



Lee Burgess: Welcome back to the Law School Toolbox podcast. Today, we're excited to share the fifth episode in our new "Start Law School Right" series. In this episode, we will be discussing outlining as part of your studying and exam prep. Your Law School Toolbox hosts are Alison Monahan and Lee Burgess, that's me. We're here to demystify the law school and early legal career experience, so you'll be the best law student and lawyer you can be. We're the co-creators of the [Law School Toolbox](#), the [Bar Exam Toolbox](#), and the career-related website [CareerDicta](#). Alison also runs [The Girl's Guide to Law School](#). If you enjoy the show, please leave a review or rating on your favorite listening app. And if you have any questions, don't hesitate to reach out to us. You can reach us via the [contact form](#) on LawSchoolToolBox.com, and we'd love to hear from you. And with that, let's get started.

Lee Burgess: Welcome back! First things first. When we talk about "outlining", we're not necessarily talking about a long typed document. We're really talking about "outlining" as a process. The end result will vary depending on your personal preferences, but it's critical to understand the different reasons to outline, so you can be sure you're using your time effectively.

Lee Burgess: A law school outline serves two key purposes:

1. It forces you to review and synthesize the material; and
2. It's a useful reference when you're preparing for and taking the exam.

Fundamentally these two purposes have very little in common, so it can be useful to think about them as distinct entities. You might create one document as you're making sense of the material, and a different one to bring into an exam. That's normal. There's no one "right" way to make a law school outline. The most useful approach varies by class and depends on how your brain works. For example, you might construct a relatively long outline as you're reviewing and learning the material, but later make a much shorter one – including only what you now realize is the most important material to use on your open book exam. Or you might type your initial outline so you can read it easily, but eventually make a handwritten flowchart to use on the exam or memorize for a closed book exam. Using an approach that other people think is weird is not a problem. Think creatively and pay attention to what makes the most sense to your particular way of learning.

Lee Burgess: Try not to think of outlining as a strictly linear process. It rarely is. As you start writing, you'll realize there are things you don't understand, so you'll have to stop and think about these sections, or use other resources to help you understand them. Thinking of this as an iterative process can take some of the pressure off. It's fine if you don't include everything the first time through – there will be ample opportunity to add more later. And, you'll test your outline later, so you'll know what you need to add or change well before you get to the



exam. If you're feeling overwhelmed, start small. Getting started is the hardest part, and you'll get more comfortable with the outlining process as you practice it.

Lee Burgess: If you are listening to this and haven't started law school yet, you might be wondering when to start outlining? This is a question almost every 1L asks – and most 1Ls make the wrong choice. There is a pervasive law school myth that outlines should be written at the end of the semester. Why? Well, because that's how most people do it. That doesn't mean it's the best way to do it. You don't want to do something just because everyone else is doing it, right? Forget jumping off a cliff. Doing the same thing all your classmates are doing is a pretty sure way to end up in the middle of the curve. If you want to be more successful than other people and be at the top of the curve, you have to do something differently. Carving out a few hours every weekend to work on your outlines will pay huge dividends when it's time for exams. Remember, outlining is a process, not a result. Start early, so you have time to refine and test your outline on practice exams.

Lee Burgess: An outline is ideally a concise, complete summary of all the law that you have learned throughout a class. In order to outline effectively (without waiting for the entire course to be over), you need to simply have covered a logical section or "topic" of the class. This approach gives you sufficient material to work with, but keeps the amount of work you have to do at any one time manageable.

Lee Burgess: So, how can you tell when you've finished a topic? Typically, you can reference your class syllabus, which is probably divided into major topic areas. Or look at your textbook's table of contents to see how the topics are structured. The professor will sometimes tell you when you have moved on, and some professors will even do a summary or review as you finish up a topic area. Here are some common topic areas in the first year of law school: "Standard of Care" in Torts, "Class Actions" in Civil Procedure, "Murder" in Criminal Law, "Consideration" in Contracts. If you're still unsure about whether you've covered any topics, make a rule to start outlining by the end of the first month of classes; you've definitely got enough material by then to get you started. As a general rule of thumb, start before you feel comfortable – or you'll never start.

Lee Burgess: If you're getting ready to start your first outline, you've probably run into a pretty obvious question: What materials do I need in order to get started? For each class, collect the following:

- Your course syllabus
- All of your class notes (you might want to print these out if they're digital, so they're easier to mark up and organize)
- Any notes you took while reading, such as case briefs



- One good commercial outline or hornbook
- At least one good prior student outline from the course (it might be helpful to have more than one, but don't go overboard – no more than three)
- As many old exams and answers as you can find from the class.

Lee Burgess:

Now, what if you can't get some of this information? If it's early in the semester, keep looking! This is another reason to start outlining early. Ask your professor for old exams, ask around for old outlines, etc. If it's last minute, you'll have to work with what you have. The one exception is if you don't have any sample exams or answers. Ask your professor to provide these for you. It's really unfair not to, and it's generally expected that you'll be given at least one old exam with an answer. If your professor absolutely refuses to give you an old exam, try to find one from another professor, but be warned that this is far from ideal. Knowing how your professor writes a test is really critical, as is knowing what kind of answer he or she likes. If your school has an academic support program, they often distribute sample exams and answers. Make sure to contact them as well for these materials. Here's the bottom line: Do whatever you can to get those old exams!

Lee Burgess:

Now, few topics cause as much consternation among law professors as commercial supplements and old outlines. Almost to a person, they'll tell you commercial outlines are unnecessary and harmful, and that you shouldn't use them. This position is ridiculous. Refusing to look at a commercial outline or an old class outline is like trying to build a skyscraper without using blueprints. Could you do it? Maybe, but it's going to take a lot longer, and probably be badly done in the end! Go ahead and get one commercial outline per subject (or hornbook, a fancier name for a commercial outline that lives in the law library), so you can consult it for the overall structure as needed. Similarly, try to find a good prior outline from each class (for the same professor), so you can see how this class was structured. And if your professor sees you carrying your forbidden fruit, feel free to explain that it's one tool in your arsenal for studying. You can't just read a commercial outline or a hornbook and expect to ace the exam, but they're valuable resources, which can make your exam preparation more efficient and effective.

Lee Burgess:

Okay, so now you've got all of your materials and you know what needs to be in your outline. Let's get started.

Lee Burgess:

Step 1: Identify the relevant topic areas
Take out your course syllabus and look at it. Is it divided into sections? Great, these are your starting topic areas. If not, look at the table of contents in your textbook, and see how the assignments fit into it. Unless your professor is



completely crazy, the assigned reading will fit into the headers in the table of contents. These are your starting topic areas.

Lee Burgess: Step 2: Write down the high-level topic areas
If you're outlining on a computer, start a new document and add each of the high-level topic areas you've identified on a separate line with some space between them. If you're outlining by hand, put each topic area at the top of a separate piece of paper. Have you done this? Awesome, your outline is under way. Really, it's that easy!

Lee Burgess: Before moving on, let's discuss a common question that arises in the early days of outlining: How much detail should you include initially? Students often ask if they should try to include every detail of each topic before moving on. Generally, the answer is "No", and there are two reasons for this:

1. You probably don't know every detail when you start outlining. Part of the reason to outline is to figure out how things fit together. It's hard to do that if you're obsessing over details; and
2. Odds are you're going to run out of time and not finish everything you want to do before the exam, regardless of how early you start.

Lee Burgess: So, which option is better?

1. To have an outline that covers 100% of the topics in the course, with 80% of the detail you'd like to include; or
2. To have an outline that covers 60% of the topics with 100% detail, 20% of the topics with 50% detail, and skips 20% of the topics entirely. Well, it's pretty obvious what the answer is. You're better off with an outline that covers every important topic that might be tested, even if you have to leave out a few details.

Lee Burgess: So, think about it this way: In order to get a decent grade on a law school exam, you need to know the basic rules for all the law covered in the class. This gives you adequate knowledge to answer most questions competently. The small nuances – which may be missing in your outline if you run out of time – are what differentiate an A+ from a B answer. These details are great and nice to know, but if you only know tiny nuances and don't understand the basic steps in an analysis, you won't be worrying about getting an A+; you'll be struggling to get a B. Focus on the basics first, and add the small details later if time permits.

Lee Burgess: Remember, there are two easy ways to end up at the bottom of the curve:

1. Losing sight of the big picture and only learning unconnected trivia about the law; and



2. Skipping entire sections in your outline when you run out of time, because odds are that these are the topics that will show up on the exam – Murphy’s Law at work.

Lee Burgess: To avoid disaster, construct your outline through an iterative process. Start big-picture and work your way down to the details. It’s far more important to have a clear understanding of the main points of the class than to know every single detail about a narrow piece. Avoid disaster. Force yourself to move on if you’re getting bogged down in too many details!

Lee Burgess: **Step 3: Basic definitions**
Before you can even get to the black letter law, you might encounter some important definitions. What’s a tort, for example? What’s an intentional tort? Any time you see an important definition, include it in your outline. For example, imagine you’re going through your class notes and you read the following: “Intentional torts occur when there is a tortious act and the tortfeasor intended to cause the harm.” Ding, ding! That’s an important definition that tells you what an intentional tort is – and something you might want to include in an exam answer to establish you know the basics – so you’ll include it in your outline. It’s fine to make it shorter and easier to remember, as long as it’s accurate.

Lee Burgess: **Step 4: Adding the black letter law**
A simple question to ask yourself: When you’re not sure what to put in an outline, ask yourself this: For a given legal issue, what would you write down for the “R” in IRAC (Issue, Rule, Analysis, Conclusion)? This is the formula law students use to write legal exams. Sometimes you look at an outline and there is a lot of information in there, but no clear identification of the rule. The legal rule should be very obvious in your outline, because it is the must-know part of the studying process. If you don’t know the basic legal rules, you probably can’t pass the exam!

Lee Burgess: Imagine that your notes say the following: “Assault – an intentional act creating a reasonable apprehension of immediate harmful or offensive contact to one’s person.” Great, we’re making progress. That’s the legal rule for assault. It tells us exactly what we have to show to prove that someone committed an assault. Sometimes though, the black letter law is best when organized into elements. That is when you take a rule and create a list of elements to check off in your analysis.

Lee Burgess: So, what if your class notes aren’t useful? You might have noticed that we’re talking about finding the necessary black letter law in your class notes. Now, what if your class notes aren’t so useful? This is where a commercial outline



really comes in handy. It's not that you skip reading your notes and just copy the material from the commercial supplement – that's a recipe for disaster. But you can cross-reference from your class notes to the commercial outline to get the basic elements of the law. Then add anything important that your professor talked about, whether it's policy arguments, her personal take on the topic, etc. Don't be afraid to look at a commercial supplement or an old student outline to get the basics or check your understanding – just don't rely on it too heavily and forget that your professor is the one grading your exam!

- Lee Burgess: Step 5: Add notes on applying the law
Sorting out the basic black letter law is only the first step. We also need to write down notes on how to apply the law, which often touch on areas of factual or legal ambiguity. To understand why application notes are so important, think about the curve. The professor has to differentiate exams somehow, so they love to throw in tricky factual details to suss out who really understands the law.
- Lee Burgess: Should your outline include case names? Ask your professor if he or she wants you to include case names in your exam answers – the answer might be “No”, to many students' surprise. In any case, case names can be convenient shorthand, and it's useful to put the names in your outline for particularly important rules and application notes – especially for certain classes, such as in Con Law. What doesn't make sense, and what should be avoided at all costs, is including long “mini-briefs” in your outline. Mini briefs are long paragraphs summarizing all parts of the case.
- Lee Burgess: What's wrong with including mini-briefs? There are a few problems here:
1. It spends a lot of time giving the facts of this specific case. We don't care about those, generally, for an exam.
 2. It's long and in paragraph form. Do you have a photographic memory? No? Then don't expect to memorize long paragraphs of information.
 3. It's hard to tell what the takeaway is from the case. Can you glance at that paragraph and tell me why we read a given case? I didn't think so.
- Lee Burgess: When a student includes a mini-brief in their outline, they typically are not thinking about the law. They don't think about how it goes together. They don't think about how they are going to memorize everything. They just blindly copy their notes and think they're studying. That is a bad idea, and typically results in bad, disappointing grades.
- Lee Burgess: So, what should you do instead if you want to remember which case a particular rule came from? Simple: You can put in the case name, and even a quick note to remind you what the case was about. But no mini-briefs! Remember that you can always go back to your case briefs or class notes, in the rare situation where



you find you need more detail on a certain case when you start taking practice exams.

Lee Burgess: Now, most outlines are linear and follow the typical outline format we are all familiar with. Are linear outlines working for you? If not, that is okay! There are plenty of other study materials you can build out for yourself. Alison loved making flowcharts. Some students like charts, some like handwritten outlines with pictures. As long as you are learning the law, making sure you understand how things fit together, and have a structure to answer exam questions, it doesn't really matter what it looks like. These are your study materials. You will learn if they are working for you by practicing and getting feedback – which is what we will be talking about next time!

Lee Burgess: And that is all we have time for today! If you're starting law school soon and want some personalized help to feel confident on day one, check out StartLawSchoolRight.com for details of our "Start Law School Right" course. If you enjoyed this episode of the Law School Toolbox podcast, please take a second to leave a review and rating on your favorite listening app. We'd really appreciate it. And be sure to subscribe so you don't miss anything. If you have any questions or comments, please don't hesitate to reach out to myself or Alison at lee@lawschooltoolbox.com or alison@lawschooltoolbox.com. Or you can always contact us via our website [contact form](http://LawSchoolToolBox.com) at LawSchoolToolBox.com. Thanks for listening, and we'll talk soon!

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[Organizational Tools for Outlining Legal Subject Areas](#)

[When Is the Best Time to Start Outlining Your Law School Courses?](#)

[4 Reasons Not to Wait Until After the Halloween Party to Start Outlining](#)