YOU HAVE YOUR SCHOLARLY PAPER TOPIC, NOW…

GET THE RESEARCH DONE.[1]

The key to the research process is being *thorough* without spending so much time researching that you lose valuable writing time. Below you will find (I) some tips to help you conduct research for your scholarly paper and (II) some tips for knowing when to pause researching and start writing.

The purpose of research for a scholarly paper is to develop and document your thesis. Research for your paper will likely involve more than simply assembling and applying the rule of law in a particular jurisdiction, as you might do for a memorandum. You have a lot of flexibility in designing a research strategy and selecting sources to consult.

I. ENSURING THOROUGH RESEARCH

A. Getting Started

1. Formulate a Research Strategy
The pool of sources on which you can rely in a scholarly paper is generally much broader than that of a research memorandum. With so many possibilities, it is easy to get endlessly sidetracked. Formulate a research strategy to avoid this pitfall. Your research strategy should have two components: (1) the sources you want to consult and the order in which you expect to consult them, and (2) your deadlines for research and writing—both self-imposed and externally imposed. *Commit your research strategy to paper*. That way diverging from the plan requires a conscious decision on your part.

First, the goal in formulating a research strategy should be to decide what you're looking for and where you will look—before you start doing searches in Westlaw or Lexis. Prioritize the sources you plan to consult. Part I of this handout will help you formulate this part of your research strategy. As you execute your research strategy, keep notes about where you have already looked and what you found there so that you won't redo work.

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[1] Revised by Laura Klein with assistance from GULC librarian Sara Sampson.

Second, keep your deadlines in mind. These include the largely inflexible deadlines posed by your professor, but set some deadlines for yourself as well. In particular, try giving yourself a rough deadline to stop researching and start writing. Don't forget, you can continue researching after you begin writing as you discover holes or weaknesses in your argument. More on this in Part II, *infra*.

2. Conduct a Preemption Check

Unlike a research memorandum, for which principles of stare decisis virtually require recycling of ideas, a scholarly paper necessitates a novel thesis. Preemption checks ensure that your thesis is indeed original. It's important to conduct the preemption check at this early stage—after you've selected a topic but before you've developed your thesis—so that you can focus all your subsequent research on developing a unique thesis. And you will have already found articles relevant to your topic, which is a great starting point for the rest of your research!

Remember that you are almost guaranteed to find articles on your *topic*—that does not mean you have been preempted. There can be tens or hundreds of articles on the same topic. What is important is that your *thesis*—your argument or the approach you take to the topic—has not been written before. This is how you contribute to the literature on your topic.

You can begin by using full-text keyword searches of law review articles on Lexis or Westlaw. A recent article on your general topic will likely identify a number of the arguments that have been made in the past and will provide useful background information about important developments and debates in the law. Because Lexis's and Westlaw's pre-1990 coverage of some law reviews is not comprehensive, you may want to consult *The Index of Legal Periodicals and Books* (*ILP*), a subject-matter index to law review articles. *ILP* is available in print in the law library or electronically. You can access the electronic version through the law library's website.

To do a comprehensive preemption check, you may need to consult more sources. SSRN's Legal Scholarship network contains forthcoming works and Google Scholar includes articles from other disciplines. Links to these databases and more information on when to consult them are available from the law library's guide on writing seminar papers and journal notes (accessible on the law library's website at www.ll.georgetown.edu).

3. Talk About It

Do not limit your research to the library and on-line databases; professors, practitioners, and law students can provide some valuable insights as well. Professors are generally well informed of developing issues relating to their areas of expertise. Practitioners can describe the practical operation of abstract legal theories. A fellow law student might help you see where your piece lacks clarity

to someone who is not an expert in the field. Who you talk to may depend on the target audience for your piece. Explain your thesis and what you've uncovered with your research thus far, and ask them if they have any suggestions.

4.   Use the Library's Resources
The law librarians have designed excellent reference guides especially for students, organized by specific areas of law and other topics. These reference guides can be accessed on the law library's website at www.ll.georgetown.edu. For example, there is a guide on writing seminar papers at http://www.ll.georgetown.edu/guides/seminar_papers.cfm.

If you would like to learn more about finding a specific type of source, try one of the helpful tutorials at http://www.ll.georgetown.edu/tutorials/. There are tutorials for secondary source research, statutory research, case law research, administrative law research, legislative history, and more.

You can also make an appointment with a Reference Librarian to discuss your project and obtain pointers on how to proceed with your research (http://www.ll.georgetown.edu/services/ref_appoint.cfm). Or, if you'd like the help of a Reference Librarian without moving an inch, try Live Help on the law library website—you can chat with a Reference Librarian during the same hours the Reference Desk is open. The Reference Librarians might also have access to some sources that students do not, such as PACER, an electronic resource that contains federal court records and documents.

B.   Consulting Secondary Sources

Consider beginning with secondary sources if you are new to the subject area. Secondary sources are all the more useful in scholarly writing because, unlike in practitioners' documents, citations to secondary sources are the norm.

1.   Use Looseleaf Services
Looseleaf services compile capsule reports of recent cases, agency decisions, and regulatory updates. Each one covers a certain legal field, such as tax law, agricultural law, bankruptcy law, or election campaign financing. Their value comes from two characteristics: (1) compilation of both primary and secondary materials, which saves you the time it would require to gather all the sources yourself, and (2) analysis and evaluation of the state of the law. Looseleaf services are generally shelved on the fourth or fifth floor of the law library, with a few of the most frequently used services available in the Reading Room on the main floor. More information about looseleaf services and how to access them can be found on the library's web site at http://www.ll.georgetown.edu/guides/lls.cfm.

2.   Review the Law in Legal Encyclopedias, Treatises, and Restatements

Legal Encyclopedias like *Corpus Juris Secundum* (CJS) and *American Jurisprudence 2d* (Am.Jur. 2d) provide an overview of various areas of the law and *American Law Reports* (ALR) contains in-depth articles on specific legal topics with extensive annotations to primary law. Similarly, treatises and Restatements cover the black letter law on a variety of legal topics. These sources are *descriptive*, meaning they simply explain the state of the law and do not analyze or critique legal theories. They may, however, contribute to your background analysis of a particular legal problem. The GULC law library's online card catalog (referred to as GULLiver) may lead you to books, collections of essays or articles, or treatises on your topic. You can search by subject using key terms, by the name of prominent authors in your area of interest, or by title or call number if you are looking for a specific book.

If a book you are looking for is not available at the GULC library, there are a few options for getting it conveniently. First, if it is available at the main campus library (http://catalog.library.georgetown.edu), ask to have it sent to the GULC library. If it isn't available on main campus either, try Google Books (books.google.com) to see if it is available online. If a full version is not available online, the law library can order it from another library through the Interlibrary Loan program (http://www.ll.georgetown.edu/services/ill/index.cfm).

3.   Examine Arguments in Analytical Sources
While descriptive secondary sources are useful in determining what the state of the law is, analytical sources *evaluate* the state of the law and may make suggestions for what the law should be. Legal periodicals will probably constitute the bulk of your research because they often analyze or update legal issues, provide interdisciplinary treatment of legal issues, and guide you (through the footnotes) to case law or other sources of information on the law. You can learn about locating articles in legal periodicals and find links to the library's periodical databases and indexes at http://www.ll.georgetown.edu/guides/articles.cfm.

4.   Search the Net
Internet searches can lead you to current news, opinions, and the names of people and organizations related to your topic. Although the Internet contains a wealth of information, be sure to carefully scrutinize the resource before relying on it. For help assessing the validity of your Internet research, try http://www.lib.berkeley.edu/TeachingLib/Guides/Internet/Evaluate.html or this brief guide from Georgetown University, http://www.library.georgetown.edu/tutorials/research-guides/evaluating-internet-content, both of which are reputable websites recommended by the GULC librarians.

Google Scholar (scholar.google.com) is a version of the popular search engine for academic sources. It searches "academic publishers, professional societies, online repositories, universities, and other web sites" for "articles, theses, books,

abstracts, and court opinions." This can be useful for broadening your search while still containing it within scholarly sources.

5.   We're in DC – Consult an Organization
Government and non-governmental agencies, organizations, and "think tanks" may be able to provide current or unpublished information that deals with your topic. Agencies and larger organizations often have their own libraries with reference librarians who may be able to help you further tailor your research. Remember, however, that many of these organizations have particular agendas; don't assume that they will give you both sides of the story.

C.   Finding Primary Sources

1.   The *Other* Use for Shepard's/KeyCite
You may know of Shepard's and KeyCite as a means of updating your research. But you can also use them to identify additional sources that may provide helpful analysis or explanation or to show which arguments have been accepted or rejected by courts. Once you've found a useful source, such as a case on point, KeyCite or Shepardize it to see how courts and scholars have treated or used that source.

2.   Use Headnotes and Key Numbers
Try to find headnotes or key numbers that are relevant to your topic, then examine the cases they encompass. Doing so will help you narrow your search for primary sources and help you ensure that your searches are thorough.

3.   Look for Legislative History
When researching topics that involve legislative issues, it can be helpful to get a feel for the legislative history behind a particular bill or statute in developing your thesis. The *Congressional Record* is the official record of the proceedings and debates of the United States Congress and is a good source to find the text of floor debates regarding a particular piece of legislation. In addition, Committee Reports, which comprise the reports from committees in each chamber and from joint committees, often contain an analysis of the content and rationale behind a particular bill, statute, or committee recommendation.

To find all of this and more legislative information, start by determining whether someone has done the work for you. Try searching *Sources of Compiled Legislative History*, a book that is available on HeinOnline. You can access HeinOnline through the law library website. Then, if you know the statute's Public Law number or *Statutes at Large* citation, you can determine whether legislative history has been compiled for the relevant statute. A statute's Public Law number is available beneath the text of the statute on Lexis and Westlaw.

If there is no compiled legislative history for the relevant statute, you will have to compile it yourself. The most thorough option is LexisNexis Congressional. You

can access that database through the law library's website. Next, select "Legislative Histories, Bills & Laws" on the left-hand pane. From there, you can search for legislative history by keyword or by using the statute's Public Law number, *Statutes at Large* citation, or enacted bill number.

There are also some free resources available for finding legislative history. Federal legislative history is available on the Library of Congress's website (http://thomas.loc.gov) from 1973 forward. If you are looking for state legislative history, you might try the state legislature's website.

Legislative history research can be a complicated process. If you need help, consult the Library's legislative history research guide (http://www.ll.georgetown.edu/guides/legislative_history.cfm).

4.   Consider Non-Legal Sources

Non-legal journals, magazines, and newspapers may provide insight into policy issues, provide examples of the consequences of a particular legal theory, summarize a legal problem in a particularly accessible fashion, or describe the debate outside the legal community. These sources are of minimal importance to a research memorandum, which is largely limited to primary legal authority. In scholarly work, however, you may be able to bolster your argument with an article from the *Washington Post* or *Newsweek*, for example, by doing a search on Lexis or Westlaw, or on ProQuest, a database of general, non-legal periodicals. You can find ProQuest on the list of "Specific Databases" on the library's website at www.ll.georgetown.edu/connect. And you're not limited to electronic sources—search for non-legal sources available on main campus at http://catalog.library.georgetown.edu/.

D.   What to Do When You're Stuck

At some point in your research you may find that you're "stuck"—maybe because you can't find a specific source or because you have a question that your research is not answering. If that happens, go back and try some of these research tips again, only this time with more refined questions. Research is recursive, so retracing your steps once you've learned more is all part of the process. If you're having trouble finding or using a source, be sure to talk to a Reference Librarian and use the library's online resources, described above.

E.   Updating Work

1.   Remember to KeyCite or Shepardize

Responsible practice requires that you review the citation history of the authority you cite in your paper. These features of Westlaw and Lexis, respectively, allow you to efficiently sort through those primary and secondary sources that cite the sources you have located and read. This enables you to discern which texts received positive or negative treatment.

2.   Research Your Research

Credibility is important in scholarly work. The utility of a particular text depends largely on how other scholars regard it. Bear in mind that sources that are not widely cited may not be considered as persuasive as those that many scholars mention.

3.   Consider Contrary Sources

Even if most commentary rejects your thesis, you may still have a defensible position. Perhaps your argument is based on new information. Or, maybe prior criticisms are incomplete or improperly focused. Be sure, however, to consider carefully the countervailing arguments that have been made, and address these in your paper.

II.   KNOWING WHEN TO STOP—OR AT LEAST PAUSE

Students often struggle with the question of when to pause researching and begin writing. There is no easy answer. First, you must ask yourself whether you have researched the most-cited cases and articles on your topic. Next you must be certain that you have checked recent publications. Last, but certainly not least, you must be certain that you can support the essential components of your thesis.

If you gave yourself a deadline to stop researching and start outlining and writing, do your best to stick to it. You may never feel like you're done researching, but at some point you have to start putting your thoughts on paper.

Do not worry if you discover the need to research more as you write. The pre-writing and writing processes often uncover holes in your research or questions that arise while writing. This is all normal, and you can remedy it with some guided research to fill the holes and answer new questions.