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## TERMINATING RESEARCH

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Nearly every law student, clerk, and associate has lingered too long in the law library more than once, agonizing whether to read an additional ten cases or whether to return to the statutes index once more, rather than just quitting research so that he or she can begin writing. Many students (and attorneys) eventually learn when to quit researching by trial and error—mostly by the error of researching more with no appreciable gain in results.

However, you can provide some guidelines that will make it easier for students to evaluate when to quit researching. These guidelines are not easily applied and are sometimes at odds with each other, but they do crystallize the competing pressures inherent in researchers' decisions about the breadth and depth of legal research. Let's examine these competing pressures first.

Toward the end of the research process, researchers begin to ask themselves whether they should bow to the various pressures to stop researching—the threat of unproductive research time and higher billings, the deadline looming ahead, and a sense that all issues have been researched and all relevant sources consulted. On the other hand, the pressures to keep researching are nerve-rackingly persistent; researchers may be insecure about whether they really have done a good job spotting the issues and locating the relevant sources. Insecurities may be exacerbated if the project has high stakes<sup>1</sup> (e.g., the client's well-being, the researcher's job future).

## Research Misconceptions

Your first step in helping researchers make a decision about when to stop researching is to find out whether they are being "held hostage" by either of the following misconceptions:

- (1) that research, analysis, and writing occur in a linear, nonreiterative process;<sup>2</sup> or
- (2) that the perfect case or law review article is just around the corner.<sup>3</sup>

The former misconception will lengthen research time because researchers think that having to return to the library later would be to admit failure in the earlier research. They need to understand that returning to the library later is an expected and even valuable step, and that research at this point will be very focused on narrow issues that often can be researched quickly.<sup>4</sup>

The latter misconception is rooted in researchers' inability (or unwillingness) to broaden the scope of their analogies; they continue to look for "the case on point" or "the dispositive law review article" even if they already have located cases or other sources that deal with analogous facts or that present a rule that solves the issue.<sup>5</sup> There are two steps to tackling this misconception: Reassure researchers that "perfect" cases and articles are rare indeed (how would they find it if they haven't already?), and then help them to locate and define the helpful analogies connecting their facts to the sources that they already have located. You also should help them figure out which analogies are not appropriate and why.

## Guidelines on When to Stop Researching

Once you have eliminated these two potential misconceptions, you are ready to lay out the following guidelines on when to stop researching:

### 1. Evaluation of initial goals:

Not surprisingly, researchers' initial research goals become particularly important at the end of the research process. Researchers will find it easier to know when to stop researching if they took some time at the outset of the project to set research goals and limits for their projects. To do so, they should have evaluated the needs of the client, the needs of the audience, the forum or setting of the issue, the timing of the research project in the context of ongoing facts, and their own expertise in this area of law.<sup>6</sup>



2. The law of diminishing returns: Have researchers begun to see recurring citations to sources they already have read? Are new rules of law ceasing to turn up in further research? Are the same fact patterns occurring in new cases?<sup>7</sup>

3. Time needed for a good written product: If the eventual product will be written, researchers need to save enough time to write at least one draft and one redraft. Dan Freehling sets up the following bottom line:

The fact is, even if you do excellent research, your work will be suspect if your final product, the written or oral "answer," is sloppy. The response to a sloppy written product is often, "Given the poor quality of the writing and editing, how can I trust the underlying analysis?"<sup>8</sup>

In addition, researchers may need to save enough time for any preliminary work due to the supervising attorney or teacher, as well as one or more interim consultations or conferences to make sure they're on the right track.<sup>9</sup>

Be sure to stress that these guidelines cannot be applied mechanically, nor do you expect that students and clerks will have an easy time making some of the judgment calls inherent in these guidelines. Nevertheless, the guidelines accurately represent the factors that seasoned attorneys weigh when they decide whether to do further research.

### Conflicts Among the Guidelines

Sometimes the results of these guidelines conflict with each other. The toughest conflict occurs when researchers have not yet met their research goals or begun to see diminishing returns, but they need to stop researching in order to generate a good written product before the deadline. One solution is to begin writing right away, with a goal of focusing the remaining research on narrow, well-defined issues. This solution essentially redefines the research goals so that diminishing returns occur earlier because the issues are narrower. A "fall-back" solution is to write up the research results that were obtainable by the deadline, but to qualify them with the caveat that particular areas need more research.

The opposite conflict occurs when researchers have met their research goals and have encountered diminishing returns well in advance of when they need to stop researching in order to start writing. Before researchers put an

end to their research, they need to re-evaluate their research goals and issues to make sure that they did not overlook something.

One final conflict occurs when researchers have encountered diminishing returns early in the research process, but have not yet met their research goals. This conflict could occur when there is no mandatory precedent or governing statute. Researchers then would need to broaden their research goals to include a search for persuasive precedent and commentary on other jurisdictions.

Overall, perhaps the biggest challenge to teaching researchers when to stop researching is not to simplify the process too far. This is a complex judgment based on many factors that are weighted differently in various situations, and a non-expert researcher may need guidance in applying the factors discussed in this article. ♦

<sup>1</sup> Dan Freehling, *Starting . . . and Ending Your Research*, The Pappas Papers (Boston Univ. Law Library), 1993, no. 4, at 1, 4.

<sup>2</sup> Christina L. Kunz et al., *The Process of Legal Research* 132-33 (3d ed. 1992).

<sup>3</sup> Helene S. Shapo et al., *Writing and Analysis in the Law* 186 (2d ed. 1991).

<sup>4</sup> *Id.*; Kunz, *supra* note 2.

<sup>5</sup> Paul T. Wangerin, *A Multidisciplinary Analysis of the Structure of Persuasive Arguments*, 16 Harv. J.L. & Pub. Pol'y 195, 215 (1993).

<sup>6</sup> Kunz, *supra* note 2, at 34-35.

<sup>7</sup> Shapo, *supra* note 3; Freehling, *supra* note 1; Kunz, *supra* note 2, at 133.

<sup>8</sup> Freehling, *supra* note 1.

<sup>9</sup> *Id.*

### NOTICE:

Beginning with this issue, *Perspectives: Teaching Legal Research and Writing* will be published in the fall, winter and spring of each year.