

*CORNELL LAW REVIEW*

Student-Authored Note Guide

2021

## Table of Contents

<b>INTRODUCTION</b> .....	<b>3</b>
<b>WHAT IS A NOTE?</b> .....	<b>4</b>
<i>COMMON NOTE TYPES</i> .....	4
<i>NOTE TYPES TO AVOID</i> .....	5
<i>RECENT EXAMPLES</i> .....	6
<i>STRUCTURE</i> .....	7
<b>CHOOSING A NOTE TOPIC</b> .....	<b>9</b>
<b>PREEMPTION</b> .....	<b>11</b>
<i>WHAT IS PREEMPTION?</i> .....	11
<i>PREEMPTION CHECKS</i> .....	11
<b>NOTE SELECTION &amp; PUBLICATION</b> .....	<b>13</b>
<i>ELIGIBILITY</i> .....	13
<i>SELECTION PROCESS</i> .....	13
<i>CRITERIA FOR SELECTION</i> .....	14
<i>FORMATTING &amp; EXPECTATIONS</i> .....	15
<i>AUTHOR FEEDBACK</i> .....	15
<b>NOTE-ON METHOD</b> .....	<b>17</b>
<b>DATES &amp; DEADLINES</b> .....	<b>18</b>
<b>CONCLUSION</b> .....	<b>19</b>

## Introduction

Through its Note Office, the *Cornell Law Review* seeks to promote student authorship by selecting two student-authored Notes for publication in each of its six (when there is a symposium issue) or seven issues (when there is not a symposium issue) per volume. While Volume 106 has seven issues with Notes, Volume 107 will only have six issues with Notes since it will have a symposium issue on the Death Penalty. The *Cornell Law Review* believes the Note-writing process provides tremendous potential for growth as a thinker and academic, as well as invaluable research and writing skills.

This guide discusses the *Cornell Law Review's* Note expectations and guidelines for writing Notes for publication. Specifically, this guide details each stage of the Note-writing process, including note types, topic selection, preemption, the selection process, formatting, and submission deadlines.

Additionally, this guide explains the *Cornell Law Review's* Note-on method. If a Note selected for publication was authored by a student not currently on the *Cornell Law Review*, that student will be offered an Associate position on the *Cornell Law Review* during their third year. All 2Ls, including transfer students, are eligible to participate in the *Cornell Law Review's* Note-on program.

## What is a Note?

A Note is a piece of legal scholarship written by a student that identifies a specific, unresolved legal problem and offers a solution. Notes are shorter than Articles—typically about 30 to 40 pages in length—and much narrower in scope. Unlike Articles, Notes rarely present ideas for doctrinal frameworks, approaches, or developments, but, rather, are vehicles for focusing and solving discrete legal problems.

A Note is a piece of writing that critically analyzes an aspect of the law. Notes take clear positions on the issues they address and solutions they propose. Since they are academic contributions, they must recognize all sides of the issue discussed and be as objective as possible. By doing so, a Note's author assures their reader that nothing is being hidden, and so lends credibility to the position they ultimately take. In short, a Note author should articulate their position forcefully while treating contrary arguments seriously and respectfully.

Below is a summary of the Note types that are typically published in the *Cornell Law Review*. While these Note types are most frequently published, occasionally, other, less common Note types are selected by the Notes Selection Committee. Below is also a list of Note types that the *Cornell Law Review* Notes Office recommends that authors avoid. Throughout the Note selection period, the Senior Notes Editor noted patterns of Note types that were not selected for publication. These Notes were often eliminated because they failed to adequately analyze the problem, the solution was not novel or discrete enough, or the impact of the scholarship on the legal community was marginal. To aid students in their Note-writing process, this section provides a list of recently-selected Notes for publication in the *Cornell Law Review*, as well as provides an outline of the structure of Notes commonly selected for publication.

### Common Note Types

- **The Case Note:** A case Note typically explains the impact of a recent case or statute within the existing framework of the law. Case Notes usually treat issues of national importance, focusing on Supreme Court decisions, acts of Congress, or rulings by federal administrative bodies. International topics are also appropriate for case Notes. State law case Notes are feasible; however, if you should decide to write about a state court decision or statute, you should aim to select one that is of national significance. One may also write a case Note that anticipates a court decision or statute. For example, such a Note might discuss a pending lawsuit or bill. The ripeness of these topics is a concern, however, because if the lawsuit is dropped or the legislation falls through the cracks, your Note may end up not being publishable. Most case Notes generally include a background, a discussion of the case or statute at issue, and an analysis of the decision or law. Some writers may be troubled by the limitations of the case Note. Case Notes are essentially reactive in nature. Instead of actively exploring problems in the law and proposing new solutions, you may find yourself limited to discussing ideas proposed by judges or elected officials. While this may suit some authors, others may seek a more forward-looking topic.
- **The Scope Note:** Instead of focusing on a single case or statute, a scope Note discusses a single issue and analyzes approaches to this issue across a certain area of the law. A scope Note might, for example, compare and contrast solutions that different state courts have adopted in reaction to the same problem, or it might discuss the effect of several Supreme Court decisions concerning a particular issue within the last year. It might also address the impact of a certain current event upon different areas of the law or provide a statistical analysis of a very large number of cases. The scope Note provides

a limitless range of topics and has a lower risk of preemption. Keep in mind, however, that a good scope Note requires mastery of the issue in question, which involves a great deal of time and research.

- **The Circuit Split Note:** When two or more federal circuit courts or district courts disagree on an important legal issue, the Supreme Court will often grant certiorari to provide a uniform answer. A circuit split Note attempts to beat the Supreme Court to the chase and proposes its own novel resolution of the circuit split. A circuit split Note should go beyond a “Circuit A is right and Circuit B is wrong” analysis and should instead propose a novel solution, possibly one that neither circuit court had considered. If persuasive enough, your Note may even influence the determination of the issue should the Supreme Court grant certiorari. Student Notes are sometimes cited in briefs submitted to the Supreme Court, and occasionally are cited in the Court’s decision. Preemption, however, is a constant concern. The Supreme Court may resolve the split before you publish, rendering your thesis moot. Furthermore, because circuit splits are common Note topics, another law student may preempt your topic by publishing a Note covering the same ground and making substantially similar arguments.
- **The Multi-Disciplinary Note:** Notes that borrow insights or analyses from other disciplines can shed light on legal thinking. A multidisciplinary Note analyzes the law in relation to other fields of study, such as history, economics, philosophy, religion, or the sciences. The Note might, for example, discuss the historical development of a rule of law or analyze an issue in the law with respect to a specific moral philosophy. The field of possible topics for a multidisciplinary Note is vast and the author has the freedom to adopt a more proactive stance than with the more traditional Note forms. Those who have a strong background in another field should strongly consider writing this type of Note. Should you decide to pursue this kind of Note, however, please keep in mind that this is a law review and, therefore, your Note topic must ultimately bear some relation to the study of law.
- **The Historical Note:** Remember that Notes must address a novel, live legal issue. Therefore, a Note that addresses legal history must situate the relevance of that history in the current debate. Most historical Notes spend the first half of the Note discussing the historical roots of the problem, and then in the analysis section, explain how that history impacts the development of the discrete legal issue of relevance. One note of caution: Historical notes can be involving, so be sure not overcommit.
- **The Empirical Research Note:** This type of Note is extremely useful but can be difficult to write, as it’s hard to find an area that can be researched thoroughly in a limited amount of time. On the bright side, empirical Notes are hard to preempt—you are only preempted if someone has done the same (or a similar) empirical study. Just because your theory has been articulated elsewhere does not mean that your empirical Note is preempted. Oftentimes, the empirical research Note builds off of previous Notes and seeks to improve the methodology and research tools. When constructing an empirical research Note, make sure to include an analysis section that describes the data and methodology used, as well as an analysis section that situates the results of the study in the broader legal context.

### *Note Types to Avoid*

- **The Thought Dump Note:** These Notes list an array of observations and conclusions about a topic, but largely fails to identify a specific solution that will be meaningful to the legal community. A Note should identify a specific legal problem and propose a novel, well-articulated solution—it should not be a setting for a thought dump on an interesting topic.

- **The Research Note:** These Notes merely summarize the legal landscape of a topic without offering critical analysis or novel solutions. Notes should offer more than a mere synopsis of the background of the law—they should provide a novel solution to a previously unaddressed or topical issue.
- **The Broad-Sweeping Note:** A Note like this proposes to tackle broad sweeping topics without narrowing to a discrete legal issue. Notes should tackle narrow, modest topics in detail, rather than provide a superficial or conclusory analysis of broader issues. Note topics should be manageable and focused on one central idea or concept.
- **The “Should” Note:** These analyze a specific pending or past case and prescribe how a court “should” or “should have” responded. A Note must address a specific legal issue, not a particular court case. While a legal analysis might find its application within a specific court case, a Note should not focus entirely on one question before a court.

### Recent Examples

The Notes below are examples of *Cornell Law Review* pieces that have been recently selected for publication. Reading their titles and descriptions will give you a sense of the typical Note’s scope and legal issue. If you would like to view the content of these Notes, many of them are available on *Cornell Law Review’s* [website](#).

- Thomas Shannan, *Are We There Yet? No: The Numbers That Support Adopting Automatic Appeals Towards Juvenile Justice*
- Zachary Sizemore, *Trending Towards Leniency: What Millenium Laboratories & In re Plavix Marketing Teach About the Future of the False Claims Act’s First-to-File Rule*
- Hun Lee, *Finding Benevolent Neutrality in Land Use: RLUIPA’s Equal Terms Provision and the Human Flourishing Theory of Property*
- Kayla Anderson, *Are There Rights in Guantanamo Bay: The Great Writ Rings Hollow*
- Andrew Kingsbury, *Patenting Pot: The Hazy Uncertainty Surrounding Cannabis Patents*
- Lily Coad, *Compelling Code: A First Amendment Argument Against Requiring Political Neutrality in Online Content Moderation*
- Ji Hyun Rhim, *Left at the Gate: How Gate Money Could Help Prisoners Reintegrate Upon Release*
- Lauren Devendorf, *Law Abiding, Responsible, and Previously Mentally Ill: The Case for Applying Strict Scrutiny to Lifetime Bans for Individuals Previously Committed to Mental Institutions*
- Miranda Herzog, *“The Intent to Influence”: Jury Tampering Statutes and the First Amendment*
- Christopher Johnson, *Too Much ‘Acting,’ Not Enough Confirming: The Constitutional Imbalance Between the President and Senate Under the Federal Vacancies Reform Act*
- Michael Mills, *The Death of Retaliatory Arrest Claims: The Supreme Courts Attempt*

*to Kill a Retaliatory Arrest Claims in Nieves v. Bartlett*

- David Eichert, *Disciplinary Sodomy: Prison Rape, Police Brutality, and the Gendered Politics of Societal Control in the American Carceral System*
- Kevin Dong, *Developing a Digital Property Law Regime*
- Ashley Mullen, *International Cultural Heritage Law: The Link Between Cultural Nationalism, Internationalism, and the Concept of Cultural Genocide*
- Benjamin T. Van Meter, *Demanding Trust in the Private Genetic Data Market*
- Julia F. Hollreiser, *Closing the Racial Gap in Financial Services: Balancing Algorithmic Opportunity with Legal Limitations*
- Andrew W. Wassef, *Executive Privilege with a Catch: How a Crime-Fraud Exception Privilege Would Facilitate Congressional Oversight of Executive Branch Malfeasance in Accordance with the Constitution's Separation of Powers*

## Structure

Notes serve their specific purpose for legal scholars and practitioners best when they meet readers' expectations. A Note will therefore be most useful when its structure allows readers to easily navigate the sections. A good Note describes the background law, explains the problem at issue in the Note, and argues for a solution to the problem. A standard Note achieves these three things, while also reflecting wide-reaching, in depth research, evidenced by a broad range of sources. Specifically, a Note must cite more than handful of sources and must demonstrate that the author has done extensive research. A standard Note will typically achieve these goals in 3-4 separate sections that are framed with an Introduction and Conclusion.

- **Introduction:** The introduction section should briefly outline the structure of your Note. The introduction should start with a hook that catches the reader's attention that introduces the crux of the problem you have decided to write about. After the author has succinctly introduced the problem, the author should explain what the Note argues and the author's proposed solution. The author should then provide a roadmap of the coming sections, affording one paragraph to each section.
- **Background:** This section provides background information and should contain a thoughtful discussion that situates the problem in existing literature and the current state of the law. Often times, Authors provide a historical context or explain new developments in the law in this section. This section often does not comprise original author conclusions, however, the author should make sure to clearly set up the problem and how it will be discussed in future sections.
- **Analysis:** The analysis section describes in detail the problem your Note addresses and explains through detailed and critical analysis why it is important. This section also presents your proposed solution(s) to the problem. This section should contain a well-reasoned analysis that identifies relevant counterarguments and avoids conclusory statements. Explain clearly why the problem or issue you address merits close attention and analysis, and why the existing law (or political climate, etc.) as it stands today, as described in your background section, cannot resolve it or inadequately addresses it. Be sure to argue your proposed solution thoroughly, which may require you to address and dismiss potential alternative solutions. This section could be separated into two sections, one detailing the problems and inadequate approaches, and the other introducing your novel approach.

- **Conclusion:** The conclusion should place your proposed solution into the broader context of your background section and analysis of the problem. A conclusion is typically less than one page long, and briefly lays out the problem and the author's proposed solution. Refrain from including too many footnotes or cross references in this section, and avoid merely summarizing the entire piece.



## Choosing a Note Topic

Choosing a viable topic is the most important—and often the most difficult—part of the Note-writing process. You should look for a topic that is timely, manageable, and unique. The sooner you pick your Note topic, the better. However, you want to be sure to find a topic that provides you with enough to talk about, that interests you, and that has an important legal impact. As you consider topics, here are some questions to ask yourself:

- Do I have something interesting to say about this case/statute/question? Your thesis must contain a constructive analysis, not merely a passive observation. “This area of the law is very confused” is not sufficient. You need to propose a suggestion for the direction of the law. Your position may change throughout the Note-writing process, but you should feel strongly enough to take a stand.
- Do I have enough of a professional, personal, or academic interest in this area of the law to inspire me to work on it for six months? You are going to work hard and spend a lot of time writing your Note, so you may as well pick a topic that you enjoy.
- What has already been said about this topic? Will my Note make an original contribution to the field? You should select a topic and write your Note with the end goal of having your Note published. When selecting a Note topic, you should consider whether others would find your proposed thesis interesting and useful.

### How to choose a topic:

- Talk to contacts from your summer job. Think back to any memos you wrote or research you conducted over the summer. Do you recall any unresolved legal questions that seemed interesting? Did you conclude any memo or research assignment with “I don’t know,” either because authorities supported both sides of the question or because it was unclear how a recent case or statute might impact the subject? Any of the above might indicate a fledgling Note topic. If nothing Note-worthy sprang from your summer assignments, why not call the people you worked with? Ask them whether they’ve recently stumbled on any interesting gray legal areas that might lend themselves to further inquiry. Please Note, however, that if you want to write about a case that you worked on last summer, you’ll need to clear it with your former boss. Different organizations have different confidentiality policies and concerns, and, as a future member of the bar, you should take these concerns seriously.
- Look for circuit splits or controversies among states. There are several ways to locate circuit splits:
  - 1. Check out the “Circuit Split Roundup” published by U.S. Law Week, or search the Westlaw directory of U.S. Law Week articles. You’ll find this directory in Directories / Legal Periodicals / Legal Newspaper Databases / BNA United States Law Week. Search for “circuit /5 split” and add any search terms related to your area of interest (you can try the same trick for other legal newspaper databases located on Westlaw or Lexis)
  - 2. To find circuit splits that have been identified in judicial decisions, go to Westlaw or Lexis, select the U.S. Courts of Appeals database, and input a few words related to your topic. Then add one of the following phrases to your search terms: (1) circuit or authority! /5 split; (2) “decline to follow” /s circuit or appeals; or (3) disagree /s circuit /s first or second or third or fourth or fifth or sixth or seventh or eighth or ninth or tenth or eleventh or D.C.

- Check out some online blogs. SCOTUSblog (<http://www.scotusblog.com>) often mentions splits (but be careful if the issue is too ripe for a cert grant—you don't want to be preempted).
- Casebooks and treatises highlight circuit splits and different treatments among states. Check casebook Notes that appears at the end of each subchapter—all the open-ended questions contained in those Notes are just waiting to be tackled by law students!
- Think of “side effects” stemming from court decisions or legislative enactments. Try looking at:
  - En banc decisions: If an appellate court decided to sit en banc, you can bet that the case presents some complicated and important legal issues. En banc decisions are a great way to find Note topics, especially if the case is narrowly decided and the dissent makes a persuasive and heated argument. You can find en banc decisions by searching Westlaw or Lexis; select either the U.S. Courts of Appeals database or the “all states” database, input a few search terms particular to your topic, and then add this seven-word phrase: (“sitting en banc” or “rehearing en banc”).
  - SCOTUSblog (<http://www.scotusblog.com>): In addition to gossip and updates about the Supreme Court and its cases, you'll find information about big cases working their way up the appellate ladder, discussions of ways in which new Supreme Court cases might impact the legal landscape, and links to commentary in the media, the academy, and the blogosphere.
- Talk to your professors. Professors also conduct their own legal research and write legal articles, so they may have already thought of interesting topics worthy of exploration.
- Take a writing seminar. You may use your seminar paper as the basis for your Note but your Note must be substantially different from your seminar paper. Be sure to read the information in this packet on “Using a Seminar Paper as Your Note.” Please note that you must obtain permission from your professor to use a seminar paper as the basis for your Note and not all professors are willing to grant their permission.
- Read periodicals. Scan the most recent issues of the National Law Journal, the New York Law Journal, and U.S. Law Week. These publications often discuss developments in the law and their real-world impact. Magazines and newspapers that are not entirely legal-focused are also great resources. Browse your favorite newspaper for interesting articles that may have an interesting connection to the law.
- Read legal Blogs. Legal blogs are a great way to learn about the “hot” legal issues of the day. Here are links to lists of top legal blogs:
  - [http://www.abaJournal.com/magazine/article/the\\_9th\\_annual\\_blawg\\_100/?utm\\_source=internal&utm\\_medium=navigation&utm\\_campaign=navbar](http://www.abaJournal.com/magazine/article/the_9th_annual_blawg_100/?utm_source=internal&utm_medium=navigation&utm_campaign=navbar)
  - [http://www.avvo.com/stats/top\\_legal\\_blogs](http://www.avvo.com/stats/top_legal_blogs)
  - The “How Appealing” Blog, at <http://howappealing.law.com>, rounds up links to the latest appellate opinions—just the newsworthy or controversial ones. It also provides links to media discussions of appellate opinions. It's a good place to find controversial cases, which in turn lead to areas of the law that are unsettled.

# Preemption

## *What is Preemption?*

The *Cornell Law Review* wants to publish Notes that will impact the legal community for years to come. That's why your Note must address a "novel legal topic" that has not been preempted. A Note that is preempted will not be selected for publication because it signals that the piece is irrelevant or lacks adequate research.

A Note is preempted if it analyzes a legal problem that has already been thoroughly analyzed by other scholars or that has been rendered irrelevant by certain events. It is your Note's analysis of a legal problem that's vulnerable to preemption. Even if your Note proposes a new solution to that problem, it's preempted if the problem has been analyzed thoroughly elsewhere or has become irrelevant.

Preemption is a threat when you're choosing a topic, when you're writing your Note, and—if your Note is selected—when you're revising your Note in preparation for publication. Note authors can often "write around" preemption, but it generally requires great deal of work.

### **Here are some characteristic, but not exclusive, examples of preemption:**

- If your Note analyzes a circuit split and the Supreme Court grants cert to resolve the split, your Note has almost certainly been preempted because, even if your proposed solution differs from the Court's decision, your Note longer addresses a "live legal controversy."
- If your Note analyzes a statute that Congress subsequently substantially amends, your Note has almost certainly been preempted because your Note discusses an outdated legislative regime.
- If your Note analyzes a legal problem and a professor publishes an article analyzing the same problem, your Note has almost certainly been preempted even if you propose a different solution than the professor because professor's articles are seen as more persuasive than a student Note.
- If your Note analyzes a legal problem and another law student publishes a Note that analyses the same problem, your Note has likely been preempted.

You should monitor the legal world for preemption threats throughout the Note-writing process, and you should treat seriously the preemption checks you conduct.

## *Preemption Checks*

To conduct a preemption check, you must do more than survey some of the pertinent law or scholarly literature on your topic. Rather, you must locate and scrutinize all of it. You should begin your preemption check soon after a topic has begun to engage your serious interest so that you do not invest too much time researching and writing on a topic already covered by someone else.

For a preemption check, you will consult an index (in paper or online) or run a full-text, online search to locate preempting literature in law Journals, law-related Journals, or specialized scholarly Journals.

Below are suggested steps when conducting a preemption check:

- 1. Construct a list of terms and synonyms to describe your topic. Use Burton's Legal Thesaurus to help you identify alternative language. Use the thesaurus on Westlaw and Lexis to expand your term list. Think about what subject headings your topic could fall under.
- 2. Search Lexis full-text law reviews AND Westlaw full-text law reviews. Although these databases overlap, each contains articles not available through the other. (This search will cover most of the law review articles written since the mid-1990s.)
- 3. Search Index to Legal Periodicals and Books on Lexis (LAWREV:ILP) or Westlaw (ILP). This search will cover many more articles than the full-text database search in step two since this index includes almost every law review article written in the United States since 1980. However, you may retrieve fewer articles than in step two since this is not a full-text search.
- 4. To determine whether pending, unpublished legal scholarship will preempt your Note topic, look at SSRN. SSRN provides a link to a list of Journals and working papers and provides email abstracts of materials they have accepted for publication but have not yet published.
- 5. If articles on your topic might have been published in a foreign legal Journal, then you should search the Index to Foreign Legal Periodicals. This database is updated quarterly and covers 1985 to the present. To access the Index, go to the Cornell Law Library website and click on "Other Online Resources" under the section entitled "Research Tools." Then, under "Databases by Subject A-F," go to "Foreign Law" and you will find "Index to Foreign Legal Periodicals." (This step is only necessary if you need to check foreign Journal articles.)
- 6. If a book (or book chapter) may have been published about your topic, then you should search WorldCat in the FirstSearch database. WorldCat is available as a "Quick Reference" link on the law school library's home page (<http://library.lawschool.cornell.edu/>).
- 7. Check the Supreme Court Docket to make sure your circuit split won't be resolved by the Supreme Court in a matter of months. One way to check this is to search the Supreme Court's docket by case name at <http://www.supremecourt.gov/docket/docket.aspx>.

## Note Selection & Publication

For each issue of each of the *Cornell Law Review*, the Notes Office will solicit Note submissions from all Cornell Law students approximately one month before the production start date for that issue. Students will have one to two week(s) from the day of the solicitation e-mail to submit Notes to Susan Pado ([sgp6@cornell.edu](mailto:sgp6@cornell.edu)).

A Note submitted in a previous submission period that was not selected for publication may remain in the pool for reconsideration unless the author has withdrawn it, the author has replaced it with an updated version, or the Note has not received a flag after consideration by at least two different Notes Editors. If authors of Notes that have not been selected for publication submit a substantially revised Note for consideration, it will be considered a first-time submission.

### Eligibility

For any selection cycle, only Notes by authors who are eligible to submit a Note for that selection cycle will be considered. All Cornell Law students who are active students at the time of selection are eligible to submit Notes. For example, Notes written by members of the J.D. class of 2021 may be considered in a selection cycle taking place during the 2021 spring semester, but they will be removed from consideration in subsequent selection cycles if they graduate and do not pursue a higher legal education. Further, the Notes Office will understand this Bylaw provision to mean that any student pursuing a legal degree at Cornell Law School is eligible to submit a Note, including higher-level legal degree candidates.

All *Cornell Law Review* editors, as well as other Cornell Law School journal editors, may submit Notes for publication. The Notes Office will not preference or handicap a Note based on an editor's position in the *Cornell Law Review* or position on another journal. For example, Notes authored by members of the Notes Selection Committee will not receive preference over other submissions.

### Selection Process

The primary goal for the *Cornell Law Review* Notes Office is to promote legal scholarship within the Cornell Law School community through an objective and merit-based selection practice. The selection practices below reflect the Notes Office's commitment to this goal.

The six Notes Editors, the Senior Notes Editor, and the Editor-in-Chief comprise the Notes Committee that selects Notes for publication. The Committee conducts a blind review of the Notes. When authors submit their Notes for potential selection, the *Cornell Law Review's* Administrative Coordinator, Susan Pado, scrubs and anonymizes the submissions to ensure that no identifying information about an author appears on any Note before distributing the Notes to the committee. The Notes Office then reviews the submissions blind. Thus, submissions from *Cornell Law Review* authors do not receive preference over non-CLR authors.

After the submission deadline, the Senior Notes Editor will evenly distribute the submitted Notes to the six Notes Editors such that one Notes Editor reviews a sub-set of the Notes in a particular selection cycle. Each Note is reviewed by at least two different Notes Editors. If a Note is written by a Notes Editor, Sue Pado will inform the Senior Notes Editor, who will ensure that the author is recused from the selection process.

Upon receiving the Notes, the Notes Editors will have approximately one week to review the Notes and "flag" Notes for consideration by the Selection Committee. Notes Editors will flag Notes for publication in the upcoming issue(s) for which the selection is being held. Each Notes Editor must flag one to two Notes for each issue, assuming that each Notes Editor receives

enough Notes where this minimum and maximum number is reasonable. In flagging, the Notes Editors will rely on an objective checklist and their own discretion to determine the suitability and strength of a Note for publication.

Any Note that a Notes Editor wishes to flag should undergo a thorough preemption check prior to submitting it for Final Selection Committee. If a Notes Editor finds that any Note has been preempted, the Senior Notes Editor will complete a second preemption check for that Note. In the case that the Senior Notes Editor finds the same result, the Note will be removed from consideration by the Final Selection Committee. For preempted Notes, the Selection Committee will provide feedback to the author about the results of the preemption check. The author will have the opportunity to submit a revised Note during a future selection cycle, and the Note will be considered a first-time submission. All members of the Selection Committee will diligently and fully review each flagged Note prior to the selection meeting. Any Note that does not receive a flag may remain in the pool for consideration during the next selection cycle(s). The Senior Notes Editor will maintain an adequate record of how many times a Note has been read and by whom, as well as whether a Note has received a flag during a selection cycle.

At the selection meeting, the committee will begin with an initial blind vote in which the Notes Editors, the Senior Notes Editor, and the Editor-in-Chief will vote for their top 1-2 Notes suitable for publication. Any Note that receives zero votes will no longer be considered for the particular issue for which the selection is being held. Such Notes may, however, remain in the pool for consideration for the next issue(s), and the Senior Notes Editor will update the record accordingly.

Then, the Notes Editors who flagged each of the remaining Notes for publication will present those Notes to the committee. After presentation of the Note to the committee, each committee member will speak for or against the Note. Authors shall remain completely anonymous during the Note selection process. If the committee is considering a Note written by a Notes Editor, that editor shall recuse himself or herself from the discussion and the voting process.

After discussion of all flagged Notes, all of the committee members will vote on each Note. Any Note that receives a bare majority (5) of votes in favor of publication shall advance to a runoff vote. Notes advancing to a runoff vote will be discussed again, with each committee member speaking for or against the Note, and then the vote will be held. For the runoff vote, each committee member shall vote in favor of two Notes per issue. However, the Notes Office, for purposes of efficiency and convenience, may choose to select Notes for two issues, or four Notes, during one submission period. The Notes receiving the least number of votes during the runoff vote shall be eliminated until two Notes (or four Notes, if selecting for two issues) remain. To be selected for publication, a Note must receive at least 6 favorable votes from the committee. The Senior Notes Editor, in consultation with the Editor-in-Chief, may alter this voting procedure at his or her discretion, subject to a majority vote of the Notes Editors. The same process will be repeated for all subsequent selection meetings, except that for subsequent selections, the Notes Editors will receive different Notes for flagging.

### *Criteria for Selection*

In selecting Notes for publication, the Notes Selection Committee will evaluate pieces on the below criteria. The Committee may weigh some criteria more heavily than others when selecting Notes for publication.

- Topic Relevance & Impact on the Legal Community
- Preemption
- Legal Reasoning
- Novelty & Strength of the Argument

- Content Organization (Introduction, Analysis, & Conclusion)
- Clarity and Style
- Grammar and Spelling
- Conformity to the Bluebook
- Number of Citations
- Range and Variation of Sources

The Selection Committee is not looking for a certain topic to publish and will not avoid certain topics. The Committee will assess each submitted Note according to criteria and will select outstanding Notes that are well-researched, well-reasoned, and well-executed.

### *Formatting & Expectations*

Note Formatting:

- The body should be double-spaced.
- The body should be 12-point Times New Roman font.
- Footnotes should be single-spaced.
- Footnotes should be 12-point Times New Roman font.
- Margins should be 1” on all sides.
- Notes should be around 30-40 pages in length.
- The Notes Office highly recommends including a table of contents.

Note Expectations:

- A Note must provide extensive support for all factual propositions.
- A Note must contain a novel analysis that does not summarize or regurgitate existing scholarship on your topic. Your Note should, instead, make an argument or suggestion that adds something new. Above all else, your Note should have a clearly articulated, novel thesis
- A Note must contain a thoughtful analysis. Although this is academic legal writing, your Note should still embody the qualities of good legal writing. The fundamental principles you learned in Lawyering still apply. In other words, you should support your thesis with well-reasoned arguments and avoid conclusory statements. You should also identify and deal with potential counterarguments and demonstrate an understanding of how your Note fits within existing law.
- A Note should include detailed introduction, background and conclusion sections.
- A Note should reflect wide-reaching, in-depth research. Your background and analysis sections should be supported by a broad range of sources.
- A Note should be free of typos and grammatical errors.
- A Note should be properly supported with footnotes that conform to the Bluebook.

### *Author Feedback*

Selection meeting discussions will remain confidential. The Notes Office may, in its discretion, provide written feedback to the authors of Notes not selected for publication in order to encourage authors to revise their Notes for reconsideration. During the flagging and final selection meeting discussion, the Senior Notes Editor will take detailed notes of the reasons why a Note was not selected for publication.

The content of the feedback will be determined through a Selection Committee discussion. Such feedback will be provided anonymously. Compliance with the feedback in no way guarantees that an author’s Note will be selected for publication in the future. To receive feedback, an author must request feedback via email to Susan Pado, the Administrative Coordinator of the

*Cornell Law Review*, to retain anonymity. Susan Pado will then notify the Senior Notes Editor of the request. The Senior Notes Editor will compile the feedback and send it to Susan Pado, who will send it to the author. The signatory to the feedback letter shall be “*Cornell Law Review* Notes Office.” Also, the Notes Office may be delayed in providing timely feedback to authors depending on the selection cycle during the academic year due to workload.



## Note-On Method

Notes submitted by non-*Cornell Law Review* students are considered for publication alongside Notes authored by *Cornell Law Review* editors. The Note selection process is anonymous, so the Committee has no way of knowing whether a Note is authored by a *Cornell Law Review* editor or not.

The *Cornell Law Review* believes that a student that produces an exceptional piece of scholarship worthy of publication in the journal has demonstrated the skills necessary to be a member of the journal. If a non-*Cornell Law Review* author's Note is selected by the Committee for publication in the *Cornell Law Review*, the Editor-in-Chief and Senior Notes Editor will extend an offer to the author to join its staff as an Associate. There is no maximum number of offers to join *Cornell Law Review* via the Note-on method. In past years, the Committee has selected an average of 1–2 Notes authored by non-*Cornell Law Review* students per volume (out of a total of 14 Notes selected per volume).

The author may reject the offer to join the *Cornell Law Review*, but accept the offer of publication. If the author accepts the offer to join the *Cornell Law Review*, the author will begin as an Associate, and may be elevated to the position of an Editor if adequate time remains in the author's third year of law school.

## Dates & Deadlines

Below is a list of submission dates & deadlines for each of the selection periods. Please note that these dates are subject to change at the discretion of the Senior Notes Editor. If you have any questions about the following selection periods, please do not hesitate to email the Senior Notes Editor, Zora Franicevic ([zff2@cornell.edu](mailto:zff2@cornell.edu)), or the Administrative Coordinator, Susan Pado ([sgp6@cornell.edu](mailto:sgp6@cornell.edu)).

Selection Period	Submission Date
Volume 106, Issue 7	January 23 <sup>rd</sup> , 2021 (11:59 pm EST)
Volume 107, Issue 1	March 4 <sup>th</sup> , 2021 (11:59 pm EST)
Volume 107, Issue 2	March 4 <sup>th</sup> , 2021 (11:59 pm EST)
Volume 107, Issue 3	April 12 <sup>th</sup> , 2021 (11:59 pm EST)
Volume 107, Issue 4	May 22 <sup>nd</sup> , 2021 (11:59 pm EST) for graduating 3Ls July 23 <sup>rd</sup> , 2021 (11:59 pm EST) for 2Ls
Volume 107, Issue 5	September 23 <sup>rd</sup> , 2021 (11:59 pm EST)
Volume 107, Issue 6	November 9 <sup>th</sup> , 2021 (11:59 pm EST)
Volume 107, Issue 7	N/A (Death Penalty Symposium)

To have your Note considered for publication in the *Cornell Law Review*, please email your Note to Susan Pado ([sgp6@cornell.edu](mailto:sgp6@cornell.edu)) by the deadline for the submission period in which you are submitting.

There should not be any "identifying" information (e.g., name, email address) on your Note submission. If you are submitting your Note for consideration again, please let Susan Pado know if it is a revised version of the Note or if it is the same version of the Note that was submitted before. If you have previously submitted your Note but have not yet heard from the Notes Office, they invite you to resubmit your piece for consideration.

## **Conclusion**

Writing a well-researched and well-executed Note can result in publication in the *Cornell Law Review* or other law journals. Getting published in a law journal is more than just a line on your resume—it can open doors to opportunities not previously possible. We hope that this Note Guide aids you in your Note-writing process and that you find this process to be a rewarding experience in law school.

We look forward to reading your Notes!

Sincerely,

The *Cornell Law Review* Notes Office