

A BIT OF HERESY: STUDENT SCHOLARSHIP AND WRITING—A CONTINUUM OF LEARNING

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ABSTRACT

Student-authored law review articles and case notes are valuable editions to the legal academy, but faculty can and should expand opportunities for students to write. This can be done through various projects sponsored by faculty along with judges or other members of the bar.

An example is the Iowa Criminal Statutes Summary Chart. With the encouragement and mentorship of a Judge of the Iowa Court of Appeals and a member of the law school faculty, students have created a project that is useful for members of the bench and bar. Other projects should be developed and nurtured by law school faculty allowing and encouraging robust discussions of areas impacting the practice of law.

At the risk of being a bit heretical, these projects can be accomplished through student writing and scholarship.

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I. INTRODUCTION

The goal of this Article is to encourage faculty to view student scholarship and writing as an educational continuum—a body of work that exposes students to legal issues over a period of study—rather than an isolated publication. Student scholarship and writing is more than a resume builder or, as most faculty view it, a means to achieve tenure.¹ As educators, faculty can use research, writing, reflection, and publication as a rewarding expansion of a student's legal education that extends beyond law school and into their careers.

Regrettably, the mere whisper of scholarship or writing causes students to roll their eyes and yields an audible but muffled moan. I would argue as faculty we can do better. We can, and should, encourage students to view legal scholarship and writing as a challenge that can be exciting and rewarding—one that represents meaningful engagement and discussion of some of the most important issues facing the legal system.

Teaching in any area of law causes some issues to leap out at students, while others are more nuanced and subtle. Such minute issues require teasing out. Simply put, both scholarship and learning evolve. So much of student scholarship and writing is often dismissed as merely descriptive and of little value to the legal community, much less to the legal academy. This Author submits students can be introduced to scholarship and writing in the form of projects rather than exclusively case notes.² By expanding opportunities for research and the possibility of student work publication, the academy can enrich legal education.

In an article published in the *Journal of Legal Education* by Andrew Yaphe, student notes are divided into three categories: “It seems to me that there are at least three possible theories of the note. For ease of reference, I will call them the utility theory, the instrumentalist theory, and the scholarly theory.”³

1. Tenure track qualifications for scholarship force candidates to engage in a process that would amount to hazing if imposed upon students.

2. See generally Andrew Yaphe, *Taking Note of Notes: Student Legal Scholarship in Theory and Practice*, 62 J. LEGAL EDUC. 259, 296 (2012) (deconstructing traditional theories of note writing and advocating students instead “find an area of the law that genuinely interests them” and “write up the results of their inquiry in whatever form seems most appropriate”).

3. *Id.* at 294. The article states: “On its face, the utility theory is highly appealing. For one thing, it has the merit of appearing not to require any justification.” *Id.* at 295.

Such a nuanced analysis of case notes is helpful, but why confine the discussion to student notes? If faculty allow a more liberal interpretation of student scholarship and writing that includes special projects and bar publications, we expand the opportunity for students to write and publish. More importantly, such an interpretation emphasizes the significance of student scholarship and writing as a beginning of the study of a specific area of law. It can start with a descriptive writing that develops into a reflective or prescriptive work.⁴ In rare cases, inspirational pieces of scholarship and writing are the result.⁵ All scholarship and writing—in its various forms—

The article concludes with regard to the utility theory: “But in the absence of any evidence about who in the profession is reading notes and how they are using them, this theory, for all its superficial allure, must be regarded as vacuous.” *Id.* “There is also something to be said for the instrumentalist theory. For instance, it has the great virtue of being practical.” *Id.* The writing again debunks this theory by stating:

If we are being honest with ourselves, we have to admit that we have no idea how, or whether, the profession is employing the thousands of student notes published annually. But we do know that students are making use of their notes to further their own careers, by packaging them as writing samples and highlighting them on their resumes. Both of these are consequentialist theories of the note. . . . But framing the issue in those terms helps to point up what is missing from both theories: namely, any sense that student legal scholarship could possibly be a mode of disinterested inquiry, whose object is to get at a hitherto undiscovered truth about some subject. This is not a vision of scholarship that one sees much of in the student guides to academic writing. It is, however, a possible theory of the note—the theory that I am calling (prejudicially, and for lack of a better word) the scholarly theory.

Id. at 295–96.

4. For an example of how compartmentalized the academy becomes when discussing scholarship, see Fredrick Schaur, *Judicial Self-Understanding and the Internalization of Constitutional Rules*, 61 U. COLO. L. REV. 749, 752 (1990) (“Although descriptive and prescriptive rules are logically distinct, a descriptive rule may become prescriptive in any domain in which a norm of precedent exists. When precedent does matter, an empirical generalization about previous cases takes on a normative cast, with decision makers expected to take the existence of such a generalization as a reason for adhering to it. Thus the transformation occurs by virtue of a prescriptive rule saying, in effect, ‘You should do now what has in fact been done in the past.’ But subject to this ‘qualification’ for the idea of precedent, the distinction between descriptive and prescriptive rules (the laws of gravity are different, for example, from the laws of Texas) remains important, and it provides the appropriate introduction for thinking about description and prescription as significantly different modes of engaging in the enterprise of scholarship.”).

5. See, e.g., Derek W. Miller, Note, *Discrimination, Discretion, and Iowa’s Packed*

has value. So how can faculty teach law students about the value of legal scholarship and writing?

II. THE CHALLENGE OF LEGAL SCHOLARSHIP AND WRITING

Scholarship is defined simply as “[a]cademic study or achievement; learning at a high level.”⁶ Faculty should focus on learning as the key measure of student scholarship and writing rather than focusing on publication in a law review. It should be noted there is no requirement for a student to publish a case note or article in order to graduate from law school or to practice law. It is unfortunate that we, as faculty, may be projecting our preoccupation with scholarship requirements for faculty tenure onto students.⁷

In discussing legal scholarship, a sharp divide presents itself about what is dismissed as descriptive by academics and what is criticized as “too academic” by judges and practitioners.⁸ This criticism was leveled at the

Prisons, 105 IOWA L. REV. 901 (2020).

6. *Scholarship*, LEXICO, <https://www.lexico.com/definition/scholarship> [<https://perma.cc/Q6U9-2BGP>].

7. E.g., *Revised Standards for Tenure (Approved May 2013) for Assistant Professors Appointed After January 1, 2013*, UNIV. TEX. SCH. OF L., https://law.utexas.edu/wp-content/uploads/2015/06/tenure_standards.pdf [<https://perma.cc/63FK-JMXA>] (“The recommendation for or against tenure is based on scholarship, teaching, and service . . . Tenure is recommended only for candidates who have made important contributions to a relevant field of legal scholarship and who evince a high likelihood that they will continue to make important contributions to legal scholarship throughout their careers. A candidate’s scholarship is an essential and the most significant component of the tenure review.”); *Chapter 3. Promotion*, UNIV. ARIZ. COLL. L., <https://facultyaffairs.arizona.edu/sites/default/files/promotion-college-of-law.pdf> [<https://perma.cc/32JU-8TZX>] (“A lifelong commitment to active and continued scholarship and to outstanding teaching are obligations of every faculty member. . . . As members of a research institution, faculty members have a continuing obligation to actively engage in legal scholarship. While the methodology and focus of legal scholarship varies widely, excellent scholarly work generally demonstrates intellectual rigor, analytical coherence, and originality.”); Stephanie Francis Ward, *Lax Tenure Standards May Have High Costs at Elite Law Schools*, ABA J. (Jan. 30, 2019), <https://www.abajournal.com/news/article/lax-tenure-standards-can-have-high-costs-at-elite-law-schools> [<https://perma.cc/BB9U-L3S4>] (“At the country’s top 14 law schools, . . . at least 95 percent of professors hired on the tenure track receive it. . . .”) (citing Adam Chilton et al., *Rethinking Law School Tenure Standards*, 50 J. LEGAL STUD. 1 (2021)).

8. Diane P. Wood, *Legal Scholarship for Judges*, 124 YALE L.J. 2592, 2594 (2015) (“Consider, for instance, the fact that one of the worst things a law school hiring

academy by Chief Justice John Roberts who said of current legal scholarship:

Pick up a copy of any law review that you see and the first article is likely to be, you know, *The Influence of Immanuel Kant on Evidentiary Approaches in 18th-century Bulgaria*, or something. . . . If the academy wants to deal with the legal issues at a particularly abstract and philosophical level, that's great and that's their business. But they shouldn't expect that it would be of any particular help, or even interest, to members of the practicing bar or judges.⁹

In a nod to the critics of legal scholarship, the Association of American Law Schools (AALS) has published on its website:

committee might say about a candidate for a tenure-track position is that her written work 'merely' reviews 'what the law is' and is directed to a practitioner audience. By the same token, one withering criticism a young associate might receive from a senior partner about a draft memorandum or brief is that it is 'too academic.'").

9. Orin Kerr, *Final Version of "The Influence of Immanuel Kant . . ."—and What the Chief Really Said*, WASH. POST (June 25, 2015), <https://www.washingtonpost.com/news/volokh-conspiracy/wp/2015/06/25/final-version-of-the-influence-of-immanuel-kant-and-what-the-chief-really-said/> [<https://perma.cc/3DXW-UY2S>]; see also Jeffrey L. Harrison & Amy R. Mashburn, *Citations, Justifications, and the Troubled State of Legal Scholarship: An Empirical Study*, 3 TEX. A&M L. REV. 45, 48–49 (2015) ("Legal scholarship has been the subject of criticism for decades, and the negative assessments run the gamut from the substantive to the stylistic. On the substantive end of the spectrum, perhaps the most devastating critique is Professor Mark Tushnet's conclusion that legal scholarship is 'marginal' and 'lies at the edges of serious intellectual activity.' As for stylistic deficiencies at the other end of the spectrum, commentators have noted the awkward, ponderous style and unnecessarily fussy, distracting footnotes. Concerns about off-putting, excessive theoretical content, and a lack of peer review probably fall somewhere in the middle. Similarly, legal education has been subjected to an impressive array of criticisms that range from the political to the pedagogical. As for the political, law schools have been accused of being institutions that replicate 'illegitimate hierarchy.' From a pedagogical perspective, legal education has been condemned for its lack of transparency and accountability, adherence to ineffective pedagogy, excessive cost, and failure to adequately prepare students to enter the practice of law. With a few notable exceptions, however, critics of legal education have not focused much on whether—and precisely how—the shortcomings of legal scholarship are contributing to the problems with legal education more generally. This Article posits that the two sets of concerns are fundamentally related, and that any serious effort to reform legal education must include critical evaluation of the resources invested in legal scholarship and consideration of whether at least some of those resources should be redirected and managed differently.") (citations omitted).

Critics from the bar and the judiciary proffer the opposite complaint: legal scholarship is *too* academic and not professional enough, enamored with fads, unmoored from any discipline and of little use to the practicing lawyer or sitting judge. Law schools' legions of cost-conscious critics complain that paying high salaries to professors with low course loads drives up tuitions. Many professors themselves have serious misgivings about this scholarly enterprise. There is a grain of truth in all these complaints.¹⁰

The commentary continues: "What of the complaint lodged by the bar and prominent members of the bench, including the Chief Justice of the Supreme Court that legal scholarship is too academic, faddish, and impractical? Here, too, beneath the pejorative undertone lies a substantial grain of truth."¹¹

Since those observations were made in 2014, what has changed?

III. ONLINE JOURNALS

The creation of online journals has expanded the opportunity for students to engage in scholarship and writing. In 2020, the Washington and Lee Law Journal Rankings reported there were 124 online journals.¹² Like their printed counterparts, online journals range from specialized to general law review format.¹³ The online publications tend to focus on essays and short articles.¹⁴

10. Robin West & Danielle Citron, *On Legal Scholarship*, ASS'N AM. L. SCHS. 1 (Aug. 2014), <https://www.aals.org/current-issues-in-legal-education/legal-scholarship/> [<https://perma.cc/H6D3-434Z>].

11. *Id.* at 7.

12. *W & L Law Journal Rankings*, WASH. & LEE UNIV., <https://managementtools4.wlu.edu/LawJournals/> [<https://perma.cc/LA5R-A8LM>] (using the search parameters of all subjects; published in the United States; online only; with a combined rank for 2019).

13. *Id.* It lists 81 results using the search parameters of specialized; published in the United States; online only; with a combined rank for 2019. *Id.* It also lists 43 online journals as general and using the search parameters of all general/flagship; published in the United States; online only; with a combined rank for 2019. *Id.*

14. See, e.g., Tammera R. Diehm et al., Essay, *Campaign Finance Issues in Election Communications: An Explanation of the Current Legal Standard and Modern Trends*, 104 MINN. L. REV. HEADNOTES 1 (2020).

A. A Modest Proposal

Viewing Chief Justice Roberts's criticism as an invitation to the academy to adopt a more utility *or* instrumentalist approach to scholarship and writing,¹⁵ why not expand the concept to a student project?

The American Bar Association (ABA) lists a number of student pro bono projects.¹⁶ "Student pro bono group projects pre-date the formal, administratively supported, pro bono programs now existing in many law schools. Most schools still have these group projects, whether or not a formal school-wide program exists."¹⁷ The list of subject areas covered by the projects listed by the ABA include: Bankruptcy; Children Rights; Civil Rights/Human Rights; Community Economic Development; Criminal Law/Death Penalty/Innocence Projects; Domestic Violence; Elder Law; Environmental Law; Homelessness/Housing; Immigration/Asylum; Income Tax Assistance; Labor Law; Law Reform/Public Policy; Law Related Education/Street Law; Mediation; and Prisoner's Issues.¹⁸

The ABA lists a roster of participating schools with hundreds of projects.¹⁹ Each project would deserve a descriptive article and, in all likelihood, yield a call for reform of some area of the law affected by the project.

One project—an undertaking by a now-retired judge of the Iowa Court of Appeals, a faculty member, and, most importantly, law students—can serve as a response to Chief Justice Roberts. Moreover, it can be used as a model for others—a vehicle to teach students the value of scholarship and writing.

1. *Pick a Project of Interest to the Judiciary, the Bar, or a Partner*

Faculty—especially clinical faculty—are closely associated with the practicing bar and judiciary in their respective fields of expertise. Having one

15. Yaphe, *supra* note 2, at 295 (discussing the utility and instrumentalist theory of student scholarship).

16. *Student Run & Specialized Projects*, AM. BAR ASS'N, https://www.americanbar.org/groups/center-pro-bono/resources/directory_of_law_school_public_interest_pro_bono_programs/definitions/pb_student/.

17. *Id.*

18. *Id.*

19. *Id.*

foot in the practice of law and the other in the legal academy gives clinicians a unique perspective when examining projects for student scholarship and writing. Faculty have the ability to clearly identify areas of need, especially areas important to the judiciary. Further, faculty can propose a project to the judiciary as well as the bar and have the flexibility to modify the proposal as the need arises. Finally, clinicians can convert their numerous professional contacts into substantive research by exhorting the practicing bar and judiciary to propose their own projects.²⁰ An example of this process is illustrated by the Iowa Sentencing Project, otherwise known as the Iowa Criminal Statutes Summary Chart [Chart].²¹ Drake University Law School was lucky, as will be described, the project picked us. The development of the project can best be understood with a history of sentencing in Iowa.

In the late 1970s, Iowa's Legislature created seven classes of sentencing provisions: four for felonies,²² three for misdemeanors.²³ The sentences ranged from mandatory life in prison to 30 days in jail.²⁴ That straightforward classification system, through constant amendments by the Legislature, has evolved into an unwieldy sentencing scheme.²⁵ Recognizing that sentencing scheme in Iowa as an organizational problem, Judge Michael Mullins sat down at his kitchen counter with a laptop in order to make sense of it all.²⁶

20. Letting the writer or the user in this case pick the topic certainly satisfies the formula used by other scholars teaching legal writing and supervising student scholarship projects. See Ruthann Robson, *Law Students as Legal Scholars: An Essay/Review of Scholarly Writing for Law Students and Academic Legal Writing*, 7 N.Y. CITY L. REV. 195, 197 (2004) (quoting ELIZABETH FAJANS & MARY R. FALK, *SCHOLARLY WRITING FOR LAW STUDENTS: SEMINAR PAPERS, LAW REVIEW NOTES AND LAW REVIEW COMPETITION PAPERS* 19 (W. Acad. Publ'g 2d ed. 2000)) ("As Fajans and Falk phrase it, '[f]inding something worth saying' is the 'most difficult and most crucial part of writing your paper.'"). The article goes on to provide a formula for student scholarship: "Good legal scholarship should make (1) a claim that is (2) novel, (3) nonobvious, (4) useful, (5) sound, and (6) seen by the reader to be novel, nonobvious, useful, and sound." *Id.* (quoting EUGENE VOLOKH, *ACADEMIC LEGAL WRITING: LAW REVIEW ARTICLES, STUDENT NOTES, AND SEMINAR PAPERS* 9 (Foundation Press 2003)).

21. Michael R. Mullins et al., *History of the Iowa Criminal Statutes Summary Chart AKA the Iowa Sentencing Project*, THE IOWA LAW., Sept. 2019, at 6–9. Judge Michael Mullins is a Drake graduate and former Editor in Chief of *Drake Law Review*. Judge Mullins provides a sense of continuity to those who currently use the Chart.

22. IOWA CODE § 902 (2021).

23. *Id.* § 903.

24. *Id.* § 902.1(1); *id.* § 903.1(1)(a).

25. Mullins, *supra* note 21, at 7.

26. *Id.* at 6–7.

The Chart is an example of a district court judge beginning the research process.²⁷ As Judge Mullins notes: “I developed the Iowa Criminal Statutes Summary Chart in 2002 to help guide me through the maze of Iowa criminal sentencing laws. What started as a personal project to assist me in my work as a new judge has grown organically and surprisingly.”²⁸

Judge Mullins describes the difficulty sentencing poses to a newly-appointed district court judge who had no recent experience in criminal law:

After 20 years of private practice, the last 10 of which I did almost no criminal work, I was appointed as an Iowa district court judge in 2002. Immediately, I was faced with taking guilty pleas and making sentencing decisions. I was amazed at how complicated the Iowa sentencing laws had become with a myriad of enhancements, surcharges and exceptions located in various code chapters that were not intuitively connected. I found myself relying heavily on prosecutors and defense lawyers to assist in the statutory details.

After a few weeks of feeling unprepared and unqualified to adequately inform defendants of the consequences of their guilty pleas, and to ensure I included all necessary provisions at sentencing hearings and orders, I sat down at my kitchen counter one day with my laptop and the Code of Iowa. At the end of a 10-hour day I had a matrix in the form of an Excel spreadsheet that summarized some of the most difficult code provisions that I had encountered to date. That was the skeleton of the chart’s beginning.²⁹

The development of the Chart is chronicled by Judge Mullins, as it grew from a document prepared for personal use to a project used by the Iowa Judiciary.³⁰ As the usefulness of the Chart became apparent to

27. *Id.* at 7.

28. *Id.* at 6.

29. *Id.* at 7.

30. *Id.* (“As I began to use the limited version, I discovered more nuances in the statutes. Over a nine- to ten-month period I used spare time to expand the content and tweak the format to make it somewhat nimble and intuitive. After several iterations I had a product that I found useful, organized so that I could locate a code section (numerically organized vertically), and then read across the page identifying the applicable sentencing provisions organized under column headings in the sequence I liked to recite during either a guilty plea or sentencing proceeding. I have always emphasized that I prepared the chart for my own use. But I realized it might be useful to

practitioners, it was used by prosecutors and defense attorneys.³¹ Eventually the Chart was published on the Iowa Supreme Court's website.³²

As Judge Mullins' career advanced, he approached Drake to see if there was interest in continuing publication of the Chart.³³ As a result of that

others so I contacted the Iowa Supreme Court justice who served as the liaison justice for our judicial district and emailed him a copy of my chart. He assured me I could copyright the document. About six months or so later, the Iowa Judicial Branch held a new judge training session, the first in more than two years (because of budget constraints). When I showed up, that liaison justice was part of the training faculty. At his request, we provided a copy of the chart to each of the judges at that training. A short time later, the director of judicial education asked if I would give a presentation at the judges' annual meeting and present the chart to all Iowa judges. I did so in 2004.").

31. *Id.* ("Many judges began to use the chart and included it in their personal bench-book, typically a three-ring binder every judge took to the bench. At that time the chart was about 15 pages of an Excel spreadsheet plus an introduction page. Judges began to show it to prosecutors and defense lawyers, and I consented to its dissemination. The County Attorneys Association and the Iowa Public Defender posted the chart on their websites. After each session of the Iowa Legislature, I updated the chart, emailed it to every judge in Iowa and to the County Attorneys Association and Iowa Public Defender. Although a useful tool to all judges and lawyers involved in criminal justice, my focus has been and remains providing a resource for judges. The benefit to others follows from that.").

32. *Id.* ("Around 2007, the Iowa Supreme Court asked, and I agreed, to publish my chart on its website to make it available to all lawyers, legislators, media and the general public.").

33. *Id.* at 7–8. Judge Mullins stated:

In 2011, I was appointed to the Iowa Court of Appeals. I continued to annually update the chart and give continuing legal education presentations, including annual new judge training on the chart and on sentencing issues. In about 2016, with the heavy workload on our court and the fact that in my current job I no longer had a day-to-day need for the chart, combined with my concern for transition planning in contemplation of retiring someday, I contacted Prof. Robert Rigg at Drake Law School to explore the possibility of obtaining institutional continuity for the chart and educational opportunities for law students. He and Drake graciously took the project. At that time the chart was less than 20 pages, still in Excel format. The tightness and brevity of the chart made it nimble and easy to copy, print, keep in a binder, et cetera. The brevity also, however, limited content, and actually left some content practically unusable. The structure of the format also limited the ability to expand the content. After several planning sessions to discuss the future of the chart and its potential use and development, in 2017 Drake Law School and I published a completely reformatted chart. The reformatted version using as its foundation

contact, the opportunity to incorporate teaching and evolving student scholarship and writing presented itself.

2. *Pick the Students*

An effective project dictates some exclusivity in student selection. Students in law reviews or journals and teaching or research assistants are all good candidates for the challenges faced when starting clinical research from scratch. Do not assume students will come to you. Recruit, recruit, and recruit. Of the eight students who have worked on the Chart, all of them were research assistants and all but one were members of *Drake Law Review*.³⁴

Kylie Crawford, the first Drake student to work on the Chart as a research assistant, described her experience as follows:

I became part of the team that facilitated the Chart's substantive update and major formatting revision in 2016–2017. Beginning in the summer of 2016, we spent several months testing over 20 different format variations looking for one that would be user-friendly, sustainable and amenable to future modifications and additions. During this time, I was also in charge of updating the substance of the chart.³⁵

the content from the spreadsheet chart—can accommodate future enhancements and form the foundation of a larger project.

Id.

34. Kylie Crawford, 2017 Drake graduate, 2016 Jeff Gilbert Award for Outstanding Junior Staff, and 2016–2017 Projects Editor of *Drake Law Review*; Olivia Brooks, 2019 Drake graduate, 2018–2019 Note Editor of *Drake Law Review*; Tess Pocock, 2019 Drake graduate, 2018–2019 Managing Editor of *Drake Law Review*; Lauren Calef, 2020 Drake graduate, 2018–2019 Junior Staff member of *Drake Law Review*; Benjamin Kenkel, 2020 Drake graduate, 2019–2020 Media Editor of *Drake Law Review*; Rachel Bruns, 2021 Drake graduate, 2019–2020 Junior Staff member of *Drake Law Review*; Kallie Baker, 2022 Drake graduate, 2021–2022 Executive Editor of *Drake Law Review*; Carly Scott, 2022 Drake graduate. While the use of students who are members of law reviews or journals is helpful, it should not exclude other students who may have an interest in the area of law addressed by the particular project.

35. Mullins, *supra* note 21, at 8 (“My contribution to the project began by taking Judge Michael Mullins’s ‘big picture’ ideas and creating various formatting drafts at a macro level. I would then send the format drafts to the other members of the team and we would discuss them via email and at our monthly meetings. Afterward, I would merge the approved concepts from the drafts into one template draft and create several new format drafts based on that template. We repeated this process multiple times before

Crawford began to truly immerse herself in the scholarly reflective process while cataloging the sentencing statutes, compiling the statutes' most recent amendments, and incorporating applicable case law.³⁶ That process continued throughout the revisions of the format of the Chart and its rollout presentation in 2017.³⁷

The next set of Drake students to work on the Chart, Olivia Brooks and Tess Pocock, continued to refine and build on the Chart.³⁸ Duplicating the experience of their predecessor, Brooks and Pocock quickly began to reflect on the Chart and sentencing in Iowa.³⁹ They noted other advantages

adopting the general macro format used in the final version of the chart I then entered the updated information into the reformatted chart and made micro formatting adjustments to accommodate that information. Like the macro formatting process, I would often create multiple drafts with different micro formatting options, send the drafts to the other team members, and combine and modify the drafts based on feedback.”).

36. *Id.* at 8 (“I started with the assault chapter of the Iowa Code—chapter 708—because of the multitude of sentencing scenarios possible. For example, chapter 708 contains both misdemeanor and felony crimes, and crimes that have mandatory minimums, exceptions to eligibility for a deferred judgment, deferred sentence, or suspended sentence, multiple surcharges, sex offender registry requirements, and exceptions based on sentence enhancements and for juvenile offenders.”).

37. *Id.* (“In April of 2017 we agreed on the general micro format used in the final version of the chart. I was then able to spend the next two months updating the substance of the rest of the chart, drafting several new sections (e.g., detailed instructions on how to use the chart, sentencing for juveniles charged as adults, and sentencing enhancements) and making final edits. Judge Mullins premiered the reformatted chart at The Iowa State Bar Association Annual Meeting in June 2017. My involvement with this sentencing project was, without a doubt, one of the best learning opportunities I had during law school. I gained a comprehensive understanding of sentencing in Iowa, including many of its quirks and present issues, which is invaluable because sentencing plays such a large role in the criminal justice process.”).

38. *Id.* at 6 (“The Iowa Criminal Statutes Summary Chart is a project overseen by Judge Mullins of the Iowa Court of Appeals for over a decade. Over the past three years, several students have played a major role in expanding and updating the [Iowa Sentencing Project]. During this time, the [project] transformed from a 15-page document to a nearly 500-page ‘project,’ containing thousands of footnotes.”).

39. *Id.* at 9 (“The steep learning curve Brooks and Pocock confronted when they embarked on the next round of legislative updates epitomized how complex the sentencing provisions of the Iowa Code had become and how important it was to categorize the information in a useful and easily accessible manner. With Judge Mullins[’s] guidance, the two navigated the cross-references, became adept at statutory interpretation, and learned where and why general trends (and exceptions to those trends) existed in Iowa’s criminal law provisions.”).

to the Chart: student leadership, mentorship,⁴⁰ and presentation opportunities.⁴¹ Brooks and Pocock also noted a sense of investment and ownership in the future of the Chart.⁴²

3. *Set Reoccurring Meetings with Distinct Goals*

Depending on the nature of the project chosen, practitioners should be aware of the commitment to the chosen project by the students. Is the project a short-term project that can be completed within a semester, an academic year, or is it a multi-year commitment? This question must be answered to facilitate a clear, achievable plan of action. Stick to a meeting schedule and do not be afraid to narrow goals. To counterbalance this pragmatic goal, faculty must encourage students to reflect on the chosen project's purpose and where it fits within the legal system.

Attempts to coordinate schedules among members of the judiciary or bar with faculty and students can be challenging. Faculty must be flexible to accommodate the member of the judiciary or bar and structure a realistic meeting schedule around the practitioner's schedule. This is the first priority.⁴³ If it is a multi-year or ongoing project, consider whether revisions to the chosen project can be done over the summer months by students

40. *Id.* ("Judge Mullins and Kylie Crawford aimed to take the original document—once used as a quick reference—and turn it into a practical guide for practitioners and students across the state. Without Judge Mullins[s] vision and Kylie Crawford's willingness to devote the time, this project would not have been possible. Crawford was in her final year at Drake Law when she alone took on researching the criminal law provisions of the Iowa Code in order to develop the new Iowa Sentencing Project. Once completed, she trained the incoming Drake Law research assistants . . . on applying legislative updates and editing the chart.").

41. Brooks and Pocock presented to the Drake faculty, students in the criminal defense program, and students at Drake Law School. They also put together a PowerPoint presentation used at the Works in Progress (WIP) session at the May 2019 AALS Conference on Clinical Legal Education.

42. Mullins, *supra* note 21, at 9. ("Although the project has come a long way, those involved have great aspirations for where it can go in order to refine and continue to develop this resource for members of the Iowa Bar. To this end, student research assistants will continue to add updated case law and, of course, incorporate legislative updates as they become available. While this project has been a useful tool for judges, attorneys, students, the general public and legislators in its current format, those working on this project see room for improvement with the project's usability.").

43. Beware of the academic calendar; students tend to believe the academic calendar is how a practicing member of the bar's or judiciary's calendar works.

working with the members of the judiciary or bar and a faculty member.⁴⁴

Try to select projects that can be published. It may not be published in a law review or online journal, but the piece may be more appropriately placed in a jurisdiction's bar journal or magazine.⁴⁵ The goal is to introduce students to the concept that they can be published and to the pride that goes with a publication. Even if the publication is not in a traditional law review or online journal, a well-written description in an area of law is always welcomed by the bench and bar.

IV. COLLATERAL BENEFITS FOR THE STUDENTS AND THE LAW SCHOOL

These projects, like the Chart, have collateral benefits for students as well as the law school. One such benefit is the opportunity for the students to present the project to practitioners who would find the chosen project of interest to their field of law.⁴⁶ In addition to presentations, projects provide opportunities for networking;⁴⁷ assist in the successful placement of graduates;⁴⁸ and raise the digital presence of the law school.⁴⁹ The students involved also develop a sense of investment and ownership in the future of the chosen project and the law school.⁵⁰ By institutionalizing an ongoing

44. One 3L and one 2L student is suggested to assure continuity in the following years' revisions.

45. See, e.g., Mullins, *supra* note 21.

46. See, e.g., *supra* Part III.A (discussing the Chart). The earliest presentation assisted by a student was by Judge Mullins at the Iowa Judicial Conference in 2018, assisted by Crawford. As previously noted, Pocock and Brooks presented to the Drake faculty in the spring of 2019. See *supra* note 41. Other students, Lauren Calef and Ben Kenkel, presented at the Iowa Association of Criminal Defense Lawyers in the fall of 2019.

47. See, e.g., *supra* Part III.A (discussing the Chart). The Chart continues to provide networking opportunities for students and faculty with members of the judiciary and bar focusing on specific areas of interest. It is utilized by the judicial branch in training new judges and is updated at periodic judicial conferences and, as such, serves as an ideal project. The Chart is available at the branch website and is used by county attorneys, defense attorneys, and court administration across the state.

48. Having law review or journal students working directly with a member of the judiciary or bar has potential benefits for the students' employment and future professional recommendations by members of the judiciary.

49. Imbedding the selected project with the law school further connects the school and the judiciary or bar. The Chart can be found at the Iowa Supreme Court website, the Iowa Public Defenders website, and the Iowa Prosecuting Attorneys website. Mullins, *supra* note 21, at 7.

50. See, e.g., *id.* at 9; see also Mullins, *supra* note 21.

project, this type of “real-world” collaboration also reinforces the perception that the law school produces practical and useful scholarship.⁵¹

In taking on student-run projects, law schools also need to consider the means to be utilized to achieve the desired outcome of the project. For example, the Chart has significant technology implications. As noted by Judge Mullins, “The 517-page, 5,200-footnote [C]hart would have been completely unwieldy in a paper world, but is a useful and more meaningful tool in an e-world. It is capable of easily incorporating additional content and annotations and is searchable.”⁵²

V. PROVIDING A BASIS FOR FUTURE SCHOLARSHIP AND WRITING

These projects, like the Chart, have the potential to open a larger discussion about issues such as sentencing in Iowa and the role of punishment in general. The benefit of two publications have already been achieved in conjunction with the publication of the Chart: publication in the state bar association magazine,⁵³ and the Chart itself on the Iowa Supreme Court website.⁵⁴ In and of themselves, both would be noteworthy accomplishments.

Additionally, as a colleague pointed out after a student presented the Chart to a group of faculty, this project could serve as a platform to make sentencing reform recommendations regarding specific statutes.⁵⁵ As such,

51. For example, because the Chart is linked to the Iowa Judicial Branch website, it would give a higher profile for the law school and its digital presence. *See supra* note 49. As mentioned above, the Chart is used at judicial conferences and other presentations. *See supra* notes 49, 50.

52. Mullins, *supra* note 21, at 8.

53. *See generally id.*

54. Michael R. Mullins, *Iowa Criminal Statutes Summary Chart—2019*, IOWACOURTS.GOV, https://www.iowacourts.gov/static/media/cms/2019_Sentencing_Chart_Final_Version_C87FB8925A86F.pdf [<https://perma.cc/YWD6-R2KA>].

55. *See* Mullins, *supra* note 21, at 7 (“As a result of the chart, I was invited to speak at a joint session of the State Government Oversight Committee of the Iowa Legislature, as the members were considering embarking on re-working the Iowa Criminal Code. My chart helped demonstrate the complexities the legislature had unwittingly created incrementally over the 30-some years since the previous major criminal code re-write. I was later appointed as the only judge member of a legislative study committee that intended to simplify provisions of the Iowa Code. The committee was slowly making some progress but was disbanded before significant progress was made.”).

the Chart has the potential to generate any number of additional scholarly research: a comparison of drug possession and distribution statutes between state statutes and the federal code;⁵⁶ an article advocating a revamp of the penalty provision dealing with domestic abuse statutes;⁵⁷ an article creating a new basis for sentencing juveniles who are transferred to adult court;⁵⁸ or, because of the complexity of the sentencing provisions, an article calling for an overhaul of the Iowa Code's sentencing provisions—a global rewrite.

Who would write these articles? Faculty is one answer. But if faculty has done their job well, they would have started a continuum of learning that attains what Judge Diane Wood describes:

At its best, legal scholarship rises above the details of any particular field of law and improves understanding of our legal system as a whole. It can reveal similarities that have been hidden by the details of old doctrines or cases; it can sweep away irrelevancies and provide a clear rule of decision that benefits the community as a whole and the lower court judges who must apply the law; it can reveal unintended inefficiencies or impositions that are inconsistent with fundamental constitutional principles. Perhaps these advances inspire legislators to pass better laws; perhaps they inspire Supreme Court Justices to look through old myths, like “separate but equal,” and realize that there is just one principle of equality; and perhaps they allow other judges to explain their reasoning in a way that is clear, consistent with binding rules, and compelling. Those are some of the goals to which legal scholarship should aspire.⁵⁹

With some work, encouragement, and a bit of luck, faculty can assist students on a journey to become the next scholar in the area of the project that faculty have selected, or scholarship in general.

VI. CONCLUSION

The Chart demonstrates applied student scholarship and writing, and its need, practicality, and potential to evolve into something more. The Chart is an example of student-run work that is both useful and helpful to judges, practitioners, and policy makers. It not only meets Chief Justice Roberts's

56. See, e.g., IOWA CODE § 124 (2019).

57. See, e.g., *id.* § 708.

58. See, e.g., *id.* § 232.

59. Diane P. Wood, *Legal Scholarship for Judges*, 124 YALE L.J. 2592, 2606–07 (2015).

challenge or invitation to the academy, but also provides a basis to inspire future analysis regarding punishment in the criminal justice system. So, pick a project, recruit some students, and let ‘em write. Finally, “let a thousand flowers bloom.”⁶⁰

60. *Let a Thousand Flowers Bloom*, PHRASE FINDER, <https://www.phrases.org.uk/meanings/226950.html> [<https://perma.cc/M7VG-E7E8>]. “*Let a thousand flowers bloom* is a common misquotation of Chairman Mao Zedong’s ‘Let a hundred flowers blossom[.]’ This slogan was used during the period of approximately six weeks in the summer of 1957 when the Chinese intelligentsia were invited to criticize the political system then obtaining in Communist China. The full quotation, taken from a speech of Mao’s in Peking in February 1957, is: ‘Letting a hundred flowers blossom and a hundred schools of thought contend is the policy for promoting progress in the arts and the sciences and a flourishing socialist culture in our land.’”