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Junk Science, Lawyers' Overconfidence, and the Distortion of Justice

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By Demosthenes Lorandos and Melissa Blevins

Judges and lawyers do not understand the basic principles and methods of science, but they think they do. As a result, junk science continues to proliferate in American courts. Defense attorneys make few objections when forensic fraud is alleged and do not ask questions about the areas in which the analyst testified erroneously. Most judges lack scientific training and do not know what is meant by validation studies, peer review, or error rate. Is there any way to rectify these deficiencies?



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By Patrick T. Barone

Advanced prompt engineering strategies can elevate the utility and effectiveness of generative artificial intelligence (GAI) in criminal defense. These methods support lawyers in research, analysis, and client interaction. For example, advocates can create prompts that ask questions of the user in a way that mirrors a skilled colleague seeking to assist in case preparation. Also, counsel can employ prompts to create a bulleted list that serves as a reference tool when formulating an argument for presentation before a judge or jury.



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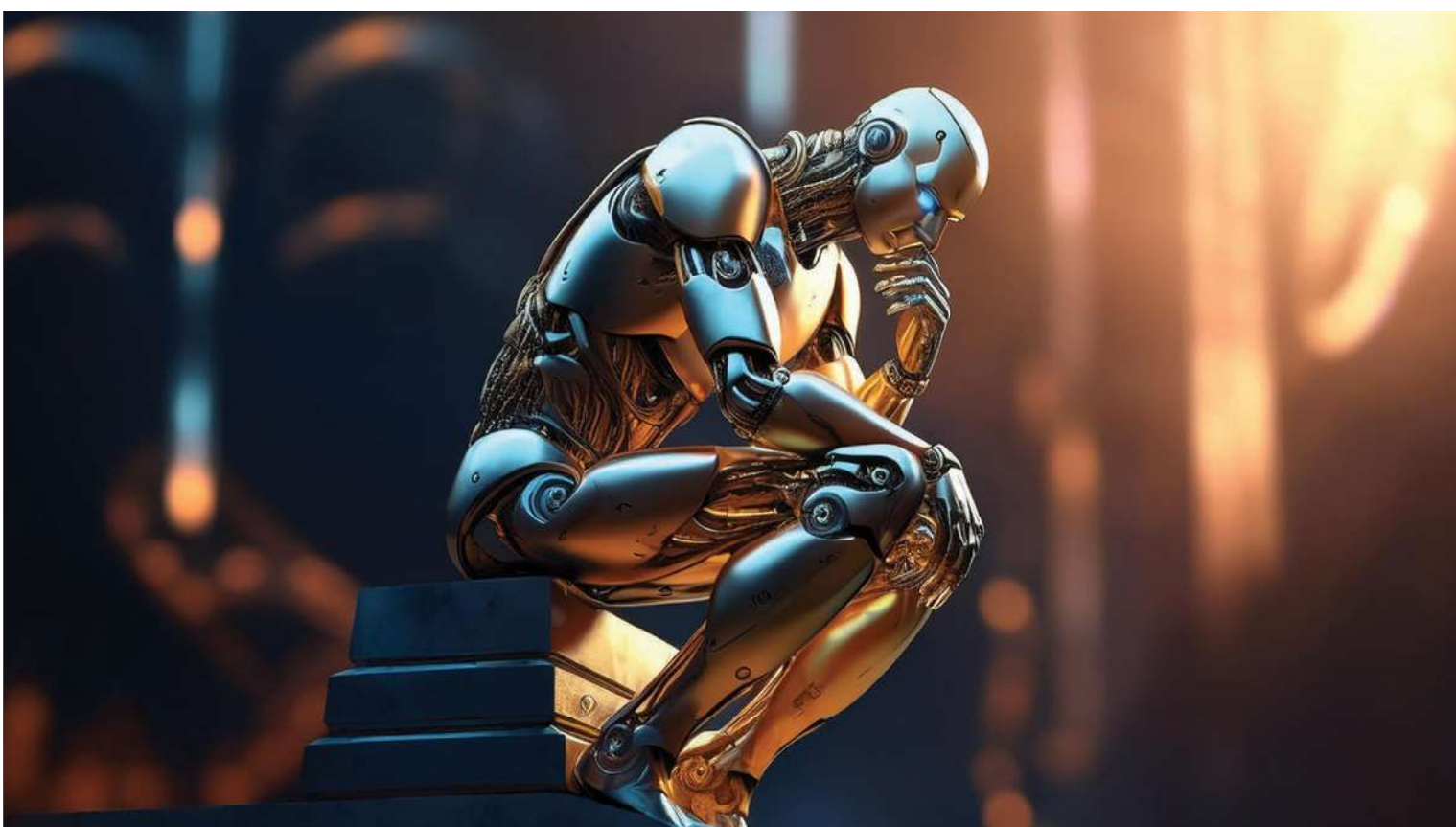
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Mastering Prompt Engineering: Advanced Techniques in AI-Powered Criminal Defense

In the evolving technological landscape of criminal defense, the effective and ethical use of Large Language Model Generative AI (GAI) is fast becoming an indispensable skill. The preceding article in this series¹ introduced readers to the concept of prompt engineering — the skill of writing clear, targeted instructions to produce useful and accurate responses from GAI systems² like OpenAI’s ChatGPT, Google’s Bard, Anthropic’s Claude, and Microsoft’s Copilot. These GAI models gain extensive language and factual knowledge from their large training datasets, and prompt engineering aims to focus their use of this data to produce desired outcomes.³ Mastering basic and advanced prompt engineering skills enables more efficient and satisfying interactions with GAI, resulting in fewer hallucinations, deeper insights, and ultimately more compelling results.

As previously demonstrated, effective prompting of GAI for a criminal defense practice will generally include some version of the several key elements: *Context*, which frames the GAI’s role or provides background

information relevant to the task [e.g., “You are a legal analyst specializing in criminal defense”]; *Instruction*, detailing the specific task [e.g., “Draft a memo analyzing potential defenses for a DUI case”]; *Input Data*, offering specific details the GAI should use, in this example, the more details the better [e.g., “standardized field tests given incorrectly, client does not appear intoxicated on video, whole blood test result .122, etc.”]; and *Expected Output Format*, specifying how the response should be structured [e.g., “Provide a list of possible defenses with supporting case law”].⁴

The importance of prompt engineering lies in its potential to transform how lawyers engage with GAI. Unlike general queries, well-constructed prompts minimize the risk of irrelevant or incorrect outputs, which is particularly valuable when navigating complex legal problems. By building on the foundational techniques previously discussed,⁵ this article explores advanced prompt engineering strategies designed to elevate the utility and effectiveness of GAI in criminal defense. As shown below, these methods push the boundaries of what GAI can accomplish in practice, supporting lawyers not only in the research and analytical phases of their practices but also in courtroom preparation and client interaction.

Leveraging the LLMs Knowledge Base with the Flipped Interaction Pattern

The Flipped Interaction⁶ pattern reverses the usual flow of AI-human interaction, prompting the GAI to ask the user a sequence of questions to gather sufficient information for the task. This strategy is like the Question

BY PATRICK T. BARONE

Refinement Prompt,⁷ except it effectively “flips the script” by reversing or modifying the conventional user-led dialogue, thereby awarding the GAI the role of inquirer. Instead of users formulating questions and steering the conversation, this pattern empowers the GAI to initiate questions, aiming to collect the essential information needed to fulfill specific tasks.⁸ Also, at least one study suggests that this method enhances the precision of the information obtained by requiring users to specify their inquiry more precisely.⁹

The core aim of this pattern is to significantly improve the process’s efficiency, accuracy, and overall effectiveness in achieving the user’s intended outcomes. By allowing the GAI to leverage its extensive knowledge base and analytical capabilities to guide the dialogue, it can potentially reduce any limitations or imprecisions in the user’s initial prompt. To effectively employ this pattern, users should structure their prompts to instruct the GAI to initiate questioning toward achieving a specified goal (denoted as “X”), and to continue its inquiries until a certain condition (denoted as “Y”) is satisfied. This prompt could be articulated as: “I would like you to ask me questions to achieve X (your goal). Continue asking questions until Y condition is met or to accomplish this goal.”¹⁰ Users can further refine how the GAI poses questions, whether sequentially one at a time, in pairs, or starting with a particular query. When using this prompt, “X” should be replaced with a clear objective, such as “formulating a comprehensive closing argument” or “compiling a tailored list of voir dire questions.” The stopping point “Y” might be defined as “having acquired enough information about my intended audience and objectives” or “understanding the case facts and the target audience for the argument.”

When crafting a flipped interaction prompt, it is crucial to precisely articulate the interaction’s goal and the desired outcome. This ensures the most direct and efficient pathway to receiving the intended final output, streamlining the GAI’s interrogation process to more closely align with the user’s specific needs and objectives.

This pattern’s application also promises to improve how attorneys prepare for cases, allowing the GAI to actively contribute to strategy development by asking questions of the user in a manner that mirrors a skilled colleague

seeking to understand and assist in case preparation. Through this reversed interaction model, GAI becomes not only a tool for information retrieval but also an active participant in the strategic planning and creative process, potentially enhancing the depth and breadth of legal strategies and arguments.

As with the other prompt patterns discussed, the flipped interaction prompt can be combined with the persona prompt to create an even more dynamic interaction. Here is an example, combining the flipped interaction prompt with a persona prompt¹¹ to further enrich the interaction by specifying the “skilled colleague” from whom assistance is requested: *From now on, you will act as a Stanford Law School Criminal Law Professor. When I pose a question, you’ll conduct an interview with me, asking one relevant question at a time until you’ve gathered enough information to provide the best possible answer.* This dual strategy not only invokes the expertise of a specified persona but also ensures that the responses are finely tuned to the user’s needs, offering a depth of personalization and detail.

Sharpening the Interaction with the Cognitive Verifier Pattern Prompt

Like the flipped interaction prompt, the Cognitive Verifier Prompt pattern changes and expands upon the typical mode of interaction with GAI. However, in contrast to the flipped interaction, a Cognitive Verifier Prompt involves the GAI first generating an answer to a question and then verifying its own response by asking itself targeted questions to ensure it is accurate and relevant. For example, a lawyer might enter this prompt: *Draft an argument for dismissing charges based on insufficient evidence under the corpus delicti rule. The argument must include a clear definition of the corpus delicti rule, relevant case law examples supporting the argument, and identification of weaknesses in the prosecution’s evidence. After drafting the argument, provide a step-by-step explanation of how the response meets these criteria. Highlight any gaps, limitations, or areas for improvement and suggest how they could be addressed.* Here, the GAI first drafts an answer, then “verifies” each key component to improve the quality and reliability of the final output. The process typically involves the GAI posing a series of targeted sub-questions, addressing potential ambiguities or gaps

in the initial prompt. By synthesizing the answers to these sub-questions, the GAI can offer a response that is both comprehensive and reliable.¹²

After entering this root prompt, the GAI, following its instructions, might respond by seeking to narrow down the query’s focus by asking clarifying questions: *What is the jurisdiction? What evidence exists outside the defendant’s statements? or Is there forensic evidence that supports the occurrence of the crime?* These questions help the GAI to gather context before formulating a response, thereby reducing the risk of inaccuracies or unsupported claims.

To address the known issue of GAI occasionally producing fictitious case law, defense counsel can include additional instructions in the prompt to help verify the authenticity of cited authorities. After generating the initial argument, the lawyer might add a verification layer:

Confirm that all case law references are real and valid precedents within the relevant jurisdiction. Do not fabricate or infer case citations. If no valid supporting case exists, state so explicitly rather than creating one. At the end of your output, provide a table listing all cases cited, including the case name, jurisdiction, and a reliable web link where each case can be verified. Ensure each link directs to a reputable source (such as a government or academic site) confirming the case’s existence. If you cannot find a reliable link, note this in the table instead of creating an unsupported citation.

This added step encourages the GAI to cross-check its references and provides the lawyer with clarity on whether the cited cases are authentic, minimizing the risk of citing non-existent case law in the argument. By implementing these instructions, the lawyer can approach AI-generated content with greater confidence, knowing there is a structured check against potential inaccuracies in case citations.

This synergistic use of these verification-minded prompts underscores the potential of GAI to significantly augment legal research and writing when precision and demonstrable reliability are paramount.

Confirming GAI Output Using the Fact Check Pattern Prompt

The fact check prompt pattern is also designed to enhance the functionality and accuracy of the GAI by mandating the inclusion of a list of facts upon which the generated output is based or from which its conclusions are derived. This advanced prompt configuration improves many of the standard prompts used when interacting with GAI. The fact check prompt achieves this by furnishing a structured framework for the validation of information, potentially serving as a road map for comprehensive legal research.

This methodological approach is crafted to elucidate the core components underpinning the provided information, thereby allowing users to undertake a thorough verification of these facts or premises. This aspect is particularly crucial given a notable limitation of LLMs: their propensity to generate text that, despite its compelling nature, may contain inaccuracies or even falsehoods, such as citing to case law that does not exist. These inaccuracies can range from misinterpretation of legal principles to factual errors in case law citations. The inclusion of a fact list is designed to counteract this risk by prompting attorneys to thoroughly assess the veracity of the GAI's output.

The fundamental components of this prompt include: (1) the generation of a comprehensive set of facts underlying the provided output; (2) the integration of this fact set at a designated juncture within the output to ensure its prominence; (3) the emphasis on identifying and listing those critical facts that, if inaccurate, could significantly compromise the integrity of the output.¹³

This prompt can also be employed to create a bulleted list or a road map that serves as a reference tool when formulating an argument for presentation before a judge or jury. The argument is deconstructed into several digestible segments, each of which is crucial for the decision-maker to consider when arriving at a well-informed verdict. This structured approach ensures that all pertinent points are clearly articulated and anticipated, facilitating a comprehensive understanding and evaluation by the judge or jury.

Here is a sample prompt to demonstrate this technique: *Explain the community caretaker exception to the Fourth Amendment warrant requirement, in-*

cluding its legal definition, key case law, and its practical application. Ensure your response is accurate and supported by reliable legal precedents. After providing your explanation, include a concise summary that highlights the key facts and main points in bullet form. The summary should distill the essential aspects of the doctrine, focusing on the elements that are critical for understanding its purpose, scope, and implications.

From this prompt, using ChatGPT 4o the following key facts were provided:

- ❖ The community caretaker exception allows police to conduct searches and seizures without a warrant in specific situations focused on public safety.
- ❖ Originated from the Supreme Court case *Cady v. Dombrowski*, 413 U.S. 433 (1973).
- ❖ Requires actions to be motivated by a concern for the safety of the community or an individual, not by the intent to investigate a crime.
- ❖ Has been applied in various contexts, including welfare checks, emergency aid, and traffic accidents.
- ❖ Scrutinized by courts to prevent it from being used as a pretext to bypass Fourth Amendment rights.

If a lawyer knew virtually nothing about the community caretaker exception and wanted to confirm ChatGPT's answer (which was not shown here for purposes of brevity), she now has a checklist of things to confirm using secondary sources. As shown, a lawyer can use this prompt to provide an excellent road map for further inquiries. If the lawyer was also interested in the application of this exception to the warrant requirement, additional information could be added to the prompt, of course being mindful of the ethical duty to maintain client confidentiality. This demonstrates a general rule of prompting: the more specific and detailed the prompt, the better the output.

Further Enhancing Analytical Precision with the Chain of Thought Prompt Pattern

Like the Cognitive Verifier Prompt Pattern, the Chain of Thought¹⁴ prompt pattern increases output reliability. It accomplishes this by introducing a power-

ful, stepwise technique that aligns GAI responses with a structured line of reasoning. This prompt pattern is designed to guide the GAI in producing detailed intermediate steps before delivering a final answer and is one that is particularly beneficial for criminal defense attorneys. By prompting the model to “think” step-by-step, attorneys can ensure that GAI responses are thorough, logically sound, and tailored to the lawyer's specific demands.

This method is especially effective when an accurate response relies on multilayered reasoning, such as in legal research, case analysis, or planning cross-examination. By prompting the GAI to articulate each reasoning stage, attorneys can achieve responses that not only mirror the rigorous logic expected in legal practice but also minimize the risk of “hallucinations” or biases. The chain of thought approach, thus, offers a structured framework, where each step of reasoning reinforces the accuracy and relevance of the output. Also, because GAI is not shackled to the positive biases a lawyer may have developed in the lawyer's zeal to represent the client, the GAI is “free” to think outside the box and provide creative information that stands to improve the depth of analysis.

To employ this prompt pattern effectively, attorneys can construct their prompts to request stepwise analysis, specifying key checkpoints the GAI must address before reaching the final answer. For example: *Analyze the legal standing of this motion step-by-step. (1) Describe the factual background of the case. (2) Summarize the relevant legal principles or statutes. (3) Identify potential counterarguments and evaluate their strength. (4) Conclude on the motion's likely outcome based on the analysis.*

In this structured inquiry, each numbered prompt guides the GAI through a sequenced analytical process. By dividing complex tasks into manageable steps, attorneys can tap into the GAI's extensive creativity and processing capabilities while maintaining control over the logical flow of information. Additionally, when applied in drafting complex legal arguments, chain of thought prompting allows attorneys to build a comprehensive narrative. For instance, in preparing a sentencing memorandum, a prompt might specify: *Draft a sentencing memorandum that includes: (1) the client's background, (2) mitigating factors, (3) relevant legal precedents, and (4) a concluding recommendation for le-*

niency. This ensures the GAI addresses each essential component systematically, creating an output that mirrors the logical structure required for persuasive legal writing. Importantly, this structured sequence not only enhances the GAI's relevance to each part of the task but also limits opportunities for bias by grounding each response in predefined, objective criteria.

Another option would be to add to the cognitive verifier prompt a specific narrative format that the GAI should utilize in fashioning the output. Here is what the prompt addition might look like: *Structure the following narrative or legal argument in the ABT (And, But, Therefore) format as developed by Randy Olson.¹⁵ Begin by establishing the relevant facts or shared understanding ("And"), then introduce the central problem or contradiction ("But"), and conclude with the solution, outcome, or next step ("Therefore"). Ensure each part clearly transitions into the next to form a cohesive and persuasive story.* Adding the ABT prompt to the structured sequence enhances the depth and persuasiveness of the GAI's output by embedding a clear narrative arc into the response.

Chain of Thought Prompting

To employ the Chain of Thought prompt, users can compose prompts to ask for stepwise analysis, identifying key checkpoints the GAI must address before arriving at the definitive answer. Here is an example.

Analyze the legal standing of this motion step-by-step. (1) Describe the factual background of the case. (2) Summarize the relevant legal principles or statutes. (3) Identify potential counterarguments and evaluate their strength. (4) Conclude on the motion's likely outcome based on the analysis.

Also, using the name of Randy Olson,¹⁶ who developed the ABT narrative format, invokes the power of the persona prompt without the exact formatting, because the phrase "as developed" signals to the GAI to utilize its data set training and produce its output in a very specific way.

A different way of accomplishing this, yet with the addition of the persona

prompt, would be to preface the prompt with *act like Randy Olsen, and structure your narrative or legal argument using the ABT (And, But, Therefore) format. Begin by developing....* It is worth experimenting with different formats to establish which structures produce the most satisfactory output.

Whereas chain-of-thought prompting provides a logical, step-by-step framework, integrating the ABT and persona prompts introduces a layer of storytelling that can be especially powerful and persuasive. The Chain of Thought pattern, in combination with the others or without, therefore allows criminal defense attorneys to use the GAI as a tool that complements their strategic thinking. Rather than merely generating answers, the GAI becomes an active participant in the analytical process, supporting attorneys as they construct logical, well-founded legal arguments.

No matter how good the output, careful editing will still be required. Almost without exception, the best that can be expected from AI, even with superbly crafted prompts, is a good working draft, something that can, with further human input that includes careful content verification, be published to the intended audience. The GAI's output is almost never signature ready without further work.

Enhancing Transparency with the Show Your Work Prompt

A similar approach defense counsel can employ is to prompt the GAI to "Show Your Work." This prompt instructs the GAI to set forth each step in its reasoning or analytical process. Unlike the Cognitive Verifier prompt, which encourages the critique and verifications of its own conclusions, the Show Your Work prompt is about mapping out each logical step that leads to the final answer. This type of prompting can be particularly useful in legal and analytical contexts when every component of an argument must be clearly demonstrated and supported. It also allows the independent verification of each "premise" the GAI uses to arrive at the stated conclusion.

The Show Your Work prompt differs fundamentally from the Cognitive Verifier prompt by focusing on transparency rather than self-assessment. Where the Cognitive Verifier asks the GAI to reflect and correct, Show Your Work prompts it to trace and disclose by asking it to reveal its thought process,

providing insight into each stage of the argument or narrative. This transparency allows the user to evaluate the logical progression independently, ensuring that each step aligns with known facts or legal precedent.

Building on prior prompting strategies, a highly detailed Show Your Work prompt might read as follows:

I need your help drafting a motion to suppress evidence based on an illegal search and seizure. The case involves the following undisputed facts: [insert facts]. Based on these facts and relevant case law from [jurisdiction], please draft the motion. Be sure your response includes a detailed step-by-step explanation of the legal analysis, starting with the applicable Fourth Amendment principles, the interpretation of those principles in relevant case law, and their application to the facts of this case. As part of showing your work, explain the reasoning behind each step, cite authoritative sources, and address any potential counterarguments or exceptions the prosecution might raise. For any case law cited and relied upon, please ensure the case law meets [insert verification standard]. Finally, place your argument into the [insert ABT prompt].

By using this combination of prompts, the GAI will provide a step-by-step rationale, demonstrating how it interprets relevant cases, applies constitutional principles, and arrives at a legal conclusion. The output will follow a structured narrative format, ensuring that it uses only verifiable authority. This approach not only provides a clear structure but also allows the attorney to confirm that each element of the argument is logically sound and consistent with the overall defense strategy. The Show Your Work prompt thereby enhances the utility of GAI in legal practice by prioritizing traceability and logical transparency, essential for constructing defensible arguments in criminal defense.

Establishing Persistent Context and Custom Instructions for Enhanced GAI Interactions

Interacting with GAI typically begins anew with each session, which means any previously utilized prompts

will be forgotten for the new query set. Said differently, the new conversation will be bereft of any previously supplied context. This situation mirrors an encounter between strangers, necessitating significant effort to establish mutual understanding and context — a process that, while not directly comparable to human interactions, highlights the challenge of starting from a blank slate in GAI conversations.¹⁷

However, the initiation of dialogue with GAI need not always begin from ground zero. Lawyers have the option to establish a “persistent context” — a concept suggesting the possibility of setting a continuous backdrop for conversations with GAI. This persistent context is achieved using custom instructions, allowing users to inform the GAI of critical background information at the outset of each interaction. Consider persistent context to be comprised of two key elements:¹⁸ (1) initialization, which involves providing an initial set of instructions or information that sets up a predefined context, and (2) activation, where, following the setup, a subsequent action or prompt triggers the application of this pre-established context.

The scope of what these custom instructions can cover is virtually limitless. For some defense lawyers, it might include client information or case context “in the trial court” to tailor the GAI’s responses more closely to the client’s identity and the lawyer’s preferences and needs. Another focus might be specifying the desired nature of GAI responses, such as brevity, seriousness, or politeness.

In the realm of legal practice, such a technique could prove invaluable. For instance, a criminal defense lawyer might set up custom instructions to ensure the GAI consistently considers relevant legal standards or case-specific details without needing to reiterate these aspects with each new prompt set. This not only saves time but also ensures that the GAI’s responses are immediately aligned with the lawyer’s needs, facilitating more effective research, case preparation, and client interaction.

OpenAI, the developer behind ChatGPT, has introduced a feature that allows users to set custom instructions for ChatGPT.¹⁹ This feature enables ChatGPT to remember user preferences across sessions, eliminating the need to repeat instructions. While this is a good start, it is an incomplete solution.

Other GAI models have begun to allow the use of persistent contexts

across time or even across inquiries. Also, when using these enhancements, lawyers should remain mindful of the sensitivity of legal work, and they should exercise caution not to share client confidences with cloud-based GAI models.

Infinite Generation Pattern Prompt

Like the Persistent Context Prompt, the infinite generation pattern is a prompt strategy designed to generate a continuous sequence of outputs based on a single, initial prompt. This method is particularly valuable in contexts requiring repeated or consistent application of engineered prompts across different subjects or concepts, such as in legal research or case analysis. By automating the generation process, this pattern significantly reduces the necessity for users to manually re-input or substantially alter the prompt for each successive output, thereby streamlining workflow efficiency when working with GAI.

The foundational structure of this pattern²⁰ includes three key components: (1) a directive for continuous output generation, specifying the quantity of outputs to be produced at each iteration; (2) instructions on how to incorporate user-provided input for refining subsequent outputs; and (3) a termination condition, allowing the user to halt the generation process upon command. Here is an example: (1) I would like you to generate output forever, X output(s) at a time. (2) (Optional) Here is how to use the input I provide between outputs, and (3) (Optional) Stop when I ask you to.²¹

Integrating this pattern with others discussed in this article offers further versatility and applicability. For example, a prompt might instruct the GAI to generate a continuous series of outputs and iteratively refine the questioning process itself: “I would like you to suggest a more precise question and inquire whether I wish to employ your suggested question for the next three inquiries. After these three iterations, please cease this pattern and revert to your standard response protocol.”

This integrated approach exemplifies how combining the infinite generation pattern with other prompt strategies, such as question refinement, can enhance the effectiveness and adaptability of GAI in a legal practice. By enabling a more iterative inquiry process, legal professionals can leverage GAI to explore complex legal scenarios with greater depth and precision, potentially uncovering insights that might not be

readily apparent through conventional research methods.

Training GAI to Adopt a Consistent Writing Style — The Personal Pattern Prompt

Another way to personalize the GAI to better suit a lawyer’s individual needs is the Personal Pattern Prompt (PPP).²² This prompt is especially valuable for tasks like client emails, where maintaining a consistent tone and style across all communications is essential. While other prompts discussed in this article may be suited to drafting legal documents or trial preparation, the PPP focuses on ensuring that all client interactions reflect the lawyer’s unique communication style, building trust and familiarity.

This prompt works by providing real examples of the attorney’s typical writing style, encouraging the GAI to replicate specific tone, phrasing, and structure. By embedding these sample texts within the prompt, attorneys can guide the GAI to produce client emails that align with their personal approach, creating a reliable framework for consistent communication.

A PPP might be structured by starting with instructions that guide the GAI on tone, depth, and vocabulary, setting expectations for clarity, empathy, and an informative yet professional tone. After the instructions, a separator — such as ---, ***, or even ### — can be added to signal the shift to examples, marking the distinction between instructions and sample texts. Though separators like --- are not commands for ChatGPT, they provide visual cues that help the attorney and the AI process the prompt more clearly. These symbols are useful in PPPs and other prompts when defense counsel wants to organize sections without paragraph breaks, maintaining focus and continuity. Finally, follow this separator with two or three sample paragraphs or exchanges that demonstrate specific phrases, sentence structures, or language choices. These examples reinforce the intended style, guiding the AI to produce responses that align closely with the lawyer’s preferences.

Consider this example of a PPP that utilizes clear instructions, a separator, and sample text to guide the GAI in crafting a response that aligns with a specific style:

Instructions: [Provide specific instructions for tone, style, content requirements,

or any particular focus needed in the response] *Example:* These examples illustrate the tone, depth, and vocabulary expected in the response. Focus on clarity, empathy, and a conversational tone that remains professional.

Separator: --- (or any other symbol such as *** or ### to visually separate instructions from examples).

Examples: [Insert two or three sample texts that reflect the desired style, tone, and language for the GAI to follow, including specific phrases, sentence structures, or style choices].

Using a Personal Pattern Prompt allows the GAI to learn implicitly, guiding it through example-rich prompts. This approach, especially useful when constrained by character limits, reduces the need for extensive explicit instructions and lets the examples teach style organically. Once fine-tuned, this prompt can be stored in a prompt library for future use, serving as a template that consistently produces quality drafts aligned with the user's preferred writing style.

Content Subject to Change

Without further work, the Generative AI's output is rarely ready for defense counsel's signature. The best an advocate can expect from AI, even with superbly crafted prompts, is a good working draft. With additional human input that includes content verification, counsel can send the document to the intended audience.

Preference-Driven Refinement Prompt for Precision and Control

While the conversational nature of interactions with GAI often surprises new users due to its resemblance to a conversation or "chat" with a human, this feature can be advantageous. Thinking of the interaction with GAI as a conversation allows for an iterative process that leverages feedback from

the GAI to refine subsequent inquiries. Such a strategy not only improves the relevance and accuracy of the GAI's outputs but also enriches the overall interaction, making it more akin to a productive conversation.

The Preference-Driven Refinement Prompt (PDRP)²³ enables users to iteratively perfect GAI output by refining specific sections of the response to achieve an ideal tone and style. This technique starts with an initial prompt and response. Because the first response generated may contain some "good" parts and some "bad" parts, the user can highlight and communicate these to the GAI by incorporating this feedback into the prompt itself. Over time, this iterative process develops a reliable template for generating high-quality content aligned with user preferences.

Like the PPP discussed above, this prompt is particularly valuable in communications with courts, clients, prosecutors and others, when consistency and a personalized tone are essential. By carefully adjusting GAI output to match the unique style of the lawyer, attorneys can ensure that all interactions reflect a dependable and consistent voice. PDRP can also be applied in combination with other prompts described in this article to create more consistent output that is in keeping with the lawyer's personal communication styles and preferences. The refinement process might unfold by starting with a foundational root prompt and assessing the GAI's response. After identifying what parts of the output are favored and disfavored, communicate these back to the GAI:

Identify Favored Sections:

Highlight areas that correctly address the objective, resonate with the desired tone, or showcase clear and client-appropriate language. *Example of Preferred Text:* "This section captures the right balance of clarity and empathy, illustrating how to discuss complex legal concepts without overwhelming the reader."

Separator: --- (or any other symbol such as *** or ### to visually separate the various sections).

Clarify Disfavored Elements:

Identify sections that miss the mark, noting what should be avoided in future iterations.

Example of Disfavored Text: "This paragraph is overly formal and detached, lacking the conversational tone needed for client communication."

Separator: ---

Iterate with Targeted Adjustments:

After incorporating these preferences into the prompt, add specific instructions to guide the GAI further based on the feedback. *Example:* Now, reproduce your answer incorporating my feedback into your new answer.

Separator: ---

Repeat and Refine: Continue refining until the prompt consistently generates output that aligns with the user's preferred style.

By building on effective segments and addressing areas for improvement iteratively, the PDRP creates a reusable, sophisticated template. This dynamic prompting tool produces more satisfactory drafts with minimal adjustments, often providing a reliable starting point for the final draft. As the prompt evolves, each interaction brings it closer to delivering refined content that accurately reflects the attorney's voice and standards. This method ensures that GAI becomes a supportive tool for thoughtful, refined writing that resonates with the professional's style and messaging goals.

Enhancing Decision-Making with the Alternate Approaches Pattern Prompt

The Alternative Approaches Pattern²⁴ in prompt engineering emphasizes the importance of exploring diverse strategies beyond the conventional methods to which lawyers may have become accustomed through habit or due to limited exposure to possible alternatives. The use of this prompt fosters creativity and critical thinking among defense attorneys. It encourages the consideration of varied tactics to address client cases, aiming to counteract cognitive or other biases that may lead to less optimal outcomes in court. By presenting a variety of approaches, the pattern helps lawyers overcome these limitations and choose the most suitable method for addressing a problem.

The basic format is (1) within scope X, if there are alternative ways to accomplish the same thing, list the best alternative approaches. (2) (Optional) Compare/contrast the pros and cons of each approach. (3) (Optional) Include the original way that I asked, and (4) (Optional) Prompt me for which approach I would like to use.²⁵

This approach is not only about generating novel ideas but also about evaluating these alternatives critically, assessing their merits and drawbacks in the context of the client's specific situation. The goal is to expand the attorney's repertoire of defense tactics, contributing to more dynamic and successful legal representation.

The pattern also aims to stimulate critical thinking, helping lawyers to assess the most effective solution for their client's problems. Additionally, it serves an educational purpose by exposing users to alternative concepts and methods they might not be aware of, thereby broadening their problem-solving toolkit.

Seeking Clarity with the Refusal Breaker Pattern Prompt

Large Language Models have programmed limitations that may prevent an answer to a user's question.²⁶ Some of these limitations may be instantiated by the training data,²⁷ or the limitations may be imposed by the developers to prevent the nefarious use of the technology or to limit or eliminate output that is racially or otherwise inappropriately biased. An example of this would be questions related to child sex abuse material where the GAI is likely to refuse to answer any inquiries containing any one or a combination of restricted words. Alternatively, the LLM may not be able to answer the query posed because it does not have sufficient information or context to understand the question or because the user has simply asked the wrong question. This situation can waste time for lawyers seeking specific information quickly.

The refusal breaker pattern is designed to prompt an LLM GAI to suggest alternative phrasings for a question it initially declines to answer. While this approach can effectively bypass restrictions to obtain information, it carries a risk of being exploited for unethical purposes, such as circumventing content guidelines. Therefore, it is crucial to apply this pattern with ethical considerations and responsibility in mind.²⁸

The Refusal Breaker pattern offers a strategy for users to either reword their question in a manner that the GAI can understand or to pose a different question that falls within the LLM's knowledge base or area of expertise. For example, users could request clarification on the refusal, which might shed light on why the LLM could not answer. Alternatively, posing a new question that aligns with the LLM's capabilities might yield a response. Nonetheless, these tactics depend on the user's initiative and understanding of how to navigate the LLM's refusal mechanisms.

The basic format is "whenever you cannot answer a question, explain why you cannot answer the question and provide one or more alternative wordings of the question that you could answer."²⁹ The Refusal Breaker pattern is intended for situations in which a Large Language Model (LLM) cannot answer a question. It is designed not for broad use but for specific instances of nonresponse. Initially, the LLM clarifies why it could not answer, potentially unveiling any assumptions or misunderstandings. This insight aids in rephrasing the question more effectively. By offering explanations and suggesting alternative phrasings, this pattern greatly improves the chance of overcoming obstacles to obtain an answer, enhancing user interaction with the LLM.

Harnessing AI for Modern Legal Advocacy: A Concluding Perspective

As the integration of Large Language Model Generative AI into law practice advances like the internet before it, the role of this emerging technology is becoming clearer. The journey begins by first taking steps to understand the technology's underpinnings or "look under the hood" and learn how LLM GAI produces its output. Next, lawyers must consider the limitations in its capabilities and understand the ethical considerations in its use. Next comes a basic and then more advanced understanding of prompt engineering, which together lays a strong groundwork for leveraging GAI's potential responsibly. The prompt catalog introduced here and previously offers criminal defense attorneys practical tools to refine the ways they engage with GAI — from drafting motions to preparing for trial.

Yet, even with its remarkable potential, it is essential to remember that legal competency precludes overreliance. Even at its best, GAI can only function much

like a skilled paralegal or legal assistant — not a licensed associate or legal partner. Generative AI can produce a sound working draft, but its output should always be seen as a collaborative start rather than a finished product. Just as attorneys are obligated to review and refine the work of a paralegal before affixing their signature to a written work, every AI-generated draft requires careful editing and verification. While a thoughtfully designed prompt can guide AI toward accuracy, the final responsibility for precision and compliance lies with the attorney. While the technology is powerful, maintaining rigorous oversight and a strong ethical foundation remains critical.

These methods are only a starting point. As the technology matures, the ability to constructively shape GAI output will evolve, affording criminal defense lawyers new dimensions of analytical support, strategic clarity, and narrative depth.

In an era where GAI has the potential to stand as an influential participant in a legal practice, adapting prompt strategies to meet the complexities of each case underscores the ongoing commitment to justice. By thoughtfully incorporating GAI tools into their work, lawyers can ensure that they explore, argue, and fully defend every aspect of a case, fostering a more accessible and effective criminal justice system.

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Notes

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13. *Id.* (This approach is informed by the scholarly work of Jules White et al.).

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22. This discussion was inspired by the Vanderbilt Course *Advanced Prompt Engineering for Everyone*, taught by Dr. Jules White and available online at Coursera.com.

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29. *Id.* ■

About the Author

Patrick T. Barone founded the Barone Defense Firm, which focuses on DUI, criminal sexual conduct, medical fraud, and self-defense firearms cases. He is a board-certified trainer, educator, and practitioner of psychodrama, sociometry, and group psychotherapy. Barone is the author of five books, including the two-volume treatise *Defending Drinking Drivers*.



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2025 NACDL Election Announcement

NACDL's election will soon be underway. In 2025, NACDL will elect members to the Board of Directors, in addition to the President-Elect, First and Second Vice Presidents, and Secretary. Members of the Board of Directors help oversee the business of NACDL and determine its policies. Active members who are interested in seeking elective office should check www.NACDL.org/Elections for submission requirements and take note of the following timeline.

March 4, 2025:	Web form for uploading Nominating Committee candidacy materials goes live on NACDL website.	May 5, 2025:	Nominating Committee slate of candidates announced on NACDL website.
March 21, 2025:	Materials (submitted via Web form) due from candidates for Nominating Committee consideration.	May 14, 2025:	Web form for uploading candidacy materials goes live on NACDL website for members who want to seek nomination via petition.
March 28, 2025:	Candidate materials submitted to Nominating Committee.	May 28, 2025:	Deadline for submitting petitions.
April 21, 2025:	Nominating Committee meetings with candidates begin.	June 16, 2025:	Voting begins.
April 26, 2025:	Nominating Committee meetings with candidates end.	June 27, 2025:	Voting ends.
		July 12, 2025:	Annual meeting in Minneapolis, Minnesota.

