

The Gunner's Guide to Law School

THE

Gunner's Guide

—— TO ——

Law School

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To NCC for believing in me and helping me get into law school

To my mother for her never-ending support

To my wife for carrying me through

To my daughters for their future

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Introduction

I'm not the smartest guy in the room. I don't work harder than other people. My standardized test scores were mediocre. I got rejected from nearly every law school. Yet once I got in, I got nearly straight As. And I graduated first in my class. The reasons are in this book. Success in law school does not require innate ability; it does not require genius; it is purely mechanical. No more than simple logic, preparation, and dedication. If you can understand the basic frameworks and apply them consistently, then you will succeed in law school. And you may even be in the top 10% of your class.

This book provides those frameworks. Frameworks are important in the law. Every law is simply a framework of rules that you plug facts into. It is entirely a matter of basic logic. If you know how to set up the problem, then you can get the right answer for any problem. And the good thing about law school is that there are no *right* answers; if you can spot the issue, identify the rules, and plug in the facts, then that is all you need. You can spin the facts however you want so long as you do so within the right framework. You will stay ahead of the curve if you can spot the issue, apply the rule, and reason correctly. That's it. And you will be able to do that no matter the course if you follow the basic frameworks in this book.

This book starts with a chapter on how to think. And by that I do not mean "thinking like a lawyer." In fact, you should not be thinking like a *lawyer* in law school; you should be thinking like a *law student*. A law student has one goal—to be a lawyer. To be the lawyer you want to be you must be successful in law school. And success in law school is measured by one thing: grades. Whatever type of lawyer you want to be, law school is simply too expensive, too time consuming, and too stressful for you to be anything but fully invested.

Surprisingly though, law school is not full of driven, hard-working, or even smart people—it is full of people who just want to get by, get their degree, and rake in the cash. They are less interested in *learning* the law than being *told* the law. They come to class expecting a handout with the black letter law. But that is not how law school works. Law school teaches you a process; not the answers. That is because practicing law is about the process—not the answers. When a client comes to a lawyer with a problem, the lawyer doesn't know the answer. A good lawyer doesn't pretend to. What a good lawyer knows is where to find the rules and how to apply the rules. Law school teaches you those skills. Students who expect the law handed to them miss that fundamental point. That is why this book encourages you to embrace the process. Be a gunner.

If you haven't heard the term "gunner" yet, it is generally an insult in law school. Urban dictionary defines it as:

A person (usually a medical or law school student) who uses over 3 different colored highlighters, tabs every page in their notebook, and raises their hand after every question asked by their professor, regardless of if they know the correct answer or not. Gunners like to hear themselves speak. They use complicated words to make themselves sound smart even though they have no idea what's going on in class—they pretend they do. They are trying to intimidate you and eliminate competition.¹

There are certainly some aspects of that definition you want to avoid. You don't want to be someone who raises their hand for every question for the sake of hearing their own voice. You don't want to be someone who uses big words to sound smart. And you don't want to be someone focused on competition. But you *do* want to be fully invested. And a gunner, if anything, is fully invested. If it takes you three-colored highlighters to brief a case, do it. If you want to tab out your notebook, so be it. And if you want to answer questions in class, you should do that. Indeed, throughout this book, you will find references to studies that show that the mere act of doing some of those things boosts your ability to learn. For example, writing in the text as you read helps you learn and remember better. Participating in class boosts your comprehension and allows you to test your learning in real time. Neuroscience confirms that these acts activate the brain in ways that cause you to become more invested, more attentive, learn more material easier, and even retain more information.

1. <http://www.urbandictionary.com/define.php?term>.

Another lesson neuroscience teaches us is that attitude affects performance. That is because your brain is a goal-striving machine. It works automatically toward goals and expectations about the world. Some goals and expectations, like survival, are automatic and subconscious. They work without your input. When you see a lion, you are hard-wired to expect it to kill you. Your adrenaline automatically pumps, and you run. But as a person with a conscious mind, you can choose goals and shape your expectations. Expect success and understanding and you will find it; expect difficulty and you will find that instead. The same with law school. Study after study confirms that your attitude influences your performance. If you think it will be easy, then your brain is primed to accept that. On the other hand, if you think it will be hard, then it will be. In other words, whether you think you can, or you think you can't, you are right. That is why chapter one discusses the mental framework you need for law school. Because without the right mental framework, you will fail.

Of course, thinking positively is not enough. That merely provides a foundation. From there, the most important framework is the logic of arguments. An argument is not two people yelling at each other. An argument is more like a mathematical proof. The basic form of argument in law school is called a syllogism. A syllogism is a three-step proof—it has a rule (a major premise), facts (the minor premise), and a conclusion. In law school, you are always given the rule and the facts, and all you must do is put it together. The only wrinkle about law school (and the law), is that there are syllogisms upon syllogisms. In other words, the rule statement typically needs to be unpacked into narrower syllogisms. For example, the rule statement for enforceability of a contract may be that it requires an offer, consideration, and acceptance. But to understand an “offer” or “consideration” or “acceptance,” each one of those terms must be broken down into its own syllogism. And sometimes, the breakdown of the rule within the rule needs another syllogism. So what you get are syllogisms upon syllogisms. If you can understand that basic form, then you will succeed in any law school class and any exam, including the bar exam. Chapter one explains this form.

From there, you are ready to begin learning—that means class. In chapter two, we move to class frameworks. Many students blow off class or don't take it seriously. But remember that law school is about teaching you how to be a lawyer. And being a lawyer does not mean knowing all the answers; it means knowing how to spot the questions and then knowing how to find the answers. That means law professors do not just tell you the law. They use the Socratic method to pull it out of you. And the only way they can pull it out of you is if there is something there to pull out. That means you must know the material *before* you come to class. That means reading. Reading law, however, is not

like other reading. Reading law is an active process. It requires you to *understand* the case. To understand a case, you need to develop active reading techniques that require participation with the text. One way you can do that is to read with a pen and write in the text. Circle, underline, and most importantly, summarize in the margins.

But class preparation doesn't end after reading the cases. The best students take class seriously. That means participation. In some cases, professors even give a half-grade bump to those students that participate. But even more important, participation keeps you engaged in class. It tests your knowledge. And it gives you an opportunity to test your skills on your feet. Doing so will help prepare you for the exam. After all, the exam itself is a stressful situation where unknown facts are thrown at you and you must respond within a short time. The more you test yourself to think on your feet in class, the better prepared you will be when you get to the actual test.

In chapter three, we look at exam frameworks. There are two important steps to preparing for the exam: creating an outline of the law you have learned throughout the semester, and taking practice tests. Creating an outline is hard and time-consuming. But doing it yourself is necessary. Outlining is more than just having the answers ready; it is about taking the time to grapple with the rules you've learned and organizing them in a way that makes sense to you. If you can distill and organize the rules, it means you really understand them. Students who use a commercial outline or one from another student miss that. The work you put into creating the outline is just as important as having the outline itself. If you do it right, you might even find that you don't need to reference it during the exam (most professors allow you to take a self-prepared outline into the exam). Moreover, by creating the outline yourself, as an added benefit, you will have created a mental map of your outline that will ease your cognitive strain during a test. Chapter three discusses how to create that outline.

Chapter three also discusses the next step in acing an exam, which is practice. An exam is more than a test of knowledge—it is a performance test. And while you can't anticipate the exact question you will get on an exam, you will be able to practice reading a prompt and writing down the rules that match. You should practice under the same time pressure and, if possible, by using your professor's old exams. If you take at least two practice tests, you will find that by the time you take the second one, you will be faster. You will be able to find the rules you need faster and write them out faster. As those tasks become automated, your mind will be free to focus on the application. By easing that burden, you are freeing up mental resources you will need during the exam. The more you practice, the more skilled you become at reading and

analyzing an exam prompt, and the more skilled you are, the stronger your exam writing will be.

That brings us to taking the exam. Using the active-reading techniques discussed in chapter two will be key. Just as you did when studying for class, on exam day, you will engage with the text by circling, underling, and writing in the margin. That will help you identify the issues and important facts as you read. Writing in the margins will help create a mini-outline that you use to write the exam. Once you are ready to write the exam, you use a familiar format that all law students and professors will recognize—IRAC. IRAC stands for issue, rule, application, and conclusion. That form is important to use because it is the most simple and proper argument format discussed above, which is the syllogism. IRAC also satisfies your professor's expectations about what an exam should *look* like, which invokes the fluency-effect. That means that if you write the exam in a format they expect, it will be easier for your professor to read, which in turn means that they are more likely to judge that information favorably. More importantly, failing to follow that format invokes the opposite of the fluency-effect, which is that the information is harder to read and that causes your professors to form a negative assessment of your writing just by its form. So, do yourself a favor and follow IRAC. By actively reading your exam, you will have all the issues spotted in the margins. Then you use the outline you created in the margin to find the rule, write it down, and apply the facts to that rule.

In chapter four, we discuss frameworks for classes that require you to write papers rather than take exams. In your first year, you will undoubtedly take a class on legal writing where you will learn the basics of writing. You will produce several different kinds of legal writing, such as a memorandum and a brief. The first, second, and third rule for these classes is to follow your professor's rule. For example, your professor may give you rules as to font, format, type size, spacing, etc. Even in the real world, courts and judges have requirements as to format that you must follow. It is necessary that you follow those rules. The same is true in your paper courses. Once you have those rules down, you can move on to writing technique. The basic format for any legal writing is the same as the exam—IRAC. But there are differences within that structure, such as the way you draft an issue statement and the depth you discuss rules and cases. And the most important difference between exam writing and paper writing is creating an outline of what you are going to write before you actually start to write. Creating an outline before you write is a necessary step in writing an actual paper—skipping it is a false economy. Indeed, a proper outline will take away most of the pain of writing. If you draft a good outline, then the paper will write itself.

Beyond exams and paper classes are the many activities offered in law school. But there are only two that are important: law review and moot court. After securing your grades, making law review and moot court are the two most important markers for success in law school. That is why, in chapter five, we discuss how to make law review and moot court board—from the write-on to the oral argument.

In chapter six, this book will discuss considerations for choosing upper level courses, clinics, externships, and working while in law school. At bottom, each one is based on time management. As a lawyer, time is your commodity. You will schedule it, track it, and bill for it. As a law student, your schedule can make or break your ability to succeed. You can take all the interesting classes you want, overload yourself with clinics, and work two jobs, but you must protect your time so that you can put the required work into each class and graduate law school with the highest grades possible.

In chapter seven, this book will provide some tips for beyond law school—specifically, your first years as an associate in a law firm. Transitioning to practice from law school is not easy, but there are some basic tips that can help you succeed.

In the end, this book provides frameworks and guidelines for law school. You can apply them to any class you take in law school. No matter what the subject, the approach is always the same. Like practicing law, law school is all about a formula. And so is this book. A good formula for success provides not only the tools you need to succeed, but also provides confidence that allows you to handle the stress while focusing on the substance. None of this is to say that law school is easy. It is not. Law school takes dedication and many, many hours of work. But it is not beyond anyone's grasp. By using the techniques in this book, you will be confident that you know how to succeed in any law school class. You may even enjoy it.