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# Scholarly Impact of Law School Faculties in 2015: Updating the Leiter Score Ranking for the Top Third

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## REPORT ON SCHOLARLY IMPACT

# SCHOLARLY IMPACT OF LAW SCHOOL FACULTIES IN 2015: UPDATING THE LEITER SCORE RANKING FOR THE TOP THIRD

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### SUMMARY:

This study explores the scholarly impact of law faculties, ranking the top third of ABA-accredited law schools. Refined by Professor Brian Leiter, the “Scholarly Impact Score” for a law faculty is calculated from the mean and the median of total law journal citations over the past five years to the work of tenured members of that law faculty. In addition to a school-by-school ranking, we report the mean, median, and weighted score, along with a listing of the tenured law faculty members at each ranked law school with the ten highest individual citation counts.

The law faculties at Yale, Harvard, Chicago, New York University, and Stanford rank in the top five for Scholarly Impact, with New York University moving into fourth position in the 2015 ranking. The other schools in the top ten are the University of California-Irvine, Columbia, Duke, Vanderbilt, and the University of California-Berkeley.

Several law faculties achieve Scholarly Impact Scores well above the rankings reported by *U.S. News*:

Within the top ten for Scholarly Impact (at #6), the University of California-Irvine shows the greatest incongruity with the 2016 *U.S. News* ranking (at #30). Vanderbilt (at #9) is again within the top ten for Scholarly Impact but falls outside the top ten for *U.S. News* (at #17).

In the Scholarly Impact top twenty-five, George Mason ranks again at #21, but remains under-valued in *U.S. News* at #42. Case Western rises to #25 in the Scholarly Impact Ranking, while falling just outside the first quartile (at #59) in *U.S. News*.

The most dramatically under-valued law school is the University of St. Thomas, which ranks inside the top forty (at #39) for Scholarly Impact, while being relegated by *U.S. News* outside the top 100 (at #135)—a difference of ninety-six ordinal levels. Other schools that have made a scholarly impact at least twenty ordinal positions higher than in *U.S. News* are Cardozo, Brooklyn, San Diego, Hofstra, Pittsburgh, Chicago-Kent, Toledo, DePaul, Rutgers-Camden, and San Francisco.

TABLE 1: SUMMARY OF SCHOLARLY IMPACT RANKING OF LAW FACULTIES, 2015

Rank	Law School	Weighted Score
1	Yale	1766
2	Harvard	1384
3	Chicago	1300
4	New York University	1123
5	Stanford	1013
6	California-Irvine	994
7	Columbia	945
8	Duke	910
9	Vanderbilt	812
9	California-Berkeley	808
11	Pennsylvania	780
12	Northwestern	756
13	Cornell	748
13	UCLA	733
15	Michigan	640
15	Georgetown	636
17	Virginia	608
17	George Washington	600
19	Minnesota	564
20	Texas	554
21	George Mason	537
21	Washington University	533
21	Boston University	532
24	California-Davis	519
25	Case Western	479
25	Notre Dame	468
27	Illinois	467
27	Emory	460
29	Cardozo	442
29	Arizona	441
29	Colorado	437
29	Ohio State	434
33	North Carolina	431
33	Brooklyn	421
35	Indiana (Bloomington)	414

35	Utah	413
35	Fordham	408
35	University of San Diego	399
39	Florida State	395
39	Arizona State	393
39	USC	393
39	University of St. Thomas (Minn.)	393
39	Maryland	392
39	Iowa	390
44	Hastings	373
44	William & Mary	369
47	BYU	359
47	Hofstra	352
47	Washington & Lee	347
50	UNLV	341
50	Pittsburgh	333
52	Temple	326
52	Wake Forest	325
52	Florida	321
52	Chicago-Kent	316
52	Alabama	310
57	Georgia	301
57	Houston	300
57	Loyola-Los Angeles	299
57	American	298
57	Boston College	293
62	Missouri	281
62	Toledo	276
64	DePaul	272
64	Rutgers-Camden	271
64	Kansas	270
64	Tulane	266
64	Hawaii	260
64	San Francisco	256

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I. THE CONTINUING COMMITMENT TO SCHOLARLY IMPACT ON  
LAW FACULTIES

In today's legal education environment, with reduced student enrollment and fiscal challenges for law schools, should a law faculty maintain the traditional commitment to regular research and legal scholarship as a core academic responsibility? And, if so, how should that law faculty evaluate whether it is succeeding as a scholarly community in producing scholarship that makes a meaningful impact in the legal academy?

The first question has been asked with increasing urgency since 2011 when law school applications began a precipitous decline (that only now is slowing) and the value and costs of legal education came under greater scrutiny. Adapting to fewer tuition-paying students and shrinking law school budgets, most law schools reduced the number of full-time faculty, demanding greater attention from remaining faculty to teaching and administrative responsibilities.

Based on our review of law faculties for this 2015 update to the Scholarly Impact Rankings, those law schools that previously have ranked among the top third in the country in Scholarly Impact appear to have met the educational challenge without sacrificing faculty scholarly activity. Even as

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faculty rosters have become shorter at half of these schools, Scholarly Impact among this cohort of law schools has increased. Moreover, since the 2012 study,<sup>1</sup> two-thirds of these schools have retained impactful scholars while losing retiring faculty with lower citations.

On the second question, a healthy debate has continued about how best to evaluate the scholarly strengths of law faculties. Among those measures that have been proposed and regularly tested, the Scholarly Impact Scores pioneered by Professor Brian Leiter at the University of Chicago continue to be most prominent.<sup>2</sup> According to Dean Vikram Amar, these Scholarly Impact Scores have become “second among law school rankings in prominence, beneath only the *U.S. News* ratings.”<sup>3</sup> This study updates the Scholarly Impact Rankings for 2015.

### A. *The Continued Commitment of Law Faculties to Legal Scholarship*

*Transition in Legal Education and Faculty Scholarship:* Legal education has been in transition over the past five years in response to what many believe are permanent structural changes in the legal sector of the economy—as the “demand for traditional legal services has flattened and is now on the decline”<sup>4</sup>—which in turn has disrupted the employment market for law graduates.<sup>5</sup> As the number of applicants to law school declined after 2011, most law schools outside the top ranks were forced to tighten their belts considerably, be more generous in financial aid to students, and expect

1. Gregory Sisk, Valerie Aggerbeck, Debby Hackerson, and Mary Wells, *Scholarly Impact of Law School Faculties in 2012: Applying Leiter Scores to Rank the Top Third*, 9 U. ST. THOMAS L.J. 838 (2013).

2. See Brian Leiter, *Measuring the Academic Distinction of Law Faculties*, 29 J. LEGAL STUD. 451, 469 (2000); Brian Leiter, *Top 25 Law Faculties in Scholarly Impact, 2005-2009*, BRIAN LEITER'S LAW SCHOOL RANKINGS, [www.leiterrankings.com/faculty/2010\\_scholarlyimpact.shtml](http://www.leiterrankings.com/faculty/2010_scholarlyimpact.shtml) [hereinafter 2010 Top 25].

3. Vikram D. Amar, *What a Recently Released Study Ranking Law School Faculties by Scholarly Impact Reveals, and Why Both Would-Be Students and Current/Prospective Professors Should Care*, JUSTIA: VERDICT (Aug. 3, 2012), <https://verdict.justia.com/2012/08/03/what-a-recently-released-study-ranking-law-school-faculties-by-scholarly-impact-reveals-and-why-both-would-be-students-and-currentprospective-professors-should-care>.

4. William D. Henderson, *A Blueprint for Change*, 40 PEPP. L. REV. 461, 461–62 (2013).

5. See Deborah Jones Merritt, *What Happened to the Class of 2010? Empirical Evidence of Structural Change in the Legal Profession*, (Harv. L. Sch. Ctr. on the Legal Prof., Working Paper No. 2015-3, 2015), [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2577272](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2577272); William D. Henderson & Rachel M. Zahorsky, *Law Job Stagnation May Have Started Before the Recession—And It May Be a Sign of Lasting Change*, A.B.A. J., Jul. 2011, at 2, [http://www.abajournal.com/magazine/article/paradigm\\_shift/](http://www.abajournal.com/magazine/article/paradigm_shift/); William D. Henderson, *Why the Job Market is Changing*, NAT'L JURIST (Oct. 26, 2010), <http://www.nationaljurist.com/content/critical-issues/why-job-market-changing>. But see Michael Simkovic, *The Absence of Evidence for Structural Change: Growth in Lawyer Employment and Earnings*, BRIAN LEITER'S L. SCH. REP. (Mar. 31, 2015), <http://leiterlaw.school.typepad.com/leiter/2015/03/the-absence-of-evidence-for-structural-change-growth-in-lawyer-employment-and-earnings-michael-simko.html>; Michael Simkovic, *The Absence of Evidence for Structural Change: Recent Entry Level Outcomes*, BRIAN LEITER'S L. SCH. REP. (Mar. 26, 2015), <http://leiterlawschool.typepad.com/leiter/2015/03/the-absence-of-evidence-for-structural-change-recent-entry-level-outcomes-michael-simkovic.html>.

more from existing faculty and staff while encouraging retirements and holding off on new hires. Together with new American Bar Association accreditation standards that require law schools to adopt formal learning outcomes and develop concrete assessment measures for student success,<sup>6</sup> financial exigencies have demanded more time and energy toward teaching and educational administration from the typical law professor.

The perennial question of institutional commitment to faculty scholarship thus has been placed front and center. Some have argued that scholarship was an indulgent luxury that belongs to the past and that faculty in the future (at least at lower ranked law schools) will be expected to focus exclusively, or nearly so, on classroom teaching, engagement with students, and law school administration.<sup>7</sup> Professor Brian Tamanaha contends that law schools should “critically examine the cost of the legal scholarship frenzy.”<sup>8</sup> Most recently, Professors Jeffrey Harrison and Amy Mashburn have invited “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.”<sup>9</sup>

As Associate Dean Fabio Arcila observes with concern, at this point in the history of legal education, “[o]f all law school missions, research and scholarship are currently most at risk.”<sup>10</sup>

Many, however, continue to insist that faculty scholarly activity has always been and still remains a core faculty responsibility, both to the larger community (the university, profession, and society) in understanding and reforming the law and to students by ensuring an active intellectual life as part of professional education. Dean Arcila writes:

To maximize the benefits of a legal education, research and scholarship must have a prominent role because they are central to the role of institutions of higher education as creators of knowledge and fonts of ideas about law’s role in society, government, and business. Research and schol-

6. AMERICAN BAR ASSOCIATION, *2014-2015 Standards and Rules of Procedure for Approval of Law Schools*, [http://www.americanbar.org/groups/legal\\_education/resources/standards.html](http://www.americanbar.org/groups/legal_education/resources/standards.html).

7. See Dan Subotnik & Laura Ross, *Scholarly Incentives, Scholarship, Article Selection Bias, and Investment Strategies for Today’s Law Schools*, 30 *TOURO L. REV.* 615, 618, 628–29 (2014) (asking whether “lavishing all these resources on scholarship make[s] sense for law schools” and suggesting that a heavy investment in faculty scholarship is not a wise strategy for third and fourth tier law schools). See generally Olufunmilayo B. Arewa, Andrew P. Morriss & William D. Henderson, *Enduring Hierarchies in American Legal Education*, 89 *IND. L.J.* 941, 1013 (2014) (describing calls by commentators for “scarce resources [to] be diverted from scholarship, at least at some law schools, to other areas, including skills training for students or tuition remissions”).

8. BRIAN Z. TAMANAHA, *FAILING LAW SCHOOLS* 61 (2012).

9. Jeffrey L. Harrison & Amy Mashburn, *Citations, Justifications, and the Troubled State of Legal Scholarship: An Empirical Study* 7 (U. Fla. Levin C. of L., Working Paper No. 15-2, Feb. 24, 2015), [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2569499](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2569499).

10. Fabio Arcila, Jr., *The Future of Scholarship in Law Schools*, 31 *TOURO L. REV.* 15, 19 (2015).

arship are also central because they inform and therefore help fulfill the teaching mission by deepening law professors' knowledge and thinking about the subject at hand. Often, this deepening becomes even more useful and profitable because it extends into related fields. All of this results in a private benefit to law students as well as a public benefit to society at large.<sup>11</sup>

*Purported Trade-Off Between Faculty Scholarly Activity and Teaching Quality:* Many also resist the assumption of a necessary conflict between faculty scholarly accomplishment and student educational opportunity. Instead, as many of us on law faculties have urged our own colleagues, the crisis in legal education demands that faculty members step up and work harder and more effectively on every academic responsibility, rather than shirking one duty for another.

Largely as a matter of anecdote, many faculty members have observed that the most highly productive scholars tend, on balance, to be those who also make a singular mark with students and frequently contribute beyond the call of duty to their institutions in other ways. Citing the old adage that "if you want something done well, look for a busy person," the prolific scholar through demonstrated commitment to hard work might be the very person most likely to thrive on additional challenges as legal education evolves. Indeed, while empirical research until recently has not found evidence of a strong link between scholarly activity and teaching quality, Professor James Lindgren and Allison Nagelberg did find that the cohort of the eight most highly-cited members on three law faculties were significantly more likely to achieve higher teaching evaluations than the comparison cohort of the least-cited members of those faculties.<sup>12</sup>

Looking at a larger contingent of law faculty, empirical studies usually have found either no or only a weak positive relationship between scholarly productivity and teaching quality for law professors.<sup>13</sup> Professor Benjamin Barton studied 623 professors at nineteen law schools and found "either no correlation between teaching evaluations and [multiple measures of scholarly productivity or influence] or a very slight positive correlation."<sup>14</sup> Even so, such studies have overturned any presumption of a trade-off between scholarly prominence and teaching quality. As Professor Deborah Jones Merritt wrote after conducting such a study, these studies have "failed to find any negative association between measures of scholarly productivity and measures of excellent teaching. We can strive for excellence in both

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11. *Id.* at 18.

12. James Lindgren & Allison Nagelberg, *Are Scholars Better Teachers?*, 73 CHI-KENT L. REV. 823, 830-31 (1998).

13. Benjamin Barton, *Is There a Correlation Between Law Professor Publication Counts, Law Review Citation Counts, and Teaching Evaluations? An Empirical Study*, 5 J. EMPIRICAL LEGAL STUD. 619, 619 (2008); Deborah Jones Merritt, *Research and Teaching in Law Faculties: An Empirical Exploration*, 73 CHI-KENT L. REV. 765, 785, 807 (1998).

14. Barton, *supra* note 13, at 638.



tasks not only on our faculties as a whole but within the same faculty members.”<sup>15</sup>

Now a very recent empirical study by Professors Tom Ginsburg and Thomas Miles has found a strong positive correlation between faculty scholarly production (measured by number of publications each year) and student ratings of teaching (measured by scores on student evaluation forms) at the University of Chicago Law School.<sup>16</sup> Ginsburg and Miles found that the relationship (for production of books and book chapters) was “not only statistically significant” but implied “that a rise in scholarship translates into a meaningful increase in student perception of teaching.”<sup>17</sup> At least for this elite law school, these findings “cast some doubt” on the assumption that “there is a trade-off between the two core activities of the legal professoriate.”<sup>18</sup> These results are consistent with a key dimension of Barton’s larger study, which found that at four of the nineteen schools he studied, “the most prolific and well-cited authors tended to be the highest-rated teachers.”<sup>19</sup>

In other words, the particular culture of a law school likely plays a major role in connecting strong scholarly influence to educational quality. Different institutions in different niches, with different educational missions, and different visions of scholarship will make different calculations.<sup>20</sup>

*Evidence of Continued Commitment of Law Schools to Faculty Scholarship:* We now turn from the above outline of the normative, empirical, and strategic debates about what *should* happen in law schools with respect to faculty scholarly activity to an empirically-grounded description of what *is* happening in law schools. Whether continued “investment” into faculty scholarship is the right normative or strategic course for every or even most law faculties, the leading law schools appear to have opted to retain high levels of scholarly activity.

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15. Merritt, *supra* note 13, at 816.

16. Tom Ginsburg & Thomas J. Miles, *The Teaching/Research Trade-Off in Law: Data From the Right Tail*, 39 EVALUATION REV. 46 (2015).

17. *Id.* at 69.

18. *Id.* at 47–48.

19. Barton, *supra* note 13, at 634.

20. See Arewa, Morris & Henderson, *supra* note 7, at 1013–14 (predicting “a world in which law schools choose different strategies generally and different approaches to the production of scholarship in particular”); Brian Leiter, *Four Changes to the Status Quo in Legal Education That Might Be Worth Something*, BRIAN LEITER L. SCH. REP. (Mar. 15, 2012), <http://leiterlaw.school.typepad.com/leiter/2012/03/four-changes-to-the-status-quo-in-legal-education-that-might-be-worth-something.html> (recommending that ABA accreditation rules allow law schools to make diverse choices, in which some would remain research institutions and others teaching institutions with less emphasis on research); Christine N. Cimini, *Scholarship With Purpose: The View From a Mission-Driven School*, 31 TOURO L. REV. 39, 45–46 (2014) (describing mission of faculty to “connect their scholarship to the world,” thus including litigation, political, and public actions campaigns beyond traditional legal scholarship).

Looking to the nearly 100 American law schools that previously have ranked highly in national scholarly impact (which roughly but not perfectly correlate to the traditional ranking of the first and second tiers or quartiles of law schools), the data we have gathered strongly suggests a robust ongoing commitment to faculty scholarship. For these law schools, the question about whether faculty should continue to be active and impactful scholars looks to have been answered strongly in the affirmative.

In collecting data for this 2015 update of the Scholarly Impact Ranking, two patterns emerged that indirectly but concretely suggest that the nation's leading law schools continue to appreciate the charisma of faculty scholarship for building a vibrant intellectual community as part of professional education:

First, Scholarly Impact Scores for most of the law faculties in this study have risen from 2012 to 2015. Given the tightening of law school budgets, rising teaching loads, and increased attention to direct student-centered activity, one might have predicted a decline in production of legal scholarship since 2011, at least outside the top ten or twenty-five schools, with a consequent erosion of citations. If fewer law professors had been publishing, then there would be both fewer scholarly articles by faculty to be cited and fewer scholarly articles to cite past works. That decline in scholarly activity does not appear to have occurred.

Of the ninety-five schools in our 2015 study for which comparisons could be made,<sup>21</sup> sixty-four—or more than two-thirds (67.4 percent)—have increased their Scholarly Impact Score since 2012. Nor is this an artifact of the very top ranked schools. Of the eighty-five schools not ranked in the top ten, fifty-nine faculties (or 69.4 percent) achieved increases in Scholarly Impact Scores. Notably, of those twenty-four schools ranked in 2012 that saw Scholarly Impact Scores remain the same or decline, twenty-two (or 91.7 percent) lost ranking position in 2015. In legal scholarship, standing in place means falling behind.

In sum, no retrenchment on legal scholarship is in evidence among these nearly 100 law schools. Law professors at these institutions appear to have risen to the challenge of devoting more attention to teaching and student engagement while maintaining a commitment to scholarly responsibilities. Those remaining on the roster of tenured faculty at these law schools appear to have accepted the call to work even more effectively to uphold all three of the traditional faculty responsibilities: teaching, scholarship, and service.

Second, even as many law schools have become leaner (with nearly half of the schools in our study having shorter rosters of tenured faculty

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21. We looked at ninety-eight schools in our 2015 study, but two of those schools had not been studied in 2012, so we did not have a point of comparison, and another has now divided into two law schools which made genuine comparison with the past single institution unreliable.

than in 2012), those in our study mostly held on to higher impact scholars even as faculty numbers dropped. As everyone in legal education has either seen in practice or heard through the grapevine, law schools have been offering increased incentives for faculty to retire and some have become more aggressive in encouraging weaker faculty to depart. Many schools have been forced by financial exigencies to overcome past habits of retaining tenured faculty indefinitely regardless of student response to teaching or success in scholarly activities.

Of course, many of those who have chosen to retire in recent years were among the strongest teachers and scholars on their schools' rosters. Indeed, more than one law school suffered a decline in Scholarly Impact Ranking for 2015 because a cohort of highly-cited scholars had retired since 2012. On balance, however, retiring faculty at these nearly 100 schools were lower-cited scholars. At sixty-two of these ninety-five schools—nearly two-thirds (65.3 percent)—retiring faculty had a lower citation count mean than those faculty remaining on the tenured roster.<sup>22</sup> As a consequence of departures at these schools, a stronger citation mean and median was registered among the remaining faculty.

### *B. Measuring Faculty Scholarly Impact by Citation Counts*

When a law faculty commits substantial resources toward a national scholarly presence, then that faculty should ask whether the investment is paying-off through national prominence and impact. And that law faculty should seek to answer the question of scholarly impact by something more reliable than anecdotes, unexamined intuitions, past accolades, or casual assurances by those in our close circle that they have read this or that article.

*Evaluation of Scholarly Prominence:* There are many ways to evaluate scholarly achievement and prominence<sup>23</sup> (especially for the individual faculty member): productivity by numbers of books and articles published, book awards, prizes and awards for scholarly articles, publication in well-recognized peer-reviewed journals, prestige of placement of books with leading publishers and articles with leading journals, membership in the American Academy of Arts and Sciences, and downloads from electronic databases (such as the Social Science Research Network).

Each of these may be part of an individual professor's personal scholarly story. Scholars may also adduce specific examples of how scholarly work has influenced legal decision-makers, gained attention for a new vi-

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22. For this purpose, we compared the mean of citations from 2012 for the retiring faculty (when these faculty had a full five-year period of citations as tenured faculty) to the mean of the tenured roster in 2015. We did not include faculty who departed for other reasons, such as lateral moves, which also is much less of a factor at schools outside the top ranked law schools.

23. See Sonia K. Katyal, *Encouraging Engaged Scholarship: Perspective From an Associate Dean for Research*, 31 *TOURO L. REV.* 53, 57 (2014) (referring to a "broad constellation of different types of legal scholarship").

sion of legal theory, advanced pedagogical innovation, and otherwise made an impact. In sum, for an individual faculty member in particular, “a citation study is only one measure of a scholar’s contribution to a field.”<sup>24</sup>

*Benefits of Objective Citation Measure:* As applied to a law faculty collectively, a citation-based measure has the distinct advantage of capturing at least part of nearly all such individual faculty achievements and in a manner that places all legal scholarship in the same measurement space. Every good law school will have scholars who win book awards and article prizes, who work toward real-world change through scholarly writing targeted toward decision-makers, and who are recognized for pedagogical innovation that is shared in published form. Such achievements may later be reflected in acknowledgments by other scholars, which then are registered by citation measures. In our view, a citation-based measure is superior for purposes of comparison at the faculty-wide level, providing a reasonably accurate measure of how a law faculty as a whole is impacting legal scholarship.

Moreover, citation counts roughly measure genuine usage of legal scholarship, while a “tally of mere output,” that is, number of works produced, “represents an inferior indicator of faculty quality.”<sup>25</sup> A crucial dimension in evaluating scholarly prominence is whether other legal scholars actually employ our contributions in their own scholarly work. Compared to numbers of articles or pages published or prestige of placement, citations should be more meaningful, “since scholarly influence is a much truer measure of publication quality.”<sup>26</sup>

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24. Andrew Perlman, *Top Cited Professional Responsibility/Legal Profession Scholars*, LEGAL ETHICS F. (Jan. 5, 2015), <http://www.legalethicsforum.com/blog/2015/01/top-cited-pr-legal-profession-scholars.html> (listing other contributions to professional responsibility field, including law reform activities, drafting ethics opinions for bar associations, continuing legal education programs, and others). And there are even more measures to evaluate the quality of a law school beyond faculty scholarly achievements, including credentials of entering-students, employment and bar passage rates, etc. See Alfred P. Brophy, *Ranking Law Schools 2015: Student Aptitude, Employment Outcome, and Law Review Citations* (Univ. N.C. Legal Stud., Research Paper No. 2624399, 2015), [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2624399](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2624399) (ranking law schools on three variables: median LSAT of entering classes, employment outcomes for graduating students, and citations to the school’s main law review). Our present study is designed primarily to measure collective faculty scholarly impact, not to displace alternate measures of law school quality by other metrics or on other dimensions, much less to substitute for the ill-conceived attempt to create a unitary ranking of law schools on multivariate factors in the manner of the *U.S. News* annual rankings. The ideal “may be a multiplicity of rankings that measure different criteria that may be customized to suit varied audiences and circumstances.” Arewa, Morris & Henderson, *supra* note 7, at 1019.

25. James M. Donovan & Carol A. Watson, *Citation Advantage of Open Access Legal Scholarship*, 10 L. LIB. J. 553, 561 (2011).

26. Barton, *supra* note 13, at 629; see also Theodore Eisenberg & Martin T. Wells, *Ranking and Explaining the Scholarly Impact of Law Schools*, 27 J. LEGAL STUD. 373, 374 (1998) (stating that a scholarly impact ranking “assesses not what scholars say about schools’ academic reputations but what they in fact do with schools’ output”).

Citation counts objectively measure impact,<sup>27</sup> as contrasted with impressionistic guesses and unexamined anecdotes of scholarly influence on others in the legal academy. As Professor Albert Yoon observes, while imperfect, a citation count “is a well-established—and the most objective—measure of quality, both in legal scholarship and other disciplines, including economics.”<sup>28</sup> In contrast with other means of evaluating the quality of a law school, Professor Albert Brophy notes, “citations are not as susceptible to manipulation.”<sup>29</sup>

In addition, citation-based measures, such as these Scholarly Impact Scores, are more egalitarian and democratic and less subject to the “enduring hierarchies” of law schools that “reflect deeply embedded perceptions of prestige that are reinforced throughout the legal academy and legal profession more generally.”<sup>30</sup>

- A citation to an article authored by a faculty member at a law school ranked by some metrics in a lower tier and that is published in a secondary journal at another law school of similar lower rank carries the same weight as a citation to an article by a Yale law professor that was published in the *Harvard Law Review*. That is not to deny that appearance in a leading law journal enhances the likelihood that an article will be cited. Indeed, it is hardly surprising, as confirmed in a recent study, that rates of citation are highly correlated with the ranking of the law review and the prestige of the author’s law school.<sup>31</sup> As the authors of that study acknowledge, it may be that higher ranked journals contain more valuable articles, especially in light of the significantly larger pool of submissions available to those journals when selecting articles.<sup>32</sup> Nonetheless, when an article draws a citation, it registers the same, regardless of either the journal of the cited source or the journal of the citing article. Moreover, in an era when computer search tools and databases for relevant legal scholarship are ever more available, inexpensive, and user-friendly, an article that is of value to other scholars is more likely today to be discovered regardless of publication venue.<sup>33</sup> Indeed,

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27. See David L. Schwartz & Lee Petherbridge, *The Use of Legal Scholarship by the Federal Courts of Appeals: An Empirical Study*, 96 CORNELL L. REV. 1345, 1354 (2011) (saying in study of citations of legal scholarship in court decisions, “measuring the use of legal scholarship by measuring citations in opinions has the benefit of being a fairly objective measure”); Arewa, Morris & Henderson, *supra* note 7, at 1011 (referring to “objective criteria such as citation counts and the Social Science Research Network (SSRN) downloads” for peer review of faculty scholarship, although acknowledging these “are not perfect measures either”).

28. See Albert Yoon, *Editorial Bias in Legal Academia*, 5 J. LEGAL ANALYSIS 309, 314–15 (2013) (citations omitted).

29. Brophy, *supra* note 24, at 5.

30. See Arewa, Morris & Henderson, *supra* note 7, at 1071.

31. Harrison & Mashburn, *supra* note 9, at 7.

32. *Id.* at 47.

33. See Alfred L. Brophy, *Law [Review]’s Empire: The Assessment of Law Reviews and Trends in Legal Scholarship*, 39 CONN. L. REV. 101, 106 (2006) (describing “the democratization

a study has shown that legal scholarship freely available on the internet (“open access”) draws significantly greater citations.<sup>34</sup>

- A citation appearing in the lowest ranked law review in the country is recorded with the same numerical value as one in the highest ranked law review. Thus, scholars working in particular fields who find it more difficult to place articles in what are conventionally regarded as the leading law reviews—but who successfully provoke a vigorous exchange in specialized, secondary, or lower-ranked law reviews—receive full credit for those citations to their work. Likewise, journals at lower-ranked schools that are devoted to symposia may thereby draw many citations to articles by leading scholars or on a timely topic.

- A citation to an article on wills and trusts contributes to this objective measurement of scholarly impact to the same degree as a citation to an article on constitutional law. Presuppositions about which subject matters are most prestigious in scholarly circles may be muted to a limited extent with this measurement of actual rather than presumed scholarly interest.<sup>35</sup> Although “[a]ny study counting citations . . . runs the risk of registering the impact of [a scholarly] fad in disproportion to its scholarly merit or long-term value or interest,”<sup>36</sup> ephemeral trends may be washed out in a longitudinal study encompassing a large set of faculty and law journals over several years.

*Value of Citations as Mark of Influence:* As a recent study suggested, not every citation may be equal in value. Professors Jeffrey Harrison and Amy Mashburn, acknowledging they “are deeply suspicious of citation counts as measures of impact,”<sup>37</sup> conducted a study of citations to law review articles which led them to the conclusion that attributing “substantive meaning to citations” is “mostly faulty.”<sup>38</sup> The Harrison-Mashburn study is thoughtful in asking the right questions about scholarly value and laudatory in making a first effort to empirically critique citation measures in legal scholarship. Nonetheless, on closer examination, we find that the study falls short in discrediting general citation measures, especially when applied col-

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of legal knowledge through dissemination” on the various electronic databases, resulting in wider and easier distribution of legal scholarship and easy access to pertinent text by computer search terms).

34. Donovan & Watson, *supra* note 25, at 556–57, 573.

35. To be sure, subject matter and scholarly impact are presumably correlated, as those subjects on which greater numbers of faculty teach and write will naturally draw more citations. See Eisenberg & Wells, *supra* note 26, at 375 (“Writing about constitutional law offers the opportunity for the greatest impact on other scholars, probably because the most people teach and write in this area and because student law reviews may be especially amenable to articles about constitutional law.”).

36. Leiter, *supra* note 2, at 469.

37. Harrison & Mashburn, *supra* note 9, at 36.

38. *Id.* at 56.

lectively to a law faculty as a whole in comparison with others (which is our primary purpose with the Scholarly Impact Ranking).

The heart of the Harrison-Mashburn study is categorization of citations to a set of 100 articles published in a single year into what the authors designate as “substantive” versus “hearsay” or “casual” citations.<sup>39</sup> Unless a cited source was discussed in the text of the citing article in a manner that the authors interpreted as directly engaging the citing scholar’s analysis, which they believed was true of only two examined citations, this study regarded the citation as failing to indicate any “substantive reliance.”<sup>40</sup>

While a citation that includes an extended engagement with the cited work plainly signals impact (and perhaps the highest degree of impact), the conclusion that all other citations should be heavily discounted and regarded as largely meaningless is questionable and unsupported by objective evidence in this study. Professors Harrison and Mashburn acknowledge their “classification of the use of the articles” is “highly subjective.”<sup>41</sup> As Professor Barton explained in his earlier study of scholarly impact and teaching quality, to “weed through the raw numbers” to eliminate anything other than a “true” citation “would have added an entire layer of potential errors and bias in deciding what was a ‘real’ citation and what was not.”<sup>42</sup> Because of the doubtful and subjective classification of most citations into a non-substantive category, in our view, the Harrison-Mashburn study fails to effectively undermine citation counts as a useful if necessarily rough measure of impact.

The unavoidable subjectivity in classifying citations by the authors’ judgment of quality may be revealed by an example that Professors Harrison and Mashburn highlight in their study. They treat a quotation of a source in the text of an article as nonetheless falling short of being a substantive engagement because they apparently regard the stated proposition as unremarkable.<sup>43</sup> Yet the enshrining of the cited scholar’s words directly into the text by the citing scholar would strike many as a strong signal of the influence of the cited work.

Along the same line, Professors Harrison and Mashburn offer yet another example of a cited work that they concede may be “useful to the reader and properly included,” while again demoting it to non-substantive insignificance because the citer does not expressly outline how the cited work influenced the analysis.<sup>44</sup> In our view, a theory of scholarly value that dismisses a “useful” citation as indicative of next-to-nothing is cramped.

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39. *Id.* at 41–44.

40. *Id.*

41. *Id.* at 47.

42. Barton, *supra* note 13, at 630 & n.10.

43. Harrison & Mashburn, *supra* note 9, at 42.

44. *Id.* at 43–44.

Moreover, such presumptive discounting of most citations fails to connect with the experience of scholars when acknowledging prior works. Authors of scholarly articles frequently include a citation to an earlier work that established groundwork in a field of study and set the stage for the current scholarly query, even though these later authors choose to build on that foundation rather than dig under it or rebuild it. When a scholar is influenced by a prior scholarly work in framing the new questions to be asked, deciding which path to take, avoiding repeats of prior mistakes in research, and then choosing the method or analysis for that next step—all while not revisiting the prior work with extended treatment—a simple and unadorned citation is hardly a marker that the work is not influential.

As part of their underlying assumptions, Professors Harrison and Mashburn believe many citations fail to reflect actual influence on the citing scholar because of “law review conventions” that student editors demand that authors extend articles with extraneous citations based on “the notion that even the most obvious statements [in an article] require support.”<sup>45</sup> As these authors see it, law review editors—adhere to an arcane and pedantic set of attribution rules that demand support for almost every statement in an article, thus assuring that there will be many citations to various works and that most of them will not be substantive or represent an affirmation by the author of the article for the substance of the cited work, but rather a harried law student’s judgment that the citation “supports the statement in the text.”<sup>46</sup>

In this regard, it may be significant that these authors rely on a set of articles published in 2003,<sup>47</sup> a point in time in which the transition of the leading law reviews to more author-friendly editorial policies was still underway.

The era of citation padding at the behest of law review editors is largely over. Having published frequently in recent years in top twenty-five and top ten journals, the lead author of this present work has rarely been asked to add citational support for propositions. Indeed, far from being encouraged to add meaningless citations for obvious propositions, today a legal scholar is better advised to leave every sentence or citation that doesn’t directly advance the ball on the cutting room floor, given the increased insistence of the leading journals on shorter articles.

We have entered an era in which law reviews are setting word limits for articles, rejecting prolix manuscripts, and encouraging succinct writing. As a consequence, promiscuous citation practices run hard against stricter length restrictions. Accordingly, those citations that do survive to the final

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45. *Id.* at 41, 44.

46. *Id.* at 10–11.

47. *Id.* at 23.



printed version of an article are more likely to be to works of scholarship that the author genuinely found valuable.

Most importantly, in this Scholarly Impact Ranking, our primary purpose is to evaluate law faculties collectively, thus looking at means and medians of citation counts across an entire law school's tenured faculty with traditional scholarly expectations. A scholar who achieves a significantly higher count of citations overall is likely as well to secure a higher comparative number of especially valuable citations. And when law schools are compared collectively by means and medians, individual variation on quality of citations should largely be drained out in the wash.

*Citations Counts for Senior and Junior Scholars:* As another (in our view unremarkable) element of the Scholarly Impact Scores, "citation studies . . . tend to favor senior scholars who have had enough time to write a large number of pieces."<sup>48</sup> To describe this natural phenomenon as a "bias against younger scholars,"<sup>49</sup> however, strikes us as a mistaken characterization of the tendency of scholars with greater experience and a larger body of published work to have a greater influence in the legal academy. Now if Scholarly Impact Scores were calculated over a lengthy time frame, then tired, no longer productive, and semi-retired older scholars might gain misleadingly high scores. Limiting citations to a five-year period minimizes the impact of no-longer-productive scholars, as citation levels fall over time when nothing new is being contributed. Otherwise, the fact that an experienced and still-active scholar may draw greater attention based on the bigger portfolio of work over time is neither bad nor irrelevant to scholarly influence. Scholarly success depends on scholarly achievement—and achievement takes time.

Consider the following example. Suppose that Professor A, a recently tenured scholar, has published three articles, each of which has been cited 100 times over the past five years, for a total of 300 citations. Professor B has an additional ten years of experience as a tenured faculty member, has published twelve articles, each of which has been cited fifty times over the past five years, for a total of 600 citations. If we were to predict which of these scholars may prove to be more prominent in the future, Professor A's track record is most encouraging, given the greater per-article citation counts. Of course, Professor A may not live up to that early promise, because he fails to remain productive, because his three articles prove to have exhausted his abilities and nothing afterward has the same scholarly luster, or because his work remains of the same high quality but he has saturated the scholarly interest in a particular scholarly thesis and thus experiences diminishing returns in citations.

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48. Perlman, *supra* note 24.

49. James C. Phillips & John C. Yoo, *The Cite Stuff: Inventing a Better Law Faculty Relevance Measure* 3–6, 9 (2012), [works.bepress.com/james\\_phillips/1](http://works.bepress.com/james_phillips/1).

In any event, if we are measuring which scholar today has a greater scholarly impact, the reality remains that it is Professor B rather than Professor A. The 600 citations garnered by Professor B over the past five years is not a prediction but a present reality. The authors of 600 articles saw Professor B's body of work as worthy of citation, while the authors of half as many articles reached that conclusion with respect to Professor A's work. Whether by prolific writing, diligence in promoting a point of a view through a series of articles, or something else, Professor B has succeeded in drawing the attention of more scholars in more works. That is the very definition of scholarly influence.

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The clarity of the snapshot of scholarly influence presented in this Scholarly Impact Ranking “requires only that citation counts be correlated with article quality, not necessarily a precise measure.”<sup>50</sup> As Professor Leiter acknowledged from the beginning, “one would expect scholarly impact to be an imperfect measure of academic reputation and/or quality,” but “an imperfect measure may still be an adequate measure.”<sup>51</sup> Professors Ted Eisenberg and Martin Wells similarly observed that “[f]or the purpose of ranking schools, it is only necessary that citation frequently correlates with objective quality, not that it perfectly reflects quality.”<sup>52</sup>

## II. THE NATURE AND METHODOLOGY OF THIS SCHOLARLY IMPACT STUDY

Pioneered by Professor Brian Leiter of the University of Chicago<sup>53</sup> and carried forward by our team at the University of St. Thomas (Minnesota) in 2012<sup>54</sup> and 2015, these Scholarly Impact Scores measure the collective attention given in the legal journals to the published work of the tenured members of a law faculty.

### A. *Selecting Law Schools for Study*

To rank law faculties by scholarly impact in 2015, we examined the tenured faculties of ninety-eight law schools. Based on the results of the prior studies of scholarly impact in 2010 and 2012, we included all law schools that previously ranked in or near the top seventy for Scholarly Impact.

Through the law school associate deans' listserv, we distributed the list of the law faculties that we planned to study, while inviting other law

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50. Yoon, *supra* note 28, at 312.

51. Leiter, *supra* note 2, at 470.

52. Eisenberg & Wells, *supra* note 26, at 377.

53. Leiter, *supra* note 2.

54. Sisk, et al., *supra* note 1.

schools to prepare their own Scholarly Impact study and share that data with us. Three other law schools did share information with us, which resulted in our addition of two law schools to the 2015 study.

### *B. Developing Faculty Rosters for Each Law School*

For the Scholarly Impact Score, the key initial step is to develop a roster of the tenured faculty at each law school who have traditional scholarly expectations. Because the Scholarly Impact Score is derived from citations in legal journals, the proper subject of study is the tenured law school faculty member who is expected to contribute to that genre of legal literature. Accordingly, three categories of law faculty generally are not fairly included: untenured faculty, faculty with a primary appointment in clinical teaching, and faculty with a primary appointment in teaching legal research and writing.<sup>55</sup> However, several schools have an “integrated” tenure process, in which identical scholarly expectations are applied to all faculties whatever their teaching assignment. For those schools, all tenured faculty were included.

A faculty member was credited to the school where he or she has been or will be teaching. Because the study attempts to measure the scholarly impact of a law school’s current congregation of scholars, the faculty on which a law professor now sits receives the full benefit of all citations, past and present. By inquiring of each law school in the study, learning from individual faculty members making a move, and searching on-line lists of faculty moves,<sup>56</sup> faculty moving from one school to another with tenure were credited to their new school home.

After preparing preliminary faculty rosters for the law schools in our study, we shared those rosters with the deans’ offices at each school, asking for confirmation that the list contained all tenured faculty with standard scholarly obligations. We received many helpful responses, allowing us to correct errors and confirm proper rosters, and an unusually high response rate of 84.7 percent (eighty-three of ninety-eight law schools).

### *C. Conducting the Citation Counts for Scholarly Impact*

Defining “Scholarly Impact” as the acknowledgment of a law professor or the use of a law professor’s scholarship in a subsequent work of published legal scholarship, the study measures that “Scholarly Impact” through counts of total citations in law reviews over the past five years. For each tenured faculty member on each law faculty, we searched the “Law

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55. Further discussion of faculty categories included in the roster may be found in Sisk, et al., *supra* note 1, at 847–53.

56. See Brian Leiter, *Lateral Hires With Tenure, 2014–15*, BRIAN LEITER L. SCH. REP. (June 24, 2015), <http://leiterlawschool.typepad.com/leiter/2015/06/lateral-hires-with-tenure-2014-15.html>.

Reviews and Journals” database under “Secondary Sources” in Westlaw. To focus on the preceding five years, we used the search “firstname /2 lastname and date(aft 2009) and date(bef 2015)”.<sup>57</sup> When a law school alerted us that a faculty member had used more than one name in professional life, we altered the search term to account for those alternatives.

When a faculty member’s name included a name or word that may be common in contemporary usage or draw prominent historical references or when the first set of twenty results in the Westlaw search uncovered false “hits,” we did not rely solely on the raw search result count. Instead, we examined the first fifty results (or all results if there were fewer than fifty),<sup>58</sup> compared them to a list of publications by that faculty member, identified which of the first fifty results were to the person under study, and then applied the percentage of correct hits in that first fifty to the full search results.

Citation counts for each tenured faculty member at each law school were conducted independently by two law student research assistants pursuant to a set of instructions and after a training session that included work on a practice faculty roster. Those independent citation count results were then reconciled, double-checked, and replicated when in conflict.

Even though our search in the Westlaw law journal database was restricted to publications dated before 2015, Westlaw continues to add further publications with a formal publication date prior to a particular calendar date for some period of time afterward. Thus, even with a date restriction to articles published in 2014 and earlier, a citation count of a law professor that is conducted in, say, June of 2015 may be slightly higher than the citation count for that same person in January of 2015. Accordingly, we waited until June of 2015, for the addition of new pre-2015 articles to stabilize. We then conducted all citation counts within a three-week period to further minimize any variation based on new additions of pre-2015 articles.

#### *D. Calculating the Scholarly Impact Scores and Ranking*

Following the same approach as Professor Leiter, “[s]chools are ranked by their weighted score, which is the mean X 2 plus the median (since mean is more probative of overall impact than median, it gets more weight in the final score).”<sup>59</sup> In the past, because it had not yet finished hiring its tenured faculty and had a dean with exceptionally high citations, a mathematical adjustment was made to the mean for California-Irvine to pre-

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57. For professors with multiple middle names or initials, the search term for names was increased to “/3” or “/4”.

58. The default now for a Westlaw search is to list results in order of “Relevance.” Because that ordering biases the sampling, we returned to the old default of listing results by “Date” or reverse chronological order, which also has the merit of focusing attention on the most recent results.

59. See Leiter, 2010 Top 25, *supra* note 2.

dict the likely eventual position.<sup>60</sup> For 2015, now having a full contingent of tenured faculty, California-Irvine's Scholarly Impact Score has been calculated consistently with that for all other law schools.

In the detailed ranking table below, the ordinal ranking of law schools is accompanied by a reporting of the mean and the median, as well as the weighted score.

Because law schools with only slightly different weighted scores may not be meaningfully different in scholarly impact, we scaled scores from the top of the overall ranking. As did Professor Leiter, we assigned a scaled score of 100 percent to the law faculty with the first-place position in the ranking, which for 2015 is Yale University with a weighted score of 1766. Every other law school faculty's score was then calculated as a percentage of the 1766 score. Law school faculties that shared the same percentage—with standard rounding rules (calculated to two numerals to the right of the decimal point of the percentage)—were listed together as tied for a particular ordinal rank.

Even with scaling, because the scores of law schools below the top third bunch together, even more than the considerable clustering that appears at several points in the ranking, we did not attempt to rank further.<sup>61</sup> Based on our experiences in 2010 and 2012, and again this year, to extend the ranking further would impose ranking level differences on law schools despite greatly diminishing variation in citation counts and would result in ties at ordinal rank levels that would include dozens of law schools. Accordingly, we again chose to rank approximately the top one-third of law school faculties by scholarly impact.

Even among those schools included in this Scholarly Impact top third ranking and even with scaling, the differences between cohorts of schools ranked close together may be small. As Professors Eisenberg and Wells warn, “the move from continuous measures to ordinal ranks based on the continuous measures can both exaggerate and understate differences in the underlying information content of the continuous measures.”<sup>62</sup> Accordingly, in Table 2, we have not only provided for each law faculty (1) a ranking, but also (2) the Scholarly Impact Score, (3) the mean number of citations, and (4) the median number of citations.

In addition to the ranking of law faculties collectively by Scholarly Impact Scores, the study identifies the ten individual tenured law faculty

60. *Id.*

61. The clustering together of schools with scores only slightly apart increased beyond where we ended the ranking at #64 (with a total of sixty-nine law faculties), with, for example, the law faculties at Chapman, Denver, Drexel, Lewis & Clark, New York Law School, Northeastern, Richmond, Roger Williams, and Seton Hall not far outside of the ranking.

62. Theodore Eisenberg & Martin T. Wells, *Ranking Law Journals and the Limits of Journal Citation Reports* 17 (Inst. for Educ. Leadership, Paper in Comp. Analysis of Insts., Econ. and Law No. 12, 2013), <http://polis.unipmn.it/pubbl/RePEc/uca/ucaiel/iel012.pdf>.

members at each ranked law school with the highest citation counts (although the list is longer than ten in several instances, by reason of rounding ties). Note that the most cited scholars at each school are listed in alphabetical order by last name, not by ordinal rank within that faculty. In some cases, older tenured professors account for a larger share of a faculty's high citation count, which may foreshadow significant changes in scholarly impact for that school in future years. We have followed Professor Leiter's lead in marking with an asterisk those who turn seventy or older in 2015.

As with any study of this size, involving as it did the painstaking recording of hundreds of thousands of individual citations for thousands of tenured faculty members at nearly 100 law schools, we undoubtedly have acted on bad information or made errors, despite best efforts and multiple cross-checks. Any errors brought to our attention after this announcement of the final ranking will be noted by us for adjustment in future years.

### III. SCHOLARLY IMPACT RANKINGS FOR TOP THIRD OF LAW FACULTIES, 2015

TABLE 2: DETAILED SCHOLARLY IMPACT RANKING OF LAW FACULTIES, 2015<sup>63</sup>

Ranking	Law School	Weighted Score	Mean	Median	Most Cited Scholars (* indicates 70 or older in 2015)
1	Yale	1766	638	490	*Ackerman, B.; Amar, A.; Ayres, I.; Balkin, J.; Eskridge, W.; Kahan, D.; Koh, H.; Macey, J.; Post, R.; Siegel, R.
2	Harvard	1384	520	344	Fallon, R.; Goldsmith, J.; Kaplow, L.; Lessig, L.; Minow, M.; Shavell, S.; Sunstein, C.; *Tribe, L.; *Tushnet, M.; Vermeule, A.
3	Chicago	1300	468	364	Baird, D.; Ben-Shahar, O.; Ginsburg, T.; Leiter, B.; Levmore, S.; McAdams, R.; Nussbaum, M.; Posner, E.; Stone, G.; Strauss, D.
4	New York University	1123	397	329	Barkow, R.; Choi, S.; *Epstein, R.; Friedman, B.; Issacharoff, S.; *Miller, A.; Miller, G.; Pildes, R.; *Stewart, R.; Waldron, J.

63. The close reader will notice that, for a single ordinal step, the rank numbering does not perfectly correlate to the number of schools ranked in the preceding ordinal step. After initial release of the ranking in August 2015, we discovered a typographical error that had dramatically understated the mean for one school, which resulted in a rise of one ordinal step for that school (which is now reflected in this final version). Given that the ranking for other schools had already been announced, we did not correspondingly adjust the ranking in the ordinal step immediately below by one figure, i.e., from forty-four to forty-five.

5	Stanford	1013	369	275	*Friedman, L.; *Goldstein, P.; *Gordon, R.; Karlan, P.; Lemley, M.; McConnell, M.; Polinsky, A.; Rhode, D.; Sklansky, D.; Sykes, A.
6	California-Irvine	994	392	210	Burk, D.; Chacón, J.; Chemerinsky, E.; Fisk, C.; Garth, B.; Hasen, R.; Leslie, C.; Menkel-Meadow, C.; Reese, R.; Shaffer, G.
7	Columbia	945	348	249	Briffault, R.; *Coffee, J.; Crenshaw, K.; Gilson, R.; *Greenawalt, K.; Merrill, T.; *Monaghan, H.; *Raz, J.; *Scott, R.; *Strauss, P.
8	Duke	910	312	286	Adler, M.; Boyle, J.; Bradley, C.; Cox, J.; Gulati, M.; Helfer, L.; Powell, H.J.; Rai, A.; Schwarcz, S.; Young, E.
9	Vanderbilt	812	303	206	Bressman, L.; Guthrie, C.; King, N.; Rossi, J.; Rubin, E.; Ruhl, J.B.; Sherry, S.; Slobogin, C.; Thomas, R.; Viscusi, W.
9	California-Berkeley	808	300	208	*Cooter, R.; Davidoff Solomon, S.; Farber, D.; *Feeley, M.; Haney Lopez, I.; Menell, P.; Merges, R.; Samuelson, P.; Yoo, J.; *Zimring, F.
11	Pennsylvania	780	289	202	Baker, T.; Berman, M.; Bibas, S.; Bratton, W.; Burbank, S.; Fisch, J.; Parchomovsky, G.; Roberts, D.; Robinson, P.; Rock, E.; Skeel, D.; Yoo, C.
12	Northwestern	756	277	202	Allen, R.; Black, B.; Calabresi, S.; Dana, D.; Diamond, S.; Koppelman, A.; McGinnis, J.; Pfander, J.; *Redish, M.; Rodriguez, D.; Schwartz, D.
13	Cornell	748	273	202	Alexander, G.; Blume, J.; *Clermont, K.; Dorf, M.; Hans, V.; Heise, M.; Peñalver, E.; Rachlinski, J.; Schwab, S.; Stout, L.
13	UCLA	733	272	189	Bainbridge, S.; Carbado, D.; Crenshaw, K.; Kang, J.; Korobkin, R.; Motomura, H.; Netanel, N.; Raustiala, K.; Salzman, J.; Volokh, E.; Winkler, A.
15	Michigan	640	230	180	Avi-Yonah, R.; Bagenstos, S.; Crane, D.; Eisenberg, R.; Gross, S.; Litman, J.; MacKinnon, C.; Pritchard, A.; Schneider, C.; Simma, B.

15	Georgetown	636	239	158	Barnett, R.; Cohen, J.; Cole, D.; Gostin, L.; Katyal, N.; Langevoort, D.; Luban, D.; Solum, L.; Tushnet, R.; West, R.
17	Virginia	608	231	146	Brown, D.; Duffy, J.; Garrett, B.; Jeffries, J.; Laycock, D.; Nelson, C.; Prakash, S.; Schauer, F.; Spencer, A.; *White, G.
17	George Washington	600	226	148	Abramowicz, M.; Cahn, N.; Clark, B.; Glicksman, R.; Kerr, O.; Kovacic, W.; *Pierce, R.; Rosen, J.; Selmi, M.; Solove, D.
19	Minnesota	564	203	158	Carbone, J.; Cotter, T.; Duff, A.; Frase, R.; Hickman, K.; Hill, C.; Karkkainen, B.; Klass, A.; Kritzer, H.; McDonnell, B.; Painter, R.; Tonry, M.
20	Texas	554	199	156	Bone, R.; Chesney, R.; Cross, F.; Jinks, D.; *Levinson, S.; McGarity, T.; *Sager, L.; Silver, C.; Wagner, W.; *Westbrook, J.
21	George Mason	537	196	145	Bernstein, D.; Butler, H.; Ginsburg, D.; Greve, M.; Kobayashi, B.; Lund, N.; Mossoff, A.; Somin, I.; Wright, J.; Zywicki, T.
21	Washington University	533	193	147	Appleton, S.; Epstein, L.; Joy, P.; Kim, P.; Law, D.; Legomsky, S.; *Mandelker, D.; Richards, N.; Sale, H.; Tamanaha, B.
21	Boston University	532	192	148	Beermann, J.; Dogan, S.; Fleming, J.; *Frankel, T.; Gordon, W.; Hylton, K.; Lawson, G.; Maclin, T.; McClain, L.; Meurer, M.
24	California-Davis	519	191	137	Bhagwat, A.; Chander, A.; Chin, G.; Dodge, W.; Harris, A.; Horton, D.; Johnson, K.; Lee, P.; Sunder, M.; Ventry, D.; Villazor, R.
25	Case Western	479	171	137	Adler, J.; Burke Robertson, C.; Dent, G.; *Giannelli, P.; Hill, B.; Hoffman, S.; McMunigal, K.; Mitchell, L.; Nard, C.; Scharf, M.
25	Notre Dame	468	161	146	Alford, R.; Bellia, A.; *Finnis, J.; Garnett, N.; Garnett, R.; McKenna, M.; Nagle, J.; Newton, N.; O'Connell, M.; Tidmarsh, J.
27	Illinois	467	169	129	Amar, V.; Heald, P.; Hyman, D.; Kesan, J.; Lash, K.; Lawless, R.; Mazzone, J.; *Moore, M.; Robbenolt, J.; Thomas, S.; Wilson, R.



27	Emory	460	161	138	Ahdieh, R.; Bailey, J.; Dudziak, M.; Fineman, M.; Holbrook, T.; Kang, M.; Nash, J.; *Perry, M.; Shapiro, R.; Witte, J.; *Woodhouse, B.
29	Cardozo	442	154	134	Frischmann, B.; Gilles, M.; Hamilton, M.; Herz, M.; Reinert, A.; Rosenfeld, M.; Scheck, B.; Sebok, A.; Stein, A.; Sterk, S.; Zelinsky, E.
29	Arizona	441	160	121	Anaya, J.; Bambauer, D.; Engel, K.; *Glennon, R.; Marcus, D.; Massaro, T.; Miller, M.; *Rose, C.; Sjostrom, W.; Williams, R.
29	Colorado	437	154	129	Gruber, A.; Hart, M.; Huang, P.; Moss, S.; *Mueller, C.; Norton, H.; Schlag, P.; Schmitz, A.; Weiser, P.; *Wilkinson, C.
29	Ohio State	434	160	114	Alexander, M.; Berman, D.; Caldeira, G.; Chamallas, M.; Cole, S.; Colker, R.; Dressler, J.; Merritt, D.; Shane, P.; Tokaji, D.
33	North Carolina	431	150	131	Brophy, A.; Conley, J.; Flatt, V.; Gerhardt, M.; Hazen, T.; Jacoby, M.; Marshall, W.; Mosteller, R.; Nichol, G.; Papandrea, M.; Polsky, G.; Wegner, J.
33	Brooklyn	421	150	121	Araiza, W.; Baer, M.; Bernstein, A.; Brakman Reiser, D.; Capers, I.; Garrison, M.; Janger, E.; *Karmel, R.; Schneider, E.; Solan, L.; Tebbe, N.; *Twerski, A.
35	Indiana (Bloomington)	414	141	132	Buxbaum, H.; Cate, F.; Dau-Schmidt, K.; Geyh, C.; Grossberg, M.; Henderson, W.; Janis, M.; Johnsen, D.; Lederman, L.; Parrish, A.
35	Utah	413	149	115	Adler, R.; Anghie, A.; Cassell, P.; Craig, R.; Davies, L.; Guiora, A.; Hessick, F.; Hessick, C.; Peterson, C.; *Reitze, A.
35	Fordham	408	145	118	Brudney, J.; Davidson, N.; Erichson, H.; Flaherty, M.; Foster, S.; Gordon, J.; Green, B.; Griffith, S.; Huntington, C.; Lee, T.; Leib, E.; Pearce, R.; Zipursky, B.
35	University of San Diego	399	159	81	*Alexander, L.; Dripps, D.; Fleischer, V.; Lobel, O.; McGowan, D.; Partnoy, F.; Ramsey, M.; Rappaport, M.; Sichelman, T.; Smith, S.

39	Florida State	395	140	115	Abbott, F.; Alces, K.; Atkinson, R.; Hsu, S.; Johnson, S.; Logan, W.; Markell, D.; Ryan, E.; Seidenfeld, M.; Stern, N.; Tesón, F.; Utset, M.
39	Arizona State	393	142	109	*Abbott, K.; Bodansky, D.; Clinton, R.; *Ellman, I.; Fellmeth, A.; Hodge, J.; Luna, E.; Marchant, G.; *Murphy, J.; Saks, M.; Tsosie, R.
39	USC	393	142	109	Barnett, J.; Brown, R.; Estrich, S.; Gross, A.; Guzman, A.; Hadfield, G.; Keating, G.; Kleinbard, E.; McCaffery, E.; Rasmussen, R.; Simon, D.
39	University of St. Thomas (Minn.)	393	147	99	Berg, T.; Collet, T.; Delahunty, R.; *Hamilton, N.; Johnson, L.; Nichols, J.; Paulsen, M.; Sisk, G.; Stabile, S.; Vischer, R.
39	Maryland	392	143	106	Citron, D.; Goodmark, L.; Graber, M.; Gray, D.; Grimmelmann, J.; Harner, M.; Pasquale, F.; Percival, R.; Pinard, M.; Stearns, M.; Steinzor, R.
39	Iowa	390	149	92	Bohannan, C.; Burton, S.; Estin, A.; Hovenkamp, H.; Miller, R.; Onwuachi-Willig, A.; Osiel, M.; Pettys, T.; Tomkovicz, J.; Wing, A.
44	Hastings	373	136	101	Depoorter, B.; Dodson, S.; Faigman, D.; Feldman, R.; Keitner, C.; *Leshy, J.; Marcus, R.; Mattei, U.; Weisberg, D.; Williams, J.
44	William & Mary	369	134	101	Bruhl, A.; Criddle, E.; Devins, N.; Dwyer, J.; Gershowitz, A.; Green, M.; Heymann, L.; Marcus, P.; Meese, A.; Oman, N.; Zick, T.
47	BYU	359	131	97	Daniels, B.; Durham, W.; Fee, J.; *Fleming, J.; Gedicks, F.; Hurt, C.; Jones, R.; Scharffs, B.; Smith, D.; Wardle, L.
47	Hofstra	352	123	106	Baruch Bush, R.; Burke, A.; Difonzo, J.; Dolgin, J.; Freedman, E.; *Friedman, L.; Grossman, J.; Hayden, G.; Ku, J.; Neumann, R.; Ostrow, A.; Resnick, A.; Schepard, A.; Stark, B.
47	Washington & Lee	347	116	115	Bruner, C.; Demleitner, N.; Drumbl, M.; Fairfield, J.; Franck, S.; Johnson, L.; Miller, R.; Millon, D.; Moliterno, J.; *Rendleman, D.

50	UNLV	341	127	87	Berger, L.; Edwards, L.; Garcia, R.; Griffin, L.; LaFrance, M.; Lazos, S.; Main, T.; McGinley, A.; Rapoport, N.; Stempel, J.; Sternlight, J.; Tanenhaus, D.
50	Pittsburgh	333	116	101	Brake, D.; Brand, R.; Branson, D.; Chew, P.; Crossley, M.; *Frolik, L.; Harris, D.; *Hellman, A.; Lobel, J.; Madison, M.; Wasserman, R.
52	Temple	326	118	90	Burriss, S.; Dunoff, J.; Hoffman, D.; Hollis, D.; *Kairys, D.; Knauer, N.; Mandel, G.; Ramji-Nogales, J.; Sinden, A.; Spiro, P.
52	Wake Forest	325	123	79	Cardi, W.; *Curtis, M.; Davis, T.; Green, M.; Hall, M.; Knox, J.; Palmiter, A.; Parker, W.; Shapiro, S.; Taylor, M.; Wright, R.
52	Florida	321	115	91	Dowd, N.; Fenster, M.; Lidsky, L.; Noah, L.; Page, W.; Rhee, R.; *Riskin, L.; Rosenbury, L.; Sokol, D.; Wolf, M.
52	Chicago-Kent	316	110	96	Andrews, L.; Brody, E.; Krent, H.; Lee, E.; Malin, M.; *Perritt, H.; Rosen, M.; Stern, S.; *Tarlock, A.; Wright, R.
52	Alabama	310	124	62	Andreen, W.; *Delgado, R.; Durham, A.; Elliott, H.; Horwitz, P.; Krotoszynski, R.; Lyons, S.; Pardo, M.; Pierson, P.; *Stefancic, J.; Steinman, A.
57	Georgia	301	106	89	Amann, D.; Burch, E.; Coenen, D.; Cohen, H.; Hashimoto, E.; Leonard, E.; Miller, J.; Rodrigues, U.; Rutledge, P.; Wells, M.; White, R.
57	Houston	300	105	90	*Crump, D.; Hoffman, L.; *Janicke, P.; Joyce, C.; Lipton, J.; *Nimmer, R.; Olivas, M.; *Paust, J.; *Sanders, J.; Thompson, S.
57	Loyola-Los Angeles	299	103	93	Aprill, E.; Hughes, J.; Levenson, L.; Levitt, J.; Miller, E.; Natapoff, A.; Petherbridge, L.; Rothman, J.; Waterstone, M.; Willis, L.
57	American	298	112	74	Anderson, K.; Baker, J.; Carroll, M.; Davis, A.; Frost, A.; Hunter, D.; Jaszi, P.; Polikoff, N.; Roberts, J.; Vladeck, S.
57	Boston College	293	104	85	Cassidy, R.; *Coquillette, D.; Greenfield, K.; Kanstroom, D.; Liu, J.; McCoy, P.; *Plater, Z.; Quinn, B.; Rogers, J.; Yen, A.

62	Missouri	281	101	79	Abrams, D.; Bowman, F.; Crouch, D.; English, D.; Freyeremuth, R.; Gely, R.; Jerry, R.; Lambert, T.; Oliveri, R.; Reuben, R.; Strong, S.; Wells, C.
62	Toledo	276	95	86	Barros, B.; Chaffee, E.; Davis, B.; Exum, J.; Gibbons, L.; Martyn, S.; Porter, N.; Rapp, G.; Slater, J.; Strang, L.; Zietlow, R.
64	DePaul	272	102	68	Bandes, S.; Cho, S.; Franklin, D.; Gerstenblith, P.; Gold, A.; Kwall, R.; Sarnoff, J.; *Shaman, J.; Siegel, S.; Weber, M.
64	Rutgers-Camden	271	105	61	Bosniak, L.; Carrier, M.; Feinman, J.; Goodman, E.; Laby, A.; Maltz, E.; Patterson, D.; Stein, A.; Stephens, B.; *Williams, R.
64	Kansas	270	96	78	Bhala, R.; Drahozal, C.; Head, J.; Levy, R.; McAllister, S.; Mulligan, L.; Stacy, T.; Sward, E.; Torrance, A.; Ware, S.; Yung, C.
64	Tulane	266	94	78	Davies, M.; Feibelman, A.; *Force, R.; Gordley, J.; Griffin, S.; Hoeffel, J.; *Houck, O.; Kornhauser, M.; Meyer, D.; *Palmer, V.; *Sherman, E.; Werhan, K.
64	Hawaii	260	108	44	Antolini, D.; Beh, H.; Burkett, M.; *Callies, D.; Krieger, L.; *Lawrence, C.; Levinson, J.; Matsuda, M.; Soifer, A.; Yamamoto, E.
64	San Francisco	256	89	78	Davis, J.; De La Vega, C.; Dibadj, R.; Freiwald, S.; Green, T.; Hing, B.; Kaswan, A.; Leo, R.; Manian, M.; Nice, J.; Ontiveros, M.; Rosenberg, J.; Travis, M.

#### IV. SCHOLARLY IMPACT FINDINGS, COMPARATIVE RANKINGS, AND COMMENTARY

##### A. *Summary of Scholarly Impact Ranking and Significant Findings*

Representing about one-third of accredited law schools, sixty-nine law faculties are ranked in this 2015 update of the Scholarly Impact Scores.

The law faculties at Yale University, Harvard University, the University of Chicago, New York University, and Stanford University continue to be the top five ranked for scholarly impact. Since 2012, New York University has moved into the fourth position.

California-Irvine has risen one position to #6, followed by Columbia at #7. Duke has risen three positions since 2012 to #8. Vanderbilt and Califor-

nia-Berkeley are tied for #9, which is a one position rise for California-Berkeley.

Since 2012, several schools have jumped more than five ordinal positions in Scholarly Impact Ranking. The biggest mover, by seventeen positions, is the University of San Diego to #35. Three schools moved by thirteen positions: Case Western and Notre Dame to #25, and Arizona State to #39. Two schools—Utah to #35 and Wake Forest to #52—moved twelve positions. BYU moved ten positions to #47. Brooklyn moved to #33, Fordham to #35, and Iowa to #39, all three moves of eight positions.

Five schools appeared in the Scholarly Impact Ranking for the first time since 2012: Loyola-Los Angeles #57, Toledo #62, DePaul #64, Kansas #64, and the University of San Francisco #64.

### B. Scholarly Impact Ranking Compared to U.S. News Rankings

Based on Scholarly Impact Scores, several law faculties appear to be significantly under-valued in popular rankings of law schools. The faculties at these law schools achieve much higher Scholarly Impact Rankings than the overall ranking assigned by *U.S. News & World Report*:

- Within the top ten for Scholarly Impact (at #6), the University of California-Irvine shows the greatest incongruity with the 2016 *U.S. News* ranking (at #30). Although, as a new law school, California-Irvine entered into the *U.S. News* ranking at the highest initial point ever, we should anticipate that it will continue moving up the ranks.
- Also within the top ten for Scholarly Impact (at #9), the other school that shows a significant gap with *U.S. News* Ranking is Vanderbilt (at #17). Given that Vanderbilt came in at #8 in the Scholarly Impact Ranking in 2012, Vanderbilt appears to have become a stable presence in the Scholarly Impact top ten.
- Two law schools within the top twenty-five for Scholarly Impact are dropped down another level or so in *U.S. News*. George Mason ranks at #21 in the Scholarly Impact Ranking—the same high position it held in 2012. It has slowly moved up the *U.S. News* Ranking but remains under-valued at #42. Case Western rises to #25 in the Scholarly Impact Ranking, while falling just outside the first quartile (at #59) in *U.S. News*.<sup>64</sup>
- Illinois has improved in the 2016 *U.S. News* Ranking to #41 but still lags behind its Scholarly Impact Ranking at #27, which should lead to continued upward movement in rankings in the next few years.

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64. Although *U.S. News* now disapproves of references to the top fifty ranking as the First Tier and the next fifty as the Second Tier, such short-hand descriptions remain customary in the legal academy. To avoid the reference to “tiers” and be more descriptive, we speak in terms of “quartiles.” With approximately 200 ABA-accredited law schools, fifty law schools fall into each ranking quartile.

- As a new law school not located on the coasts, the University of St. Thomas (Minnesota) is the most dramatically under-valued law school when evaluated by Scholarly Impact. The University of St. Thomas comes inside the top forty (at #39) in the Scholarly Impact Ranking, while being relegated by *U.S. News* outside the top 100 (at #135)—a difference of ninety-six ordinal levels.
- Four schools show a fifty-position or greater disparity between Scholarly Impact Ranking and *U.S. News* Ranking. Hofstra places #47 in the Scholarly Impact Ranking, but is remarkably under-appreciated for its scholarly contributions when *U.S. News* drops it to #122. Toledo breaks into the Scholarly Impact Ranking at #62 but is at #142 in *U.S. News*. And DePaul also moves into the Scholarly Impact Ranking at #64, while receiving a *U.S. News* placement of #122.
- Two schools show a forty position or more gap between Scholarly Impact and *U.S. News* Rankings. In its 2016 ranking, *U.S. News* places Cardozo down at #75, while it approaches the top 25 of Scholarly Impact (at #29). Brooklyn stands at #78 in the *U.S. News* Ranking, which is forty-five ordinal ranking levels below its increased 2015 Scholarly Impact Ranking at #33.
- Three schools are 30 positions higher in Scholarly Impact than *U.S. News* Ranking. The University of San Diego rises to #35 in Scholarly Ranking, but remains at #71 in *U.S. News*. Rutgers-Camden stays at #64 in Scholarly Impact Ranking compared to #102 in *U.S. News*. The University of San Francisco ranks in Scholarly Impact (at #64) more than seventy positions above the *U.S. News* Ranking (at #138). Case Western was mentioned above.
- And two schools are at or near the top quartile in Scholarly Impact Ranking but are at least twenty positions lower in *U.S. News*. Pittsburgh is at #50 and Chicago-Kent at #52 for Scholarly Impact, but are both ranked at #78 in *U.S. News*.

The following table lists law faculties in order by Scholarly Impact Ranking for comparison with the schools' 2016 overall ranking in *U.S. News* and the 2016 academic peer score (based on a survey of law professors) for the *U.S. News* Ranking (the latter of which was arranged and ranked in order by Professor Paul Caron on the TaxProf blog).<sup>65</sup>

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65. See Paul Caron, *2016 U.S. News Peer Reputation Rankings (v. Overall Rankings)*, TAX-PROF BLOG (Mar. 9, 2015), [http://taxprof.typepad.com/taxprof\\_blog/2015/03/2016-us-news-peer-reputation-.html](http://taxprof.typepad.com/taxprof_blog/2015/03/2016-us-news-peer-reputation-.html).

TABLE 3: COMPARISON OF FACULTY SCHOLARLY IMPACT RANKING (2015) WITH *U.S. NEWS* RANKINGS (2016)

Law School	Scholarly Impact Ranking	<i>U.S. News</i> Ranking (Overall)	<i>U.S. News</i> Academic Reputation Ranking
Yale	1	1	1
Harvard	2	2	1
Chicago	3	4	4
New York University	4	6	6
Stanford	5	2	1
California-Irvine	6	30	42
Columbia	7	4	4
Duke	8	8	11
Vanderbilt	9	17	17
California-Berkeley	9	8	7
Pennsylvania	11	7	7
Northwestern	12	12	13
Cornell	13	13	11
UCLA	13	16	16
Michigan	15	11	7
Georgetown	15	14	13
Virginia	17	8	10
George Washington	17	22	21
Minnesota	19	20	21
Texas	20	15	15
George Mason	21	42	53
Washington U.	21	18	18
Boston University	21	26	25
California-Davis	24	31	25
Case Western	25	59	66
Notre Dame	25	22	21
Illinois	27	41	35
Emory	27	19	18
Cardozo	29	75	53
Arizona	29	42	42
Colorado	29	40	35
Ohio State	29	34	28
North Carolina	33	34	21
Brooklyn	33	78	66
Indiana (Bloomington)	35	34	28
Utah	35	42	50
Fordham	35	34	28
University of San Diego	35	71	57
Florida State	39	50	47
Arizona State	39	26	42
USC	39	20	18

University of St. Thomas (Minn.)	39	135	135
Maryland	39	47	47
Iowa	39	22	28
Hastings	44	59	35
William & Mary	44	29	28
BYU	47	34	47
Hofstra	47	122	106
Washington & Lee	47	42	35
UNLV	50	67	85
Pittsburgh	50	78	57
Temple	52	52	57
Wake Forest	52	47	42
Florida	52	47	35
Chicago-Kent	52	78	66
Alabama	52	22	28
Georgia	57	31	35
Houston	57	59	66
Loyola-Los Angeles	57	75	66
American	57	71	50
Boston College	57	34	28
Missouri	62	59	57
Toledo	62	142	144
DePaul	64	122	96
Rutgers-Camden	64	102	74
Kansas	64	67	57
Tulane	64	50	42
Hawaii	64	82	74
San Francisco	64	138	106