is irrelevant or identifying the actor would be distracting.

- The opinion **was first published** in 1984.
- The Fourth Amendment **has been frequently cited** as evidence that the Constitution recognizes the right to privacy.

Passive voice can also be used when writing persuasively to “hide” the actor.

- “Mistakes **were made**” rather than “**We made** mistakes.”
- “A house **was broken into**” rather than “**My client broke into** a house.”