SAMPLE RESEARCH MAP

Tentative Thesis:
The practice of sadomasochism involves a wide range of activities which may include the practice of inflicting pain upon a consenting individual. Various states have held that consent to sadomasochism is not a defense and have prosecuted those involved in this activity. Should the history of the states approach in prosecuting individuals for this sexual activity be allowed to continue or should there be some reform to the laws to allow people who engage in this activity to be free of criminal prosecution. This paper will discuss what sadomasochism is, the history of state prosecutions, whether the assault statutes or the sexual assault statutes should apply, and whether there should be some reform to the statutes which would allow consent to be a defense for this activity.

Step 1:
I first began my research by looking through numerous secondary sources using WESTLAW. At this time I was not sure what the focus of my paper would be and I wanted to get some information on sadomasochism so I could narrow my topic down further.

Step 2:
Database: TP-ALL
Search Terms: “sadomasochism” “sadist” “masochist” /p “gender roles” As we discussed you should always start with a broader search and then narrow it if you find too many documents. If only 4 documents come up, you definitely should broaden. Found: 4 documents-skimmed through 1 doc I thought might be relevant:
94 CLMLR 753 (1994)
Columbia Law Review
DEMOCRACY AND DOMINATION IN THE LAW OF WORKPLACE
COOPERATION: FROM April, 1994
This article was not helpful so I did a search under another database.

Step 3:
Database: ALLNEWSPLUS
Search Terms: DA(AFT 01/25/2005) & HLD (sadist /2 masochist) Why would you limit your date to only one year? Also, what did you expect to find in the news? Found: 3 documents-all of which were in German, therefore not of any use to me

Step 4:
Database: SEXORIENT, SEXROLES, SEXROLERES, JSEXRESABS
Search Terms: “sadomasochism” Found: 7 documents only 1 of which I believed might be helpful because the study cites various resources that may be useful with my research.

Gender differences in sado-masochistic arousal among college students.
Sex Roles: A Journal of Research
9/1/98 SEXROLESRES 391, 1998 WLNR 5241892
Step 5:
Met with Professor Greenberg to discuss what would be a good approach for this subject. Prof. provided me with a couple of articles to help narrow my topic.

Step 6:
I first read one of the articles Professor Greenberg accessed through Westlaw using the following database and search terms:
Database: TP-ALL
Search Terms: TI (sadomaso!)
Found: several articles however provided the following to me:
Beyond The Pleasure Principle: The Criminalization of Consensual Sadomasochistic Sex.
Texas Journal of Women and the Law
Fall 2001 11Tex. J. Women & L. 51

Step 7:
I then conducted my own research concentrating more on the liability and consent issues. I preformed the following searches:

**First search**
Database: JLR
Search Terms: sadomaso! /p liability probably want liability or liable. Also, are you limiting your paper to criminal liability or also including civil liability. You can do whatever you prefer. If you were thinking of only criminal, then I would have used the word criminal instead of liability to see what you find.
Found: 10 documents
Out of the ten documents I skimmed over two which seemed most relevant and printed them out. The two I printed to read were:
80 J. Crim. L. & Criminology 557
Journal of Criminal Law and Criminology Summer, 1989 Comment THE "ROUGH SEX"
DEFENSE George E. Buzash

81 Harv. L. Rev. 1339
Harvard Law Review April, 1968 Recent Case ASSAULT AND BATTERY-CONSENT-CONSENT OF MASOCHIST TO BEATING BY SADIST IS NO DEFENSE TO PROSECUTION FOR AGGRAVATED ASSAULT.-PEOPLE V. SAMUELS, 58 CAL. RPTR. 439 (CT. APP., 1ST DIST. 1967)

**Second search**
Database: JLR
Search Terms: sadomaso! /p consent
Found: 56 documents
I skimmed through the titles and the portions of the documents which contained my search terms and narrowed which articles dealt more with the issues I would like to discuss in my paper. I
then printed out five law review articles and skimmed through their content to determine what I might be able to utilize. The following law review articles are the five I read through:

8 Buff. Crim. L. Rev. 541
This article is attacking another law review article written by Vera Bergelson entitled, Victims and Perpetrators: An Argument for Comparative Liability in Criminal Law, 8 Buff. Crim. L. Rev. 385 (2005). I have not looked up or read this article. However, based on the argument presented in the article I did read Bergelson’s article might be a good secondary source to refer to as I continue my research.

104 Colum. L. Rev. 1399
Columbia Law Review June, 2004 Commentary THE DOMESTICATED LIBERTY OF LAWRENCE V. TEXAS
Katherine M. Franke
I have not had the opportunity to read through this article yet.

42 B.C. L. Rev. 239
Boston College Law Review March, 2001 Article SEX IS NOT A SPORT: CONSENT AND VIOLENCE IN CRIMINAL LAW
Cheryl Hanna

5 Buff. Crim. L. Rev. 13
R.A. Duff

37 Wm. & Mary L. Rev. 47
William and Mary Law Review Fall, 1995 Essay THE MANY FACES OF SEXUAL CONSENT
William N. Eskridge, Jr.

Step 8:
After skimming through all of the secondary sources I went through and noted the cases relevant for my purposes which were cited in these articles. I haven’t read through the cases and other resources, however I plan to read through the cases and Shepardize them to see if they are still good cases and I plan to read through some of the other resources used in the law review articles. The following are the cases and other resources I found to be most relevant for my purposes:

Additional cases from 11 Tex. J. Women & L. 51:
People v. Samuels, 58 Cal. Rptr. 439 (1967)
State v. Collier, 372 N.W.2d 303 (Iowa Ct. App. 1985)

**Additional resources from 80 J.Crim.L. & Criminology 557:**
Lacayo, The Rough-Sex Defense, TIME, May 23, 1988
The Robert Chambers trial for the murder of Jennifer Levin was also mentioned in this article and I will be researching this further, possibly to discuss the prosecution's plea bargain with Chambers resulting in a reduced sentence due to the “rough sex” element of his defense which confused the jury.

**Additional cases from 37 Wm. & Mary L. Rev. 47:**
Other cases already noted under above articles were also cited in this article.

**Additional resources from 42 B.C. L.Rev. 239:**
R. v. Christopher, BC9906145 (Supreme Court of Victoria—Criminal) (1999)
The article states that “this is the only case of common law tradition to explicitly suggest that S/M may fall within the sports exception to assault and battery.” The article also refers the reader to see another article “for a description of the case, see Five Years in Jail for Bondage Sex Death, AAP NEWSFEED, Sept. 3, 1999

Cases cited as those which S/M activities “arguably resulted in death”:
Minnesota v. Pero, 590 N.W.2d 319 (Minn. 1999)
Leitner v. State, 631 So.2d 273 (Ala. 1993)

Cases cited as being those where defendants used S/M as being a way to “explain away their sexual battery and abuse”:
Ohio v. Roquemore, 85 Ohio App.3d 448 (1993)
People v. Hooker, 244 Cal. Rptr. 337 (1988)
Mendyk v. Florida, 545 So.2d 846 (Fla. 1989)

Cases where evidence of victim’s preference for “rough sex” was not allowed:
People v. Murphy, 919 P.2d 191 (Colo. 1996)
State v. Stevens, 1995 Del. Super. LEXIS 294
State v. Miller, 600 N.W.2d 55 (Wisc. 1999)

**Step 9:**
After reviewing the secondary sources I then researched for more recent cases since many of the cases cited in the law review articles were quite old.

Database: ALLCASES
Search Terms: sadomaso! /p consent or liability
Found: 46 documents
Some of the cases were cases I have already decided to look up and read and have included above.

**Step 10:**
I wanted to narrow the search. I used “locate in result” option and used “harm or injury” as search terms. The result was 32 documents. Some of these cases were again repetitive, others were unpublished cases, and many involved protecting minors from being exposed to material containing sadomasochist depictions.

**Step 11:**
I again narrowed the search by excluding “minor” with the “locate in results” option and this resulted in 21 cases. I skimmed through the results and narrowed which cases I will be printing out to read and possibly include in my paper.

Found:

**Plans for Future Research**
I have not thoroughly read through all of the law review articles so I will be doing so. I have been able to skim through them and chose some of the resources their authors utilized which I believe well be helpful in my future research. Furthermore, the cases I have listed all seem to be relevant and I need to read through them to see the approach that the various states have taken when dealing with situations where parties have engaged in sadomasochist activities and someone has been injured, and when someone has used their involvement in these activities as a mitigating factor for their defense. I still need to Shepardize the cases I have listed to ensure that they are still good case law, however I don’t remember seeing any negative flagging on any of the cases that I have listed.

My paper will be discussing how the states’ currently approach sadomasochist activities and whether or not these approaches are appropriate or if there is a need for reform to the current approaches. Many of the law review articles take a specific position and they will enable me to understand what some people believe would be best. Other articles will help me to understand the subject generally and these are beneficial because I do not know much about the practice of sadomasochism.

I have done a search under ThomCat and there was only one available resource in our library which was a speech given at our school several years ago. I plan to check this out and listen to what was said, however I am unsure whether or not it will be helpful. I also plan to meet with one of the librarians at TJSL and see if they have any recommendations for other possible resources. I also plan to research on Amazon.com and hopefully find some helpful resources.

I am not sure exactly how I will structure my paper and my main focus now is to read through my resources and begin outlining what I want to cover in my paper. I currently feel as though I have a good overall understanding about my topic and a good start with my research. Once I have read through the majority of my resources I plan to make an appointment with Professor Greenberg to discuss outlining and writing my paper.
Once you have found cases on point, two methods are more efficient than using search terms. Both involve the headnote key number system. Look at the headnotes in the cases you found and determine which are relevant to your research where you want to see if more cases exist. With that headnote, will be a keynumber. You can search in all cases for that keynumber and see what you get. If it is too many cases, then you can add words to limit the search. Another way is to just see what other cases cite to your case, but this will not necessarily get you all the cases you want from other jurisdictions.