

**MEMORANDUM**

**To:** Donna E. Shalala, President

**From:** Stephen Sapp  
Chair, Faculty Senate *Stephen Sapp*

**Date:** January 29, 2009

**Subject:** Faculty Senate Legislation #2008-16(B) – Proposal for the Establishment of the University of Miami School of Law Therapeutic Jurisprudence Center

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On January 28, 2009, the Senate voted to approve the proposal for the establishment as presented by Professor Richard Williamson for five years and any extensions thereafter.<sup>1</sup>

The proposal is enclosed for your information.

The legislation is now forwarded to you for your action.

SS/rh

Enclosure (proposal)

**cc:** Thomas LeBlanc, Executive Vice President and Provost  
Paul Verkuil, Acting Dean, School of Law  
Richard Williamson, Professor, School of Law

<sup>1</sup> C18.2.2 Other NAMED or TITLED ACADEMIC UNITS established under Bylaw 6.6 may be approved by the Faculty Senate and the President. For each such approved unit, the Executive Vice-President and Provost shall consult with the dean of the host school at five year intervals to determine whether the unit remains active and shall report to the Faculty Senate the names of those that should be disestablished.

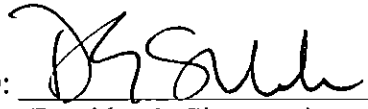
C18.2.3 Periodic five year reviews may be conducted on all programs, centers, institutes and similar academic units as deemed appropriate by the Faculty Senate or the Executive Vice-President and Provost.

Faculty Senate  
1252 Memorial Drive, 325 Ashe Admin. Bldg.  
Coral Gables, Florida 33146

Phone: (305) 284-3721 • Fax: (305) 284-5515  
<http://www.miami.edu/FacultySenate>  
email: [facsen@miami.edu](mailto:facsen@miami.edu)

Faculty Senate Legislation #2008-16(B) – Proposal for the Establishment of the University of Miami School of Law Therapeutic Jurisprudence Center

**PRESIDENT’S RESPONSE**

APPROVED:  DATE: 2/02/09  
(President’s Signature)

OFFICE OR INDIVIDUAL TO IMPLEMENT: DEAN Paul VERKUIL

EFFECTIVE DATE OF LEGISLATION: IMMEDIATELY  
(if other than June 1 next following)

NOT APPROVED AND REFERRED TO: \_\_\_\_\_

REMARKS (IF NOT APPROVED): \_\_\_\_\_



January 16, 2009

Dr. Stephen Sapp  
Chair, Faculty Senate

Dear Dr. Sapp,

The School of Law seeks Senate approval for the establishment of a new center with the title of the University of Miami School of Law Therapeutic Jurisprudence Center.

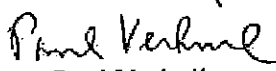
The center is the outgrowth of the pioneering work on the subject by Prof. Bruce Winick, one of the co-founders of the field. Information on the importance of the field, its rapid global growth, and the Law School's role in it are contained in two attachments: a summary of the proposal; and the documents that were presented to the School's faculty.

On December 15, 2008, the faculty of the Law School unanimously approved the establishment of the center. Prof. Winick will be its Director, working in conjunction with the Dean, and operating under the general policies of the faculty concerning Law School centers. Prof. Winick will be assisted by an Advisory Committee.

The ongoing costs of the Center are anticipated to be primarily for relatively inexpensive activities, e.g. conferences, seminars, travel, etc. We do not foresee any additional faculty or administrative hires for the center. To meet the Center's needs over the next five years, funding at the level of at least \$10,000 per year has been assured by the Law School. We have high hopes for both governmental and private funding, which will allow a significant expansion of the Center's activities. However, the Law School guarantees that in the next five years, the Center will engage in no activities requiring the commitment of resources unless sufficient Law School funding or outside funding have been secured. Accordingly, the Center will not become a drain on University finances.

From the outset, though funded and controlled by the Law School, the Center will be an asset to and will welcome the participation of others in the university. If substantial outside funding is secured, and there is sufficient interest in other schools and colleges, we would then return to the Senate for approval of a university-wide center.

Sincerely,

  
Paul Verkuil  
Interim Dean

Office of the Dean  
P.O. Box 248087  
Coral Gables, Florida 33124-8087  
305-284-2394

## Appendix A

### Summary of Petition for Approval of a University of Miami School of Law Therapeutic Jurisprudence Center

Approval is sought from the Faculty Senate for the establishment of a University of Miami School of Law Therapeutic Jurisprudence Center. On December 15, 2008, the law school faculty unanimously approved the creation of this Center. A copy of the full proposal approved by the law school faculty is attached.

The Center will conduct theoretical and empirical research, publish scholarly books, articles, and reports, perform training for judges and lawyers, conduct community programs, and hold conferences, symposia, and other educational programs locally, nationally, and internationally. It also will participate in existing and future clinical and skills training programs at the law school, helping to implement new models, to develop teaching materials, and to conduct research concerning these programs.

Colleagues from the University of Miami Miller School of Medicine's Department of Psychiatry and Behavioral Sciences and Department of Epidemiology and Public Health, the University of Miami Ethics Programs, the University of Miami School of Education and the University of Miami Department of Psychology have worked with law school faculty on Therapeutic Jurisprudence projects in the past. The Center will provide a structure to facilitate the continuation and expansion of such interdisciplinary and cross-disciplinary work with faculty at the University of Miami and at other academic institutions.

Therapeutic jurisprudence is an interdisciplinary approach to legal scholarship and law reform that sees the law itself as a therapeutic agent. The basic insight of therapeutic jurisprudence is that legal rules, legal practices, and the way legal actors (such as judges and lawyers) play their roles impose inevitable consequences on the psychological well-being of those affected. Therapeutic jurisprudence calls for a study of these consequences with the tools of the behavioral sciences so that we can increase our understanding of law and how it is applied and can reshape it to diminish its antitherapeutic effects and maximize its therapeutic potential. Therapeutic jurisprudence was founded in the late 1980s by Professor Bruce J. Winick of the University of Miami School of Law and Professor David B. Wexler of the University of Arizona College of Law and University of Puerto Rico School of Law. The field has grown enormously, and has emerged as a major force in mental health law and in law and psychology generally, and as a major scholarly approach in areas across the legal spectrum, including criminal, juvenile, and family law, health and disability law, constitutional law, employment law, and tort law. The field has generated approximately 45 books and 25 symposia issues in legal and interdisciplinary journals, as well as more than 900 articles by scholars in law, psychology, psychiatry, and philosophy in the U.S. and internationally. The field also has been influential on judging and lawyering in the U.S. and in countries throughout the world.

Because Professor Winick has been a pioneer and major architect of therapeutic jurisprudence, it is natural that the University of Miami School of Law establish a Therapeutic Jurisprudence Center to facilitate the further expansion of the field. Moreover, establishing a Therapeutic Jurisprudence Center at the law school will increase the law school's reputation within the law school and academic worlds generally, its ability to recruit faculty and students, and its ability to attract outside funding to support research and programmatic objectives. .

#### **Operating Rules and**

The Center Director will make operating decisions, including the planning of conferences and symposia, scholarly research, the hiring of student research assistants, etc. On major issues, he will make these decisions in consultation with the Advisory Board, the proposed membership of which is contained in Appendix B. On budgetary items, he will make decisions in consultation with the Dean of the Law School.

#### **Five-Year Projected Financial Support**

The Law School has committed to providing at least \$10,000.00 per year for the work of the Center. The Director will seek research grants and funding support with the approval of the Dean of the Law School. Research grants will be sought from governmental agencies such as the U.S. Department of Justice National Institute of Justice, U.S. Department of Justice Office of Justice Programs Bureau of Justice Assistance, U.S. Department of Justice Office of Juvenile Justice and Delinquency Prevention, U.S. National Institute on Drug Abuse of the National Institute of Health, and the National Science Foundation, and from private foundations such as the McArthur Foundation and the Clark Foundation, to enable empirical research studies to be performed by the Center in collaboration with scholars from the medical school and other departments in the university. Several such grants and separate studies are envisioned, including socio-legal studies of the courts in Miami-Dade County and elsewhere. It is anticipated that during the 5-year period, 2009-2013, several hundred thousand dollars in such grants will be obtained.

It also is anticipated that fund-raising with private donors will produce several hundred thousand dollars of support during this period to facilitate the work of the Center, including stipends for law student research assistants/fellows and graduate students, the holding of conferences, and the conduct of research.

## Appendix B

[NOTE: The following is the text of the proposal that was presented to the Law School faculty for its consideration on December 15, 2008. It was approved unanimously.]

# University of Miami School of Law Therapeutic Jurisprudence Center

## Mission Statement

This Memorandum proposes the creation of a University of Miami School of Law Therapeutic Jurisprudence Center. The Center will conduct theoretical and empirical research, publish scholarly books, articles, and reports, perform training for judges and lawyers, conduct community programs, and hold conferences, symposia, and other educational programs locally, nationally, and internationally. It also will participate in existing and future clinical and skills training programs at the law school, helping to implement new models, to develop teaching materials, and to conduct research concerning these programs.

Colleagues from the University of Miami Miller School of Medicine's Department of Psychiatry and Behavioral Sciences and Department of Epidemiology and Public Health, the University of Miami Ethics Programs, the University of Miami School of Education and the University of Miami Department of Psychology have worked with law school faculty on Therapeutic Jurisprudence projects in the past. The Center will provide a structure to facilitate the continuation and expansion of such interdisciplinary and cross-disciplinary work with faculty at the University of Miami and at other academic institutions.

Therapeutic jurisprudence is an interdisciplinary approach to legal scholarship and law reform that sees the law itself as a therapeutic agent. The basic insight of therapeutic jurisprudence is that legal rules, legal practices, and the way legal actors (such as judges and lawyers) play their roles impose inevitable consequences on the psychological well-being of those affected. Therapeutic jurisprudence calls for a study of these consequences with the tools of the behavioral sciences so that we can increase our understanding of law and how it is applied and can reshape it to diminish its antitherapeutic effects and maximize its therapeutic potential. Therapeutic jurisprudence was founded in the late 1980s by Professor Bruce J. Winick of the University of Miami School of Law and Professor David B. Wexler of the University of Arizona College of Law and University of Puerto Rico School of Law. The field has grown enormously, and has emerged as a major force in mental health law and in law and psychology generally, and as a major scholarly approach in areas across the legal spectrum, including criminal, juvenile, and family law, health and disability law, constitutional law, employment law, and tort law. The field has generated approximately 45 books and 25 symposia issues in legal and interdisciplinary journals, as well as more than 900 articles

by scholars in law, psychology, psychiatry, and philosophy in the U.S. and internationally. The field also has been influential on judging and lawyering in the U.S. and in countries throughout the world.

Therapeutic jurisprudence has had an important impact internationally. The Third International Conference on Therapeutic Jurisprudence was held in June, 2006 in Perth, Australia, and included speakers from nine countries. In June/July of 2009, at the annual conference of the International Academy of Law and Mental Health, which will occur in New York City at the NYU School of Law, Professor Winick has organized 21 separate therapeutic jurisprudence sessions involving 97 therapeutic jurisprudence presentations by speakers from a dozen countries. Professor Winick is a frequent speaker at international meetings, and has brought therapeutic jurisprudence to countries throughout Europe, to Australia and New Zealand, and to Asia. Therapeutic jurisprudence work has been translated into Spanish, Italian, Hebrew, Japanese, and Urdu, and there is increasing interest in the work throughout the world.

Because Professor Winick has been a pioneer and major architect of therapeutic jurisprudence, it is natural that the University of Miami School of Law establish a Therapeutic Jurisprudence Center to facilitate the further expansion. Moreover, establishing a Therapeutic Jurisprudence Center at the law school would increase the law school's reputation within the law school and academic worlds generally, its ability to recruit faculty and students, and its ability to attract outside funding to support research and programmatic objectives. Having a Therapeutic Jurisprudence Center at the University of Miami would allow the university to capitalize on the increasing national and international interest in therapeutic jurisprudence.

The University of Miami Therapeutic Jurisprudence Center would be directed by Professor Winick. It will generate scholarship in a wide range of legal areas, including mental health law and law and psychology generally. Therapeutic jurisprudence has had an enormous impact on the courts and on the practice of the legal profession and the work of the Center will also include scholarship in the areas of judging, lawyering, and legal education. The work will be interdisciplinary in character, and will include both theoretical and empirical scholarship in these areas.

In addition to scholarship, The Center will sponsor academic and community programs and training sessions for judges, lawyers, scholars, and members of the community. The Center will also hold symposia and conferences at the law school and elsewhere, including an international conference on therapeutic jurisprudence.

### **Action Plan**

The kinds of activities that the Center will sponsor can be illustrated by several already-planned events that deal with therapeutic jurisprudence. These include a program scheduled for January 23, 2009, at the law school, entitled "Overcoming the Stigma of Disability," at which Professor Elyn Saks of the University of Southern California Law School, Professor James Jones of the University of Louisville School of Law, Professor

Steven Wizner of the Yale Law School, and Professor Winick will speak. The speakers subsequently will prepare short essays based on their presentations, and Professor Winick will seek publication in a law journal for this mini-symposium.

- Also illustrative is a juvenile justice program planned for January 30, 2009, co-sponsored by the law school and the University of Miami Medical School's Department of Psychiatry and Behavioral Sciences. Professors Winick and Perlmutter will speak on sessions relating to juvenile shackling and juvenile transfer, two topics upon which they are conducting therapeutic jurisprudence research. The conference received funding from the Miami-Dade County Children's Trust.
- Further illustrative is a symposium to be held on February 27, 2009, at the Florida Coastal Law School in Jacksonville in conjunction with the Florida Coastal Law Review. It will be a symposium on therapeutic jurisprudence, including Professor Winick, Professor Wexler, Professor Susan Daicoff of the Florida Coastal Law School, and other presenters, and will result in a symposium issue of the Florida Coastal Law Review devoted to therapeutic jurisprudence.
- In April, 2009, a program will be held at the law school on public health and therapeutic jurisprudence. This program is in the early planning stages, and will involve Professor Jose Szapozniak, Chair of the University of Miami Medical School's Department of Epidemiology and Public Health and members of his department, as well as Professor Winick.
- On May 12, 2009, Professor Winick will speak at a conference at the University of Zurich Law School. His topic will be Law as a Healing Profession. Professor Winick gave a lecture on therapeutic jurisprudence in May of 2008 at the University of Zurich Law School, and in this program, Professor Winick will present the concept of therapeutic jurisprudence to a wider audience of practicing lawyers and psychologists in Switzerland.
- On May 20, 2009, the Center, if approved, will present a panel at the annual meeting of the American Psychiatric Association in San Francisco. Professor Winick has been working with the forensic fellows and Dr. Anthony Castro of the Department of Psychiatry and Behavioral Sciences on research concerning an innovative therapeutic jurisprudence court, the Miami-Dade County Domestic Violence/Mental Health Court. We have been working with Judge Deborah White-Labora, the judge who started this program, and Judge Labora, Professor Winick, Dr. Castro, and the two forensic fellows will be presenting a program at the annual APA meeting describing this emerging judicial model and reporting on a longitudinal study that is still in progress. Additional data is being collected, and a



grant will be sought to enable the collection and analysis of this data. An article growing out of the study will be published in a legal or interdisciplinary journal.

- From June 28-July 5, 2009, Professor Winick will coordinate 21 separate therapeutic jurisprudence sessions at the annual meeting of the International Academy of Law and Mental Health in New York City, which will be held at the NYU School of Law. In addition to Professor Winick, several of our law school faculty members will be speaking at the New York Conference. These include Professors Donald Jones, Bernard Perlmutter, Egardo Rotman, Sarah Mourer, and Jennifer Zawid. Professors Winick and Wexler will edit a symposium issue of the International Journal of Law and Psychiatry on therapeutic jurisprudence, in which papers presented by some of the scholars at the New York meeting will be published.
- In July, 2009, Professors Winick and Wexler will co-teach a course in therapeutic jurisprudence at the London summer program held by our law school. Judges and scholars interested in therapeutic jurisprudence in the U.K. will be involved.

Future symposia, conferences, and academic programs will be held under the auspices of the Center at which Professor Winick and other law school faculty affiliated with the Center will participate. The past twenty years have seen the emergence of a variety of new judicial models, based on principles of therapeutic jurisprudence, that are designed to rehabilitate offenders and to assist victims of crime. Miami-Dade County has been an important center for such "problem-solving courts," as they increasingly are known. In 1989, the nation's first drug treatment court was established in Miami-Dade County, and a variety of specialized courts focusing on rehabilitation have since emerged. The University of Miami Therapeutic Jurisprudence Center will conduct empirical research in the judicial practices and processes in the Miami-Dade County criminal court drug treatment court, family court drug treatment court, dependency court drug treatment court, mental health court, domestic violence/mental health court, and unified family court. Professor Winick has been discussing with the judges of these courts the performance of empirical research, and has received their approval and cooperation to conduct such research. He has been working with Professor Richard Wiener of the University of Nebraska Law-Psychology program to develop research on the effectiveness of these court programs and on a variety of judicial techniques that they use and will be implementing. These courts apply principles and approaches of therapeutic jurisprudence and Professor Winick, Professor Wiener, Dr. Castro, and perhaps members of the Department of Public Health and Epidemiology and the School of Education will collaborate on such research and on obtaining foundation and government grants to perform it. This is envisioned to be a multi-year project that will produce a variety of reports and published articles in legal and interdisciplinary journals.

The Center will provide consultation to courts locally and elsewhere. Professor Winick is currently working with the judges of a variety of problem-solving courts in Miami-Dade County and Broward County and will expand these service projects and include research into the functioning of a number of the problem-solving court models that have been developed using the therapeutic jurisprudence framework. Professors Winick and Wexler have been the architects of the problem-solving court model. There now are more than 2000 drug treatment courts in the U.S., more than 200 domestic violence courts, and more than 100 mental health courts. Moreover, these court models are spreading throughout the world. Professors Winick and Wexler have published the leading book in the field, *Judging in a Therapeutic Key: Therapeutic Jurisprudence and the Courts* (Bruce J. Winick & David B. Wexler eds., 2003), and are frequent speakers at judicial conferences and training sessions. The Center, perhaps working in conjunction with the University of Miami Medical School's Department of Epidemiology and Public Health and with the School of Education, could contract with state court systems throughout the country to assist in the development, evaluation, and improvement of the increasing number of problem-solving courts that have been and will continue to be established as this model grows.

The Therapeutic Jurisprudence Center also would work closely with the law school's existing clinical programs, and would play an important role in the clinical legal education movement. Therapeutic jurisprudence already has made an important impact on clinical legal education and skills training. In September, 2005, Professors Winick and Wexler edited a symposium issue of the *St. Thomas University Law Review* containing 17 articles dealing with the application of therapeutic jurisprudence in differing clinical legal education and skills training contexts. Professor Winick also has spoken at the annual conference of the clinical section of the Association of American Law Schools, and in 2005, at the UCLA annual conference on Clinical Legal Education. Professors Winick and Wexler also published an article in the December, 2006 issue of the *Clinical Law Review*, the leading publication in the field, entitled "The Use of Therapeutic Jurisprudence in Law School Clinical Education: Transforming the Criminal Law Clinic."

Professor Winick has worked closely with the University of Miami School of Law's Children and Youth Law Clinic, which explicitly uses therapeutic jurisprudence in its work. He will continue to be involved in applying therapeutic jurisprudence in cases being litigated by the clinic and in training the clinic's students. A recent example is the juvenile shackling case being litigated in Miami-Dade, Broward, and Palm Beach counties and in several other jurisdictions throughout the U.S., in which Professors Winick and Perlmutter submitted a therapeutic jurisprudence affidavit concerning the anti-rehabilitative affects of the practice automatically of shackling juveniles to one another when they appear in court. Professor Bernard Perlmutter, the Director of the Children and Youth Law Clinic, co-teaches a course in lawyering skills with Professor Winick that is based on the therapeutic jurisprudence model. They plan to continue their work in this area, and hope to develop a future casebook in lawyering skills that relies on the therapeutic jurisprudence approach. Professors Winick and Perlmutter would like to extend the interviewing and counseling model they have developed beyond their course,

perhaps offering a variant on it as a first-year Spring semester elective, or in a broadened Litigation Skills Program once a new Director is hired, and also using it in the training of students in all of the Law School's clinical programs.

All five of our law school's educator faculty members – Professors Perlmutter, Newman, Williams, Zawid, and Mourer – have expressed interest in working with the Center and in using therapeutic jurisprudence in their clinical programs. The Center will attempt to facilitate the development of several new clinical programs in which therapeutic jurisprudence will be a major component. These include placing students in various problem-solving courts in Miami-Dade and Broward Counties under the supervision of Professor Zawid; a new mediation clinic under the supervision of Professor Zawid; Dean Marni Lennon, and adjunct Professor Mel Rubin; an externship clinical program in conjunction with the Office of the Miami-Dade County Public Defender and under the supervision of Professor Mourer, involving the presentation of mitigation evidence in capital cases; and an externship clinical program involving disability and fair housing law in which Professor Winick and Dean Lennon will work with local attorneys doing disability litigation and negotiation and settlement. The Center also will conduct interviewing and counseling training for the law school's new immigration clinic, as well as with our existing clinical programs. The Center thus will work with many of our law students involved in existing and future clinical programs and skills training opportunities. Professor Winick will work with the other clinical law professors at our law school to expand the use of therapeutic jurisprudence in their programs and to develop new ones based on his approach.

Professors Winick and Perlmutter also will perform empirical research on the juvenile transfer process, by which juveniles are transferred from the juvenile court to adult criminal court. They will study the direct file process in Florida through which prosecutors make these determinations without affording the juvenile a hearing on the all-important transfer issue. Winick is at work on a therapeutic jurisprudence critique of this process that suggests that providing the juvenile a hearing on the transfer issue would promote rehabilitation, and he hopes to conduct empirical research probing the impact of a hearing in this area. Winick and Perlmutter also were instrumental in using therapeutic jurisprudence analysis to convince the Florida Supreme Court to adopt a hearing procedure when juveniles in foster care are transferred to state mental hospitals or residential treatment centers, and they hope to conduct empirical research on the impact of such hearings. Such research will be conducted with affiliated scholars from the Department of Psychiatry and Behavioral Sciences, the Department of Epidemiology and Public Health, and the School of Education, and grants will be sought to fund such research. Funds will be sought to sponsor several law students as Therapeutic Jurisprudence Scholars each year to assist Professor Winick in the work of the Center and in conducting therapeutic jurisprudence research.

**The Director and other University of Miami School of Law Faculty  
Members Who Have Committed to Significant Participation in Center  
Activities.**

Professor Bruce J. Winick, Director  
Professor Bernard Perlmutter  
Professor Robert Ely Rosen  
Professor Donald Jones  
Professor Sarah Mourer  
Professor Jennifer Zawid  
Professor Kele Williams  
Professor Jonel Newman  
Professor and International Law Librarian, Edgardo Rotman  
Professor Marni Lennon, Assistant Dean for Public Interest & Pro Bono & Director,  
HOPE Public Interest Resource Center  
Adjunct Professor Mel Rubin

**Faculty From Outside the Law School Who Have Committed to  
Significant Participation in Center Activities.**

Professor Ewald Horwath, M.D., Interim Chair, Department of Psychiatry and Behavioral  
Sciences Miller School of Medicine, University of Miami.

Professor Anthony Castro, Psy.D., Ph.D., Assistant Professor and Director, Forensic  
Psychiatry Fellowship program, Department of Psychiatry and Behavioral Sciences,  
Miller School of Medicine, University of Miami

Janetta Cureton, M.D., Forensic Fellow, Department of Psychiatry and Behavioral  
Sciences, Miller School of Medicine, University of Miami

Juan Oms, MD, Forensic Fellow, Department of Psychiatry and Behavioral Sciences,  
Miller School of Medicine, University of Miami

Professor Jose Szaposnik, Ph. D., Chair of the Department of Epidemiology and Public  
Health, Associate Dean for Community Development, and Professor of Psychiatry &  
Behavioral Sciences, Psychology, Architecture, and Educational & Psychological  
Studies, Miller School of Medicine, University of Miami

Gayle Dakoff, Ph.D., Research Associate Professor, Department of Epidemiology and  
Public Health, Miller School of Medicine, University of Miami

Bonnie E. Levin, Ph.D., Associate Professor, Department of Psychology and Department  
of Neurology, Miller School of Medicine, University of Miami

Kenneth Goodman, Ph.D., Co-Director, University of Miami Ethics Programs and  
Director of Bioethics Program,

Isaac Prilleltensky, Ph.D, Dean, School of Education, Professor of Educational  
Psychological Studies, University of Miami

Etiony Aldarondo, Ph.D., Associate Dean for Research, School of Education, Associate Professor, Department of Educational and Psychological Studies, University of Miami.

### Advisory Board

Honorable Peggy F. Hora (Ret.), California Superior Court. Judge Hora is a retired judge who is a frequent speaker on therapeutic jurisprudence topics and has written widely on the subject. She was a leading architect of the drug treatment court model, and served for many years as a drug treatment court judge in Haywood, CA.

Michael King, Senior Lecturer, University of Monash School of Law, Melbourne, Australia. Professor King is a former magistrate judge in Australia who organized the Third International Conference on Therapeutic Jurisprudence, held in Perth, Australia, in 2006, on behalf of the Australian Judges' Association. He is a scholar in therapeutic jurisprudence and also has organized the Australasian web site on therapeutic jurisprudence. He also has served as a member of the board of the International Association of Drug Courts.

John McShane, Esq, Dallas, Tx.. John McShane is a leading Texas trial lawyer in the areas of criminal and family law who considers himself a therapeutic jurisprudence lawyer. A leading proponent of collaborative law, he has been instrumental in establishing this movement in Texas. Attorney McShane is a frequent speaker at therapeutic jurisprudence conferences, and has written scholarly essays in the field.

Professor Michael L. Perlin, Professor of Law, New York Law School, New York, N.Y. Professor Perlin is a leading scholar in mental health law, and uses therapeutic jurisprudence extensively in his scholarly work. He also teaches a course in therapeutic jurisprudence at his law school.

Professor Amy Ronner, St. Thomas University School of Law, Miami, FL. Professor Ronner is a University of Miami School of Law alumni and a leading therapeutic jurisprudence scholar. She is a frequent speaker at therapeutic jurisprudence conferences, and is at work on a book on Law, Literature, and Therapeutic Jurisprudence.

Professor Jose Szapocznik, Ph. D., Chair of the University of Miami School of Medicine Department of Epidemiology and Public Health, Associate Dean for Community Development, and Professor of Psychiatry & Behavioral Sciences, Psychology, Architecture, and Educational & Psychological Studies. Dr Szapocznik is interested in exploring the intersection of therapeutic jurisprudence and public health, in working with the Center on empirical research, and in using the Center to help to activate a joint-degree program between the Department of Epidemiology & Public Health and the School of Law.

David B. Wexler is Professor of Law and Director of the International Network on Therapeutic Jurisprudence at the University of Puerto Rico in San Juan, Puerto Rico, and Distinguished Research Professor of Law, Rogers College of Law, University of Arizona, Tucson, Arizona. Professor Wexler, Professor Winick's principal therapeutic

jurisprudence collaborator, is the co-founder of therapeutic jurisprudence. He is a frequent speaker at therapeutic jurisprudence conferences and a leading scholar in the field. He teaches therapeutic jurisprudence at both of the law schools with which he is affiliated.

### **Comparative Advantages of this Center in Relation to Comparable Other Centers, Institutes, Programs, etc.**

The University of Miami Therapeutic Jurisprudence Center will be the most comprehensive center for therapeutic jurisprudence research and education in the world. The University of Puerto Rico School of Law has an existing international network on therapeutic jurisprudence, directed by Professor Wexler. This functions as a clearing house for therapeutic jurisprudence work, coordinates the therapeutic jurisprudence listserv, and has a web site that contains a bibliography of therapeutic jurisprudence scholarly work. However, this Network itself, unlike the proposed University of Miami Center, does not itself conduct research or run symposia or other educational programs.

The William and Mary Law School has a therapeutic jurisprudence program under the auspices of Professor Gregory Baker, a former drug treatment court judge who is a member of the William and Mary faculty. The William and Mary therapeutic jurisprudence program conducts a clinical program that places students in problem-solving courts, and Professor Baker teaches therapeutic jurisprudence courses and seminars that produce student-authored therapeutic jurisprudence work. It also publishes an occasional newsletter. The William and Mary program, unlike the University of Miami Center, does not itself conduct research and has not as yet held symposia or conferences.

A variety of other American law schools and law schools in Australia, New Zealand, and Canada offer courses or seminars in therapeutic jurisprudence, but none have a comprehensive center or institute devoted to therapeutic jurisprudence. Professor Michael King of the Monash University School of Law teaches in the area and is organizing an international conference in 2010 on therapeutic jurisprudence and restorative justice, at which Professors Winick and Wexler will be keynote speakers. He also was instrumental in organizing the Third International Conference on Therapeutic Jurisprudence, held in Perth, Australia, in 2006, and in establishing the Australasian Therapeutic Jurisprudence web site. Although Professor King publishes in the area and holds conferences, Monash does not have a Center or Institute relating to therapeutic jurisprudence.

Professor Susan Daicoff of the Florida Coastal Law School offers courses in therapeutic jurisprudence, and the Florida Coastal Law Review has published symposia issues on therapeutic jurisprudence. The University of Puerto Rico Revista Juridica has a therapeutic jurisprudence forum, which from time to time publishes therapeutic jurisprudence articles. Our law school's journal, Psychology, Public Policy & Law, also has published several symposia issues on therapeutic jurisprudence. There is, however, no official therapeutic jurisprudence journal, and none is planned.

Although other law schools thus have therapeutic jurisprudence initiatives, none has a comprehensive Center such as the one proposed for the University of Miami.

### **Identification of Non-Law School Potential Funding Sources**

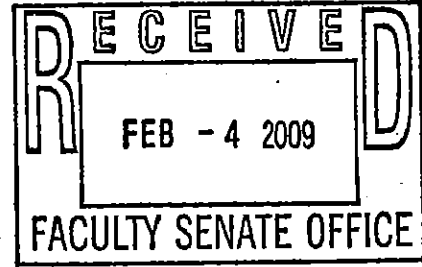
#### **McArthur Foundation**

The McArthur Foundation has had a longstanding interest in mental disability law and juvenile law. I was a consultant to its Research Task Force on Mental Health Law.

#### **National Institute of Justice**

The National Institute of Justice, within the U.S. Department of Justice, funds innovative law enforcement and judicial research studies, and has funded evaluation of drug treatment and mental health courts.

#### **Individual donors**



MEMORANDUM

To: Donna E. Shalala, President
From: Stephen Sapp, Chair, Faculty Senate (with signature)
Date: January 29, 2009

Subject: Faculty Senate Legislation #2008-16(B) - Proposal for the Establishment of the University of Miami School of Law Therapeutic Jurisprudence Center

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On January 28, 2009, the Senate voted to approve the proposal for the establishment as presented by Professor Richard Williamson for five years and any extensions thereafter.1

The proposal is enclosed for your information.
The legislation is now forwarded to you for your action.

SS/rh
Enclosure (proposal)

- cc: Thomas LeBlanc, Executive Vice President and Provost
Paul Verkuil, Acting Dean, School of Law
Richard Williamson, Professor, School of Law

[Please Contact the Senate office to view this proposal]

1 C18.2.2 Other NAMED or TITLED ACADEMIC UNITS established under Bylaw 6.6 may be approved by the Faculty Senate and the President. For each such approved unit, the Executive Vice-President and Provost shall consult with the dean of the host school at five year intervals to determine whether the unit remains active and shall report to the Faculty Senate the names of those that should be disestablished.

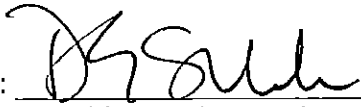
C18.2.3 Periodic five year reviews may be conducted on all programs, centers, institutes and similar academic units as deemed appropriate by the Faculty Senate or the Executive Vice-President and Provost.

Faculty Senate
1252 Memorial Drive, 325 Ashe Admin. Bldg.
Coral Gables, Florida 33146
Phone: (305) 284-3721 • Fax: (305) 284-5515
http://www.miami.edu/FacultySenate
email: facsen@miami.edu



Faculty Senate Legislation #2008-16(B) – Proposal for the Establishment of the University of Miami School of Law Therapeutic Jurisprudence Center

**PRESIDENT'S RESPONSE**

APPROVED:  DATE: 2/02/09  
(President's Signature)

OFFICE OR INDIVIDUAL TO IMPLEMENT: DEAN Paul VERKUIL

EFFECTIVE DATE OF LEGISLATION: IMMEDIATELY  
(if other than June 1 next following)

NOT APPROVED AND REFERRED TO: \_\_\_\_\_

REMARKS (IF NOT APPROVED): \_\_\_\_\_

**Faculty Senate Office**

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**From:** Faculty Senate Office  
**Sent:** Thursday, February 05, 2009 11:58 AM  
**To:** Verkuil, Paul R  
**Cc:** 'Williamson, Richard L.'  
**Subject:** Legislation 2008-16(B)-Proposal for the Establishment of the University of Miami School of Law Therapeutic Jurisprudence Center  
**Attachments:** 2008-16[B].pdf

Attached is your copy of approved Legislation 2008-16(B)-Proposal for the Establishment of the University of Miami School of Law Therapeutic Jurisprudence Center. We wish you and the Center personnel great success as you work to further the mission of the University of Miami through this important enterprise.

Please be aware that as required by section B6.6 of the Faculty Manual, a copy of the operating rules must be maintained in the files of the Faculty Senate. Therefore it is important that you send to the Senate office any such amendments [OR changes in the rules].

Again, we are happy to have assisted you in the creation of the Center.

Regards,  
Robyn Hardeman

Faculty Senate Office  
University of Miami  
325 Ashe Administration Building  
1252 Memorial Drive  
Coral Gables, FL 33146  
(305) 284-3721  
Fax: (305) 284-5515  
[www.miami.edu/fs](http://www.miami.edu/fs)

**Faculty Senate Office**

---

**From:** Faculty Senate Office  
**Sent:** Monday, February 02, 2009 12:33 PM  
**To:** Verkuil, Paul R; 'Williamson, Richard L.'  
**Cc:** Faculty Senate Office  
**Subject:** Legislation 2008-16(B)-Proposal for the Establishment of the University of Miami School of Law Therapeutic Jurisprudence Center  
**Attachments:** 2008-16B.pdf

Attached is your copy of Legislation 2008-16(B)-Proposal for the Establishment of the University of Miami School of Law Therapeutic Jurisprudence Center which is pending based on approval by the President. You will be sent a copy of the final legislation once it has been approved.

Regards,  
Robyn Hardeman

Faculty Senate Office  
University of Miami  
325 Ashe Administration Building  
1252 Memorial Drive  
Coral Gables, FL 33146  
(305) 284-3721  
Fax: (305) 284-5515  
[www.miami.edu/fs](http://www.miami.edu/fs)



**January 28, 2009  
Faculty Senate Minutes**

The meeting, held in Room 106 of the Schwartz Center Nursing and Health Studies Building, opened at 3:31 p.m.

**CHAIR'S REMARKS**

The Chair highlighted some of his written remarks and added that Gene Flipse, past director of the Student Health Center, died over the winter holiday. A moment of silence was held in memory of both Dr. Flipse and President Emeritus Stanford.

**PRESIDENT'S REMARKS**

The President discussed the current financial crisis, its impact on the university's budget, and the university's response. The administration has asked all areas of the University to cut spending, and hiring has been limited on Coral Gables campus and slowed down at Miller. Dean Prilleltensky, School of Education, has done an outstanding job of fundraising, including securing funding for the first endowed chair in the School's history. Fundraising in other areas has gone flat and is expected to decline. The Medical School is the biggest fundraising challenge. UM is experiencing the cash crisis that other schools and businesses are facing, making it challenging to make payroll. The three main problems facing us presently are the cash-flow issue, the fundraising issue, and the defined-benefit retirement account. The investment pool in that plan is significantly down, which means that UM will have to make a major contribution to shore it up. This will become less of a problem in the future because all new employees now are in the defined contribution plan. Although the decision has not been made, most likely there will be no pay increases next year because the focus is on preserving current jobs. Employees are still let go in the normal course of business, but every effort is being made to avoid wide-spread layoffs. She explained that she does not plan to take a symbolic cut in her salary as several presidents have done elsewhere because she prefers to make her contribution to the University. The Provost commented that there is great uncertainty about the impact of the financial situation on undergraduate admission and the timeline of how long this crisis will last; as a result, he is asking deans and administrators to prepare three budgets: one the same as this year, one with a 5% decrease, and one with a 10% decrease. Sometime around April, the decision will be made on which of these three budgets will be adopted.

The President entertained questions from the floor.

**STUDENT GOVERNMENT REPRESENTATIVES REMARKS**

Sagar Patel announced that two new ZipCars have been added to the fleet and are available to students, faculty, and employees. The advising survey last fall generated a good rate of response and the data are now being analyzed. He invited Senators to contact him for any help Student Government might render to the faculty.

He gave a brief explanation that the lowest-paid employees would be hit the hardest by no or low raises and thus any raises should be focused on them.

Professor Gonzalez entertained questions from the floor.

*The proposal passed unanimously.*

**PROPOSAL FOR THE ESTABLISHMENT OF THE UNIVERSITY OF MIAMI SCHOOL OF LAW THERAPEUTIC JURISPRUDENCE CENTER**

Professor Richard Williamson gave a brief overview of the proposal, which was unanimously recommended by the General Welfare Committee for approval by the Faculty Senate. The School of Law has created a template for centers within the school and this is the first proposed center under this model. In the future, the Center may collaborate with other schools, but it will start out within the School of Law only. He stressed that if/when this evolves into a University-wide center, the School will offer a new proposal for the necessary approval from the Senate.

Professor Williamson entertained questions from the floor.

*The proposal passed unanimously.*

**CHANGE OF SENATE REQUIREMENT FOR FINANCIAL REPORTING IN PROPOSALS FOR SCHOOL-BASED CENTERS AND INSTITUTES**

Professor Richard Williamson, speaking on behalf of General Welfare Committee member Mary Coombs, presented the unanimous recommendation of the GWC that the Senate rescind the action taken at the October 2008 meeting establishing an internal rule to require proposals for school-based centers and institutes to include a budget. He gave a brief account of the Senate's interest in the financial impact of centers and institutes and outlined the history of the October action. At the November meeting, the Senate passed a motion to send the matter back to the General Welfare Committee for further discussion and a recommendation. In light of the explicit expression of the Senate's intent that accompanied Legislation #2003-23(B), which modified sections B6.5, B6.6, and C18 of the Faculty Manual regarding centers and institutes—namely, that the Senate's interest in school-based centers and institutes is solely avoidance of confusion in naming—the General Welfare Committee brought forward its recommendation to rescind the action taken in October. The Provost assured the Senate that he scrutinizes budgets of all proposed centers and institutes very closely and that he will be happy to report regularly to the Senate on the "health" and economic impact of existing ones.

Professor Williamson entertained questions from the floor.

*The recommendation of the General Welfare Committee was approved by majority.*

**PROPOSAL FOR THE ESTABLISHMENT OF THE NEW GRADUATE DEGREE PROGRAM FOR THE MASTER OF MUSIC IN ARTS PRESENTING IN THE FROST SCHOOL OF MUSIC**

Professor Ed Asmus presented the proposal, endorsed by a majority of the General Welfare Committee for approval by the Faculty Senate. He clarified that there are four faculty members involved in the proposed program even though the proposal has materials from only one professor.

**EXECUTIVE SESSION**

**DISTINGUISHED FACULTY SCHOLAR AWARD RECOMMENDATION FROM THE  
GENERAL WELFARE COMMITTEE**

Professor Joseph Prospero, DFSA selection committee member, presented the recommendation of the committee, affirmed by the General Welfare Committee, that Yadong Luo, Department of Management, receive the 2008-09 Distinguished Faculty Scholar Award. In addition to explaining the number and quality of the nominations, he summarized the qualifications of Professor Luo and explained why the committee recommended him.

*Yadong Luo was unanimously approved as the recipient of the Distinguished Faculty Scholar Award.*

**FACULTY SENATE MEETING AGENDA**  
**Room 106, Schwartz Center for Nursing and Health Studies**  
**January 28, 2009**  
**AGENDA**

CLICK HERE to print all of the agenda materials

<https://www.miami.edu/faculty-senate/08-09Senate/1-28-09-FS/agenda-pkg.pdf>

Item B1 is NOT included in this package; it can be viewed/printed separately.

<b>A.</b>	<b><u>Introductory Matters</u></b>	<b>Approx. Time</b>
A1.	# <u>Chair's remarks</u> <a href="http://www.miami.edu/faculty-senate/08-09Senate/1-28-09-FS/Chair-Remarks.doc">http://www.miami.edu/faculty-senate/08-09Senate/1-28-09-FS/Chair-Remarks.doc</a>	3:30
A2.	President's remarks	3:35
A3.	Student Government Representative's remarks	3:55
A4.	Approval of today's agenda	4:00
A5.	# Approval of Faculty Senate meeting <u>minutes of November 19, 2008</u> <a href="https://www.miami.edu/faculty-senate/08-09Senate/1-28-09-FS/11-19-08_minutes.doc">https://www.miami.edu/faculty-senate/08-09Senate/1-28-09-FS/11-19-08_minutes.doc</a>	4:05
A6.	Other announcements	4:10
<b>B.</b>	<b><u>General Matters</u></b>	
B1.	# <u>Proposal for the establishment of the Community and Educational Well-Being (CEW) Research Center at the University of Miami School of Education – I.</u> Prilleltensky, J. McCafferty-Cepero, E. Aldarondo <a href="http://www.miami.edu/faculty-senate/08-09Senate/1-28-09-FS/CEW.pdf">http://www.miami.edu/faculty-senate/08-09Senate/1-28-09-FS/CEW.pdf</a>	4:15
B2.	# <u>Faculty Senate Budget and Compensation Committee proposed resolution – G.</u> Gonzalez <a href="http://www.miami.edu/faculty-senate/08-09Senate/1-28-09-FS/Budget-recd.doc">http://www.miami.edu/faculty-senate/08-09Senate/1-28-09-FS/Budget-recd.doc</a>	4:30
B3.	# <u>Proposal for the establishment of the University of Miami School of law Therapeutic Jurisprudence Center – R. Williamson</u> <a href="http://www.miami.edu/faculty-senate/08-09Senate/1-28-09-FS/Law-school-center.pdf">http://www.miami.edu/faculty-senate/08-09Senate/1-28-09-FS/Law-school-center.pdf</a>	4:45
B4.	# <u>Change of Senate requirement for financial reporting in proposals for school-based centers and institutes – R. Williamson</u> <a href="http://www.miami.edu/faculty-senate/08-09Senate/1-28-09-FS/financial-reporting-C-1.doc">http://www.miami.edu/faculty-senate/08-09Senate/1-28-09-FS/financial-reporting-C-1.doc</a>	5:00
B5.	# <u>Proposal for the establishment of the new graduate degree program for the Master of Music in Arts Presenting in the Frost School of Music – S. Berg, E. Asmus</u> <a href="http://www.miami.edu/faculty-senate/08-09Senate/1-28-09-FS/Music-master-arts-ppresenting.pdf">http://www.miami.edu/faculty-senate/08-09Senate/1-28-09-FS/Music-master-arts-ppresenting.pdf</a>	5:15
B6.	# <u>Inconsistency in Faculty Manual sections C13.4 and C13.5 regarding voting procedures in reviews – REMINDER ONLY - S. Sapp</u> <a href="http://www.miami.edu/faculty-senate/08-09Senate/1-28-09-FS/voting-procedures.doc">http://www.miami.edu/faculty-senate/08-09Senate/1-28-09-FS/voting-procedures.doc</a>	5:30
B7.	# <u>Apportionment of Senators – S. Sapp</u> <a href="https://www.miami.edu/faculty-senate/08-09Senate/1-28-09-FS/apportionment.xls">https://www.miami.edu/faculty-senate/08-09Senate/1-28-09-FS/apportionment.xls</a>	5:35
<b>C.</b>	<b><u>Other Business</u></b>	5:45
<b>D.</b>	<b><u>Executive Session</u></b>	
D1.	Distinguished Faculty Scholar Award recommendations from the General Welfare Committee – J. Prospero	5:50
<b>E.</b>	<b><u>Adjournment</u></b>	6:00
	# Related materials linked	



January 16, 2009

Dr. Stephen Sapp  
Chair, Faculty Senate

Dear Dr. Sapp,

The School of Law seeks Senate approval for the establishment of a new center with the title of the University of Miami School of Law Therapeutic Jurisprudence Center.

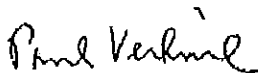
The center is the outgrowth of the pioneering work on the subject by Prof. Bruce Winick, one of the co-founders of the field. Information on the importance of the field, its rapid global growth, and the Law School's role in it are contained in two attachments: a summary of the proposal; and the documents that were presented to the School's faculty.

On December 15, 2008, the faculty of the Law School unanimously approved the establishment of the center. Prof. Winick will be its Director, working in conjunction with the Dean, and operating under the general policies of the faculty concerning Law School centers. Prof. Winick will be assisted by an Advisory Committee.

The ongoing costs of the Center are anticipated to be primarily for relatively inexpensive activities, e.g. conferences, seminars, travel, etc. We do not foresee any additional faculty or administrative hires for the center. To meet the Center's needs over the next five years, funding at the level of at least \$10,000 per year has been assured by the Law School. We have high hopes for both governmental and private funding, which will allow a significant expansion of the Center's activities. However, the Law School guarantees that in the next five years, the Center will engage in no activities requiring the commitment of resources unless sufficient Law School funding or outside funding have been secured. Accordingly, the Center will not become a drain on University finances.

From the outset, though funded and controlled by the Law School, the Center will be an asset to and will welcome the participation of others in the university. If substantial outside funding is secured, and there is sufficient interest in other schools and colleges, we would then return to the Senate for approval of a university-wide center.

Sincerely,

  
Paul Verkuil  
Interim Dean

Office of the Dean  
P.O. Box 248087  
Coral Gables, Florida 33124-8087  
305-284-2394



## Appendix A

### **Summary of Petition for Approval of a University of Miami School of Law Therapeutic Jurisprudence Center**

Approval is sought from the Faculty Senate for the establishment of a University of Miami School of Law Therapeutic Jurisprudence Center. On December 15, 2008, the law school faculty unanimously approved the creation of this Center. A copy of the full proposal approved by the law school faculty is attached.

The Center will conduct theoretical and empirical research, publish scholarly books, articles, and reports, perform training for judges and lawyers, conduct community programs, and hold conferences, symposia, and other educational programs locally, nationally, and internationally. It also will participate in existing and future clinical and skills training programs at the law school, helping to implement new models, to develop teaching materials, and to conduct research concerning these programs.

Colleagues from the University of Miami Miller School of Medicine's Department of Psychiatry and Behavioral Sciences and Department of Epidemiology and Public Health, the University of Miami Ethics Programs, the University of Miami School of Education and the University of Miami Department of Psychology have worked with law school faculty on Therapeutic Jurisprudence projects in the past. The Center will provide a structure to facilitate the continuation and expansion of such interdisciplinary and cross-disciplinary work with faculty at the University of Miami and at other academic institutions.

Therapeutic jurisprudence is an interdisciplinary approach to legal scholarship and law reform that sees the law itself as a therapeutic agent. The basic insight of therapeutic jurisprudence is that legal rules, legal practices, and the way legal actors (such as judges and lawyers) play their roles impose inevitable consequences on the psychological well-being of those affected. Therapeutic jurisprudence calls for a study of these consequences with the tools of the behavioral sciences so that we can increase our understanding of law and how it is applied and can reshape it to diminish its antitherapeutic effects and maximize its therapeutic potential. Therapeutic jurisprudence was founded in the late 1980s by Professor Bruce J. Winick of the University of Miami School of Law and Professor David B. Wexler of the University of Arizona College of Law and University of Puerto Rico School of Law. The field has grown enormously, and has emerged as a major force in mental health law and in law and psychology generally, and as a major scholarly approach in areas across the legal spectrum, including criminal, juvenile, and family law, health and disability law, constitutional law, employment law, and tort law. The field has generated approximately 45 books and 25 symposia issues in legal and interdisciplinary journals, as well as more than 900 articles by scholars in law, psychology, psychiatry, and philosophy in the U.S. and internationally. The field also has been influential on judging and lawyering in the U.S. and in countries throughout the world.

Because Professor Winick has been a pioneer and major architect of therapeutic jurisprudence, it is natural that the University of Miami School of Law establish a Therapeutic Jurisprudence Center to facilitate the further expansion of the field. Moreover, establishing a Therapeutic Jurisprudence Center at the law school will increase the law school's reputation within the law school and academic worlds generally, its ability to recruit faculty and students, and its ability to attract outside funding to support research and programmatic objectives. .

#### **Operating Rules and**

The Center Director will make operating decisions, including the planning of conferences and symposia, scholarly research, the hiring of student research assistants, etc. On major issues, he will make these decisions in consultation with the Advisory Board, the proposed membership of which is contained in Appendix B. On budgetary items, he will make decisions in consultation with the Dean of the Law School.

#### **Five-Year Projected Financial Support**

The Law School has committed to providing at least \$10,000.00 per year for the work of the Center. The Director will seek research grants and funding support with the approval of the Dean of the Law School. Research grants will be sought from governmental agencies such as the U.S. Department of Justice National Institute of Justice, U.S. Department of Justice Office of Justice Programs Bureau of Justice Assistance, U.S. Department of Justice Office of Juvenile Justice and Delinquency Prevention, U.S. National Institute on Drug Abuse of the National Institute of Health, and the National Science Foundation, and from private foundations such as the McArthur Foundation and the Clark Foundation, to enable empirical research studies to be performed by the Center in collaboration with scholars from the medical school and other departments in the university. Several such grants and separate studies are envisioned, including socio-legal studies of the courts in Miami-Dade County and elsewhere. It is anticipated that during the 5-year period, 2009-2013, several hundred thousand dollars in such grants will be obtained.

It also is anticipated that fund-raising with private donors will produce several hundred thousand dollars of support during this period to facilitate the work of the Center, including stipends for law student research assistants/fellows and graduate students, the holding of conferences, and the conduct of research.

## Appendix B

[NOTE: The following is the text of the proposal that was presented to the Law School faculty for its consideration on December 15, 2008. It was approved unanimously.]

# University of Miami School of Law Therapeutic Jurisprudence Center

## Mission Statement

This Memorandum proposes the creation of a University of Miami School of Law Therapeutic Jurisprudence Center. The Center will conduct theoretical and empirical research, publish scholarly books, articles, and reports, perform training for judges and lawyers, conduct community programs, and hold conferences, symposia, and other educational programs locally, nationally, and internationally. It also will participate in existing and future clinical and skills training programs at the law school, helping to implement new models, to develop teaching materials, and to conduct research concerning these programs.

Colleagues from the University of Miami Miller School of Medicine's Department of Psychiatry and Behavioral Sciences and Department of Epidemiology and Public Health, the University of Miami Ethics Programs, the University of Miami School of Education and the University of Miami Department of Psychology have worked with law school faculty on Therapeutic Jurisprudence projects in the past. The Center will provide a structure to facilitate the continuation and expansion of such interdisciplinary and cross-disciplinary work with faculty at the University of Miami and at other academic institutions.

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by scholars in law, psychology, psychiatry, and philosophy in the U.S. and internationally. The field also has been influential on judging and lawyering in the U.S. and in countries throughout the world.

Therapeutic jurisprudence has had an important impact internationally. The Third International Conference on Therapeutic Jurisprudence was held in June, 2006 in Perth, Australia, and included speakers from nine countries. In June/July of 2009, at the annual conference of the International Academy of Law and Mental Health, which will occur in New York City at the NYU School of Law, Professor Winick has organized 21 separate therapeutic jurisprudence sessions involving 97 therapeutic jurisprudence presentations by speakers from a dozen countries. Professor Winick is a frequent speaker at international meetings, and has brought therapeutic jurisprudence to countries throughout Europe, to Australia and New Zealand, and to Asia. Therapeutic jurisprudence work has been translated into Spanish, Italian, Hebrew, Japanese, and Urdu, and there is increasing interest in the work throughout the world.

Because Professor Winick has been a pioneer and major architect of therapeutic jurisprudence, it is natural that the University of Miami School of Law establish a Therapeutic Jurisprudence Center to facilitate the further expansion. Moreover, establishing a Therapeutic Jurisprudence Center at the law school would increase the law school's reputation within the law school and academic worlds generally, its ability to recruit faculty and students, and its ability to attract outside funding to support research and programmatic objectives. Having a Therapeutic Jurisprudence Center at the University of Miami would allow the university to capitalize on the increasing national and international interest in therapeutic jurisprudence.

The University of Miami Therapeutic Jurisprudence Center would be directed by Professor Winick. It will generate scholarship in a wide range of legal areas, including mental health law and law and psychology generally. Therapeutic jurisprudence has had an enormous impact on the courts and on the practice of the legal profession and the work of the Center will also include scholarship in the areas of judging, lawyering, and legal education. The work will be interdisciplinary in character, and will include both theoretical and empirical scholarship in these areas.

In addition to scholarship, The Center will sponsor academic and community programs and training sessions for judges, lawyers, scholars, and members of the community. The Center will also hold symposia and conferences at the law school and elsewhere, including an international conference on therapeutic jurisprudence.

### **Action Plan**

The kinds of activities that the Center will sponsor can be illustrated by several already-planned events that deal with therapeutic jurisprudence. These include a program scheduled for January 23, 2009, at the law school, entitled "Overcoming the Stigma of Disability," at which Professor Elyn Saks of the University of Southern California Law School, Professor James Jones of the University of Louisville School of Law, Professor

Steven Wizner of the Yale Law School, and Professor Winick will speak. The speakers subsequently will prepare short essays based on their presentations, and Professor Winick will seek publication in a law journal for this mini-symposium.

- Also illustrative is a juvenile justice program planned for January 30, 2009, co-sponsored by the law school and the University of Miami Medical School's Department of Psychiatry and Behavioral Sciences. Professors Winick and Perlmutter will speak on sessions relating to juvenile shackling and juvenile transfer, two topics upon which they are conducting therapeutic jurisprudence research. The conference received funding from the Miami-Dade County Children's Trust.
- Further illustrative is a symposium to be held on February 27, 2009, at the Florida Coastal Law School in Jacksonville in conjunction with the Florida Coastal Law Review. It will be a symposium on therapeutic jurisprudence, including Professor Winick, Professor Wexler, Professor Susan Daicoff of the Florida Coastal Law School, and other presenters, and will result in a symposium issue of the Florida Coastal Law Review devoted to therapeutic jurisprudence.
- In April, 2009, a program will be held at the law school on public health and therapeutic jurisprudence. This program is in the early planning stages, and will involve Professor Jose Szapozniak, Chair of the University of Miami Medical School's Department of Epidemiology and Public Health and members of his department, as well as Professor Winick.
- On May 12, 2009, Professor Winick will speak at a conference at the University of Zurich Law School. His topic will be Law as a Healing Profession. Professor Winick gave a lecture on therapeutic jurisprudence in May of 2008 at the University of Zurich Law School, and in this program, Professor Winick will present the concept of therapeutic jurisprudence to a wider audience of practicing lawyers and psychologists in Switzerland.
- On May 20, 2009, the Center, if approved, will present a panel at the annual meeting of the American Psychiatric Association in San Francisco. Professor Winick has been working with the forensic fellows and Dr. Anthony Castro of the Department of Psychiatry and Behavioral Sciences on research concerning an innovative therapeutic jurisprudence court, the Miami-Dade County Domestic Violence/Mental Health Court. We have been working with Judge Deborah White-Labora, the judge who started this program, and Judge Labora, Professor Winick, Dr. Castro, and the two forensic fellows will be presenting a program at the annual APA meeting describing this emerging judicial model and reporting on a longitudinal study that is still in progress. Additional data is being collected, and a

grant will be sought to enable the collection and analysis of this data. An article growing out of the study will be published in a legal or interdisciplinary journal.

- From June 28-July 5, 2009, Professor Winick will coordinate 21 separate therapeutic jurisprudence sessions at the annual meeting of the International Academy of Law and Mental Health in New York City, which will be held at the NYU School of Law. In addition to Professor Winick, several of our law school faculty members will be speaking at the New York Conference. These include Professors Donald Jones, Bernard Perlmutter, Egaro Rotman, Sarah Mourer, and Jennifer Zawid. Professors Winick and Wexler will edit a symposium issue of the International Journal of Law and Psychiatry on therapeutic jurisprudence, in which papers presented by some of the scholars at the New York meeting will be published.
- In July, 2009, Professors Winick and Wexler will co-teach a course in therapeutic jurisprudence at the London summer program held by our law school. Judges and scholars interested in therapeutic jurisprudence in the U.K. will be involved.

Future symposia, conferences, and academic programs will be held under the auspices of the Center at which Professor Winick and other law school faculty affiliated with the Center will participate. The past twenty years have seen the emergence of a variety of new judicial models, based on principles of therapeutic jurisprudence, that are designed to rehabilitate offenders and to assist victims of crime. Miami-Dade County has been an important center for such "problem-solving courts," as they increasingly are known. In 1989, the nation's first drug treatment court was established in Miami-Dade County, and a variety of specialized courts focusing on rehabilitation have since emerged. The University of Miami Therapeutic Jurisprudence Center will conduct empirical research in the judicial practices and processes in the Miami-Dade County criminal court drug treatment court, family court drug treatment court, dependency court drug treatment court, mental health court, domestic violence/mental health court, and unified family court. Professor Winick has been discussing with the judges of these courts the performance of empirical research, and has received their approval and cooperation to conduct such research. He has been working with Professor Richard Wiener of the University of Nebraska Law-Psychology program to develop research on the effectiveness of these court programs and on a variety of judicial techniques that they use and will be implementing. These courts apply principles and approaches of therapeutic jurisprudence and Professor Winick, Professor Wiener, Dr. Castro, and perhaps members of the Department of Public Health and Epidemiology and the School of Education will collaborate on such research and on obtaining foundation and government grants to perform it. This is envisioned to be a multi-year project that will produce a variety of reports and published articles in legal and interdisciplinary journals.

The Center will provide consultation to courts locally and elsewhere. Professor Winick is currently working with the judges of a variety of problem-solving courts in Miami-Dade County and Broward County and will expand these service projects and include research into the functioning of a number of the problem-solving court models that have been developed using the therapeutic jurisprudence framework. Professors Winick and Wexler have been the architects of the problem-solving court model. There now are more than 2000 drug treatment courts in the U.S., more than 200 domestic violence courts, and more than 100 mental health courts. Moreover, these court models are spreading throughout the world. Professors Winick and Wexler have published the leading book in the field, *Judging in a Therapeutic Key: Therapeutic Jurisprudence and the Courts* (Bruce J. Winick & David B. Wexler eds., 2003), and are frequent speakers at judicial conferences and training sessions. The Center, perhaps working in conjunction with the University of Miami Medical School's Department of Epidemiology and Public Health and with the School of Education, could contract with state court systems throughout the country to assist in the development, evaluation, and improvement of the increasing number of problem-solving courts that have been and will continue to be established as this model grows.

The Therapeutic Jurisprudence Center also would work closely with the law school's existing clinical programs, and would play an important role in the clinical legal education movement. Therapeutic jurisprudence already has made an important impact on clinical legal education and skills training. In September, 2005, Professors Winick and Wexler edited a symposium issue of the *St. Thomas University Law Review* containing 17 articles dealing with the application of therapeutic jurisprudence in differing clinical legal education and skills training contexts. Professor Winick also has spoken at the annual conference of the clinical section of the Association of American Law Schools, and in 2005, at the UCLA annual conference on Clinical Legal Education. Professors Winick and Wexler also published an article in the December, 2006 issue of the *Clinical Law Review*, the leading publication in the field, entitled "The Use of Therapeutic Jurisprudence in Law School Clinical Education: Transforming the Criminal Law Clinic."

Professor Winick has worked closely with the University of Miami School of Law's Children and Youth Law Clinic, which explicitly uses therapeutic jurisprudence in its work. He will continue to be involved in applying therapeutic jurisprudence in cases being litigated by the clinic and in training the clinic's students. A recent example is the juvenile shackling case being litigated in Miami-Dade, Broward, and Palm Beach counties and in several other jurisdictions throughout the U.S., in which Professors Winick and Perlmutter submitted a therapeutic jurisprudence affidavit concerning the anti-rehabilitative affects of the practice automatically of shackling juveniles to one another when they appear in court. Professor Bernard Perlmutter, the Director of the Children and Youth Law Clinic, co-teaches a course in lawyering skills with Professor Winick that is based on the therapeutic jurisprudence model. They plan to continue their work in this area, and hope to develop a future casebook in lawyering skills that relies on the therapeutic jurisprudence approach. Professors Winick and Perlmutter would like to extend the interviewing and counseling model they have developed beyond their course,

perhaps offering a variant on it as a first-year Spring semester elective, or in a broadened Litigation Skills Program once a new Director is hired, and also using it in the training of students in all of the Law School's clinical programs.

All five of our law school's educator faculty members -- Professors Perlmutter, Newman, Williams, Zawid, and Mourer -- have expressed interest in working with the Center and in using therapeutic jurisprudence in their clinical programs. The Center will attempt to facilitate the development of several new clinical programs in which therapeutic jurisprudence will be a major component. These include placing students in various problem-solving courts in Miami-Dade and Broward Counties under the supervision of Professor Zawid; a new mediation clinic under the supervision of Professor Zawid; Dean Marni Lennon, and adjunct Professor Mel Rubin; an externship clinical program in conjunction with the Office of the Miami-Dade County Public Defender and under the supervision of Professor Mourer, involving the presentation of mitigation evidence in capital cases; and an externship clinical program involving disability and fair housing law in which Professor Winick and Dean Lennon will work with local attorneys doing disability litigation and negotiation and settlement. The Center also will conduct interviewing and counseling training for the law school's new immigration clinic, as well as with our existing clinical programs. The Center thus will work with many of our law students involved in existing and future clinical programs and skills training opportunities. Professor Winick will work with the other clinical law professors at our law school to expand the use of therapeutic jurisprudence in their programs and to develop new ones based on his approach.

Professors Winick and Perlmutter also will perform empirical research on the juvenile transfer process, by which juveniles are transferred from the juvenile court to adult criminal court. They will study the direct file process in Florida through which prosecutors make these determinations without affording the juvenile a hearing on the all-important transfer issue. Winick is at work on a therapeutic jurisprudence critique of this process that suggests that providing the juvenile a hearing on the transfer issue would promote rehabilitation, and he hopes to conduct empirical research probing the impact of a hearing in this area. Winick and Perlmutter also were instrumental in using therapeutic jurisprudence analysis to convince the Florida Supreme Court to adopt a hearing procedure when juveniles in foster care are transferred to state mental hospitals or residential treatment centers, and they hope to conduct empirical research on the impact of such hearings. Such research will be conducted with affiliated scholars from the Department of Psychiatry and Behavioral Sciences, the Department of Epidemiology and Public Health, and the School of Education, and grants will be sought to fund such research. Funds will be sought to sponsor several law students as Therapeutic Jurisprudence Scholars each year to assist Professor Winick in the work of the Center and in conducting therapeutic jurisprudence research.

**The Director and other University of Miami School of Law Faculty  
Members Who Have Committed to Significant Participation in Center  
Activities.**



Professor Bruce J. Winick, Director  
Professor Bernard Perlmutter  
Professor Robert Ely Rosen  
Professor Donald Jones  
Professor Sarah Mourer  
Professor Jennifer Zawid  
Professor Kele Williams  
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Professor and International Law Librarian, Edgardo Rotman  
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John McShane, Esq, Dallas, Tx.. John McShane is a leading Texas trial lawyer in the areas of criminal and family law who considers himself a therapeutic jurisprudence lawyer. A leading proponent of collaborative law, he has been instrumental in establishing this movement in Texas. Attorney McShane is a frequent speaker at therapeutic jurisprudence conferences, and has written scholarly essays in the field.

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jurisprudence collaborator, is the co-founder of therapeutic jurisprudence. He is a frequent speaker at therapeutic jurisprudence conferences and a leading scholar in the field. He teaches therapeutic jurisprudence at both of the law schools with which he is affiliated.

### **Comparative Advantages of this Center in Relation to Comparable Other Centers, Institutes, Programs, etc.**

The University of Miami Therapeutic Jurisprudence Center will be the most comprehensive center for therapeutic jurisprudence research and education in the world. The University of Puerto Rico School of Law has an existing international network on therapeutic jurisprudence, directed by Professor Wexler. This functions as a clearing house for therapeutic jurisprudence work, coordinates the therapeutic jurisprudence listserv, and has a web site that contains a bibliography of therapeutic jurisprudence scholarly work. However, this Network itself, unlike the proposed University of Miami Center, does not itself conduct research or run symposia or other educational programs.

The William and Mary Law School has a therapeutic jurisprudence program under the auspices of Professor Gregory Baker, a former drug treatment court judge who is a member of the William and Mary faculty. The William and Mary therapeutic jurisprudence program conducts a clinical program that places students in problem-solving courts, and Professor Baker teaches therapeutic jurisprudence courses and seminars that produce student-authored therapeutic jurisprudence work. It also publishes an occasional newsletter. The William and Mary program, unlike the University of Miami Center, does not itself conduct research and has not as yet held symposia or conferences.

A variety of other American law schools and law schools in Australia, New Zealand, and Canada offer courses or seminars in therapeutic jurisprudence, but none have a comprehensive center or institute devoted to therapeutic jurisprudence. Professor Michael King of the Monash University School of Law teaches in the area and is organizing an international conference in 2010 on therapeutic jurisprudence and restorative justice, at which Professors Winick and Wexler will be keynote speakers. He also was instrumental in organizing the Third International Conference on Therapeutic Jurisprudence, held in Perth, Australia, in 2006, and in establishing the Australasian Therapeutic Jurisprudence web site. Although Professor King publishes in the area and holds conferences, Monash does not have a Center or Institute relating to therapeutic jurisprudence.

Professor Susan Daicoff of the Florida Coastal Law School offers courses in therapeutic jurisprudence, and the Florida Coastal Law Review has published symposia issues on therapeutic jurisprudence. The University of Puerto Rico Revista Juridica has a therapeutic jurisprudence forum, which from time to time publishes therapeutic jurisprudence articles. Our law school's journal, Psychology, Public Policy & Law, also has published several symposia issues on therapeutic jurisprudence. There is, however, no official therapeutic jurisprudence journal, and none is planned.

Although other law schools thus have therapeutic jurisprudence initiatives, none has a comprehensive Center such as the one proposed for the University of Miami.

### **Identification of Non-Law School Potential Funding Sources**

#### **McArthur Foundation**

The McArthur Foundation has had a longstanding interest in mental disability law and juvenile law. I was a consultant to its Research Task Force on Mental Health Law.

#### **National Institute of Justice**

The National Institute of Justice, within the U.S. Department of Justice, funds innovative law enforcement and judicial research studies, and has funded evaluation of drug treatment and mental health courts.

#### **Individual donors**

**General Welfare Committee**  
**January 21, 2009**  
**3:30 p.m.**  
**(School of Law Library-Conference Room, 4<sup>th</sup> floor)**

[CLICK HERE](#) to print the agenda package  
(print new item #8 separately)

1. Chair's remarks (3:30)
2. # Review of Faculty Senate Meeting Minutes of November 21, 2008 (3:40)
3. # Proposal for the establishment of the Community and Educational Well-Being (CEW) Research Center at the University of Miami School of Education - J. McCafferty-Cepero (3:45)
4. Recommendation of the Distinguished Faculty Award Committee Awardee – J. Prospero (4:00)
5. # Proposal for the establishment of the new graduate degree program for the Master of Music in Arts Presenting in the Frost School of Music – E. Asmus (4:05)
6. # Proposal for changes to the Tenure Review Board charge – S. Cantrell (4:20)
7. # Faculty Senate Budget and Compensation Committee proposed resolution – G. Gonzalez (4:40)
8. ## Proposal for the establishment of the University of Miami School of Law Therapeutic Jurisprudence Center – R. Williamson (4:55)
89. # Apportionment of Senators - S. Sapp (4:55)5:10)
910. Old business
  - # Modification of the Senate requirement for financial reporting in proposal for school-based centers and institutes – S. Sapp (5:00)15)
  - # Inconsistency in the Faculty Manual sections C13.4 and C13.5 regarding voting procedures in reviews – S. Sapp (5:15)30)
  - # Voting rights of newly hired faculty on all matters including evaluations of deans and chairs – S. Sapp (5:35)50)

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# related material included

## materials attached in email

January 16, 2009

Dr. Stephen Sapp  
Chair, Faculty Senate

Dear Dr. Sapp,

The School of Law seeks Senate approval for the establishment of a new center with the title of the University of Miami School of Law Therapeutic Jurisprudence Center.

The center is the outgrowth of the pioneering work on the subject by Prof. Bruce Winick, one of the co-founders of the field. Information on the importance of the field, its rapid global growth, and the Law School's role in it are contained in two attachments: a summary of the proposal; and the documents that were presented to the School's faculty.

On December 15, 2008, the faculty of the Law School unanimously approved the establishment of the center. Prof. Winick will be its Director, working in conjunction with the Dean, and operating under the general policies of the faculty concerning Law School centers. Prof. Winick will be assisted by an Advisory Committee.

The ongoing costs of the Center are anticipated to be primarily for relatively inexpensive activities, e.g. conferences, seminars, travel, etc. We do not foresee any additional faculty or administrative hires for the center. To meet the Center's needs over the next five years, funding at the level of at least \$10,000 per year has been assured by the Law School. We have high hopes for both governmental and private funding, which will allow a significant expansion of the Center's activities. However, the Law School guarantees that in the next five years, the Center will engage in no activities requiring the commitment of resources unless sufficient Law School funding or outside funding have been secured. Accordingly, the Center will not become a drain on University finances.

From the outset, though funded and controlled by the Law School, the Center will be an asset to and will welcome the participation of others in the university. If substantial outside funding is secured, and there is sufficient interest in other schools and colleges, we would then return to the Senate for approval of a university-wide center.

Sincerely,

Paul Verkuil  
Interim Dean

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## Appendix A

### **Summary of Petition for Approval of a University of Miami School of Law Therapeutic Jurisprudence Center**

Approval is sought from the Faculty Senate for the establishment of a University of Miami School of Law Therapeutic Jurisprudence Center. On December 15, 2008, the law school faculty unanimously approved the creation of this Center. A copy of the full proposal approved by the law school faculty is attached.

The Center will conduct theoretical and empirical research, publish scholarly books, articles, and reports, perform training for judges and lawyers, conduct community programs, and hold conferences, symposia, and other educational programs locally, nationally, and internationally. It also will participate in existing and future clinical and skills training programs at the law school, helping to implement new models, to develop teaching materials, and to conduct research concerning these programs.

Colleagues from the University of Miami Miller School of Medicine's Department of Psychiatry and Behavioral Sciences and Department of Epidemiology and Public Health, the University of Miami Ethics Programs, the University of Miami School of Education and the University of Miami Department of Psychology have worked with law school faculty on Therapeutic Jurisprudence projects in the past. The Center will provide a structure to facilitate the continuation and expansion of such interdisciplinary and cross-disciplinary work with faculty at the University of Miami and at other academic institutions.

Therapeutic jurisprudence is an interdisciplinary approach to legal scholarship and law reform that sees the law itself as a therapeutic agent. The basic insight of therapeutic jurisprudence is that legal rules, legal practices, and the way legal actors (such as judges and lawyers) play their roles impose inevitable consequences on the psychological well-being of those affected. Therapeutic jurisprudence calls for a study of these consequences with the tools of the behavioral sciences so that we can increase our understanding of law and how it is applied and can reshape it to diminish its antitherapeutic effects and maximize its therapeutic potential. Therapeutic jurisprudence was founded in the late 1980s by Professor Bruce J. Winick of the University of Miami School of Law and Professor David B. Wexler of the University of Arizona College of Law and University of Puerto Rico School of Law. The field has grown enormously, and has emerged as a major force in mental health law and in law and psychology generally, and as a major scholarly approach in areas across the legal spectrum, including criminal, juvenile, and family law, health and disability law, constitutional law, employment law, and tort law. The field has generated approximately 45 books and 25 symposia issues in legal and interdisciplinary journals, as well as more than 900 articles by scholars in law, psychology, psychiatry, and philosophy in the U.S. and internationally. The field also has been influential on judging and lawyering in the U.S. and in countries throughout the world.

Because Professor Winick has been a pioneer and major architect of therapeutic jurisprudence, it is natural that the University of Miami School of Law establish a Therapeutic Jurisprudence Center to facilitate the further expansion of the field. Moreover, establishing a Therapeutic Jurisprudence Center at the law school will increase the law school's reputation within the law school and academic worlds generally, its ability to recruit faculty and students, and its ability to attract outside funding to support research and programmatic objectives. .

### **Operating Rules and**

The Center Director will make operating decisions, including the planning of conferences and symposia, scholarly research, the hiring of student research assistants, etc. On major issues, he will make these decisions in consultation with the Advisory Board, the proposed membership of which is contained in Appendix B. On budgetary items, he will make decisions in consultation with the Dean of the Law School.

### **Five-Year Projected Financial Support**

The Law School has committed to providing at least \$10,000.00 per year for the work of the Center. The Director will seek research grants and funding support with the approval of the Dean of the Law School. Research grants will be sought from governmental agencies such as the U.S. Department of Justice National Institute of Justice, U.S. Department of Justice Office of Justice Programs Bureau of Justice Assistance, U.S. Department of Justice Office of Juvenile Justice and Delinquency Prevention, U.S. National Institute on Drug Abuse of the National Institute of Health, and the National Science Foundation, and from private foundations such as the McArthur Foundation and the Clark Foundation, to enable empirical research studies to be performed by the Center in collaboration with scholars from the medical school and other departments in the university. Several such grants and separate studies are envisioned, including socio-legal studies of the courts in Miami-Dade County and elsewhere. It is anticipated that during the 5-year period, 2009-2013, several hundred thousand dollars in such grants will be obtained.

It also is anticipated that fund-raising with private donors will produce several hundred thousand dollars of support during this period to facilitate the work of the Center, including stipends for law student research assistants/fellows and graduate students, the holding of conferences, and the conduct of research.

## Appendix B

**[NOTE: The following is the text of the proposal that was presented to the Law School faculty for its consideration on December 15, 2008. It was approved unanimously.]**

# University of Miami School of Law Therapeutic Jurisprudence Center

## Mission Statement

This Memorandum proposes the creation of a University of Miami School of Law Therapeutic Jurisprudence Center. The Center will conduct theoretical and empirical research, publish scholarly books, articles, and reports, perform training for judges and lawyers, conduct community programs, and hold conferences, symposia, and other educational programs locally, nationally, and internationally. It also will participate in existing and future clinical and skills training programs at the law school, helping to implement new models, to develop teaching materials, and to conduct research concerning these programs.

Colleagues from the University of Miami Miller School of Medicine's Department of Psychiatry and Behavioral Sciences and Department of Epidemiology and Public Health, the University of Miami Ethics Programs, the University of Miami School of Education and the University of Miami Department of Psychology have worked with law school faculty on Therapeutic Jurisprudence projects in the past. The Center will provide a structure to facilitate the continuation and expansion of such interdisciplinary and cross-disciplinary work with faculty at the University of Miami and at other academic institutions.

Therapeutic jurisprudence is an interdisciplinary approach to legal scholarship and law reform that sees the law itself as a therapeutic agent. The basic insight of therapeutic jurisprudence is that legal rules, legal practices, and the way legal actors (such as judges and lawyers) play their roles impose inevitable consequences on the psychological well-being of those affected. Therapeutic jurisprudence calls for a study of these consequences with the tools of the behavioral sciences so that we can increase our understanding of law and how it is applied and can reshape it to diminish its antitherapeutic effects and maximize its therapeutic potential. Therapeutic jurisprudence was founded in the late 1980s by Professor Bruce J. Winick of the University of Miami School of Law and Professor David B. Wexler of the University of Arizona College of Law and University of Puerto Rico School of Law. The field has grown enormously, and has emerged as a major force in mental health law and in law and psychology generally, and as a major scholarly approach in areas across the legal spectrum, including criminal, juvenile, and family law, health and disability law, constitutional law,

employment law, and tort law. The field has generated approximately 45 books and 25 symposia issues in legal and interdisciplinary journals, as well as more than 900 articles by scholars in law, psychology, psychiatry, and philosophy in the U.S. and internationally. The field also has been influential on judging and lawyering in the U.S. and in countries throughout the world.

Therapeutic jurisprudence has had an important impact internationally. The Third International Conference on Therapeutic Jurisprudence was held in June, 2006 in Perth, Australia, and included speakers from nine countries. In June/July of 2009, at the annual conference of the International Academy of Law and Mental Health, which will occur in New York City at the NYU School of Law, Professor Winick has organized 21 separate therapeutic jurisprudence sessions involving 97 therapeutic jurisprudence presentations by speakers from a dozen countries. Professor Winick is a frequent speaker at international meetings, and has brought therapeutic jurisprudence to countries throughout Europe, to Australia and New Zealand, and to Asia. Therapeutic jurisprudence work has been translated into Spanish, Italian, Hebrew, Japanese, and Urdu, and there is increasing interest in the work throughout the world.

Because Professor Winick has been a pioneer and major architect of therapeutic jurisprudence, it is natural that the University of Miami School of Law establish a Therapeutic Jurisprudence Center to facilitate the further expansion. Moreover, establishing a Therapeutic Jurisprudence Center at the law school would increase the law school's reputation within the law school and academic worlds generally, its ability to recruit faculty and students, and its ability to attract outside funding to support research and programmatic objectives. Having a Therapeutic Jurisprudence Center at the University of Miami would allow the university to capitalize on the increasing national and international interest in therapeutic jurisprudence.

The University of Miami Therapeutic Jurisprudence Center would be directed by Professor Winick. It will generate scholarship in a wide range of legal areas, including mental health law and law and psychology generally. Therapeutic jurisprudence has had an enormous impact on the courts and on the practice of the legal profession and the work of the Center will also include scholarship in the areas of judging, lawyering, and legal education. The work will be interdisciplinary in character, and will include both theoretical and empirical scholarship in these areas.

In addition to scholarship, The Center will sponsor academic and community programs and training sessions for judges, lawyers, scholars, and members of the community. The Center will also hold symposia and conferences at the law school and elsewhere, including an international conference on therapeutic jurisprudence.

### **Action Plan**

The kinds of activities that the Center will sponsor can be illustrated by several already-planned events that deal with therapeutic jurisprudence. These include a program

scheduled for January 23, 2009, at the law school, entitled "Overcoming the Stigma of Disability," at which Professor Elyn Saks of the University of Southern California Law School, Professor James Jones of the University of Louisville School of Law, Professor Steven Wizner of the Yale Law School, and Professor Winick will speak. The speakers subsequently will prepare short essays based on their presentations, and Professor Winick will seek publication in a law journal for this mini-symposium.

- Also illustrative is a juvenile justice program planned for January 30, 2009, co-sponsored by the law school and the University of Miami Medical School's Department of Psychiatry and Behavioral Sciences. Professors Winick and Perlmutter will speak on sessions relating to juvenile shackling and juvenile transfer, two topics upon which they are conducting therapeutic jurisprudence research. The conference received funding from the Miami-Dade County Children's Trust.
- Further illustrative is a symposium to be held on February 27, 2009, at the Florida Coastal Law School in Jacksonville in conjunction with the Florida Coastal Law Review. It will be a symposium on therapeutic jurisprudence, including Professor Winick, Professor Wexler, Professor Susan Daicoff of the Florida Coastal Law School, and other presenters, and will result in a symposium issue of the Florida Coastal Law Review devoted to therapeutic jurisprudence.
- In April, 2009, a program will be held at the law school on public health and therapeutic jurisprudence. This program is in the early planning stages, and will involve Professor Jose Szapozniak, Chair of the University of Miami Medical School's Department of Epidemiology and Public Health and members of his department, as well as Professor Winick.
- On May 12, 2009, Professor Winick will speak at a conference at the University of Zurich Law School. His topic will be Law as a Healing Profession. Professor Winick gave a lecture on therapeutic jurisprudence in May of 2008 at the University of Zurich Law School, and in this program, Professor Winick will present the concept of therapeutic jurisprudence to a wider audience of practicing lawyers and psychologists in Switzerland.
- On May 20, 2009, the Center, if approved, will present a panel at the annual meeting of the American Psychiatric Association in San Francisco. Professor Winick has been working with the forensic fellows and Dr. Anthony Castro of the Department of Psychiatry and Behavioral Sciences on research concerning an innovative therapeutic jurisprudence court, the Miami-Dade County Domestic Violence/Mental Health Court. We have been working with Judge Deborah White-Labora, the judge who started

this program, and Judge Labora, Professor Winick, Dr. Castro, and the two forensic fellows will be presenting a program at the annual APA meeting describing this emerging judicial model and reporting on a longitudinal study that is still in progress. Additional data is being collected, and a grant will be sought to enable the collection and analysis of this data. An article growing out of the study will be published in a legal or interdisciplinary journal.

- From June 28-July 5, 2009, Professor Winick will coordinate 21 separate therapeutic jurisprudence sessions at the annual meeting of the International Academy of Law and Mental Health in New York City, which will be held at the NYU School of Law. In addition to Professor Winick, several of our law school faculty members will be speaking at the New York Conference. These include Professors Donald Jones, Bernard Perlmutter, Egardo Rotman, Sarah Mourer, and Jennifer Zawid. Professors Winick and Wexler will edit a symposium issue of the International Journal of Law and Psychiatry on therapeutic jurisprudence, in which papers presented by some of the scholars at the New York meeting will be published.
- In July, 2009, Professors Winick and Wexler will co-teach a course in therapeutic jurisprudence at the London summer program held by our law school. Judges and scholars interested in therapeutic jurisprudence in the U.K. will be involved.

Future symposia, conferences, and academic programs will be held under the auspices of the Center at which Professor Winick and other law school faculty affiliated with the Center will participate. The past twenty years have seen the emergence of a variety of new judicial models, based on principles of therapeutic jurisprudence, that are designed to rehabilitate offenders and to assist victims of crime. Miami-Dade County has been an important center for such "problem-solving courts," as they increasingly are known. In 1989, the nation's first drug treatment court was established in Miami-Dade County, and a variety of specialized courts focusing on rehabilitation have since emerged. The University of Miami Therapeutic Jurisprudence Center will conduct empirical research in the judicial practices and processes in the Miami-Dade County criminal court drug treatment court, family court drug treatment court, dependency court drug treatment court, mental health court, domestic violence/mental health court, and unified family court. Professor Winick has been discussing with the judges of these courts the performance of empirical research, and has received their approval and cooperation to conduct such research. He has been working with Professor Richard Wiener of the University of Nebraska Law-Psychology program to develop research on the effectiveness of these court programs and on a variety of judicial techniques that they use and will be implementing. These courts apply principles and approaches of therapeutic jurisprudence and Professor Winick, Professor Wiener, Dr. Castro, and perhaps members of the Department of Public Health and Epidemiology and the School of Education will



collaborate on such research and on obtaining foundation and government grants to perform it. This is envisioned to be a multi-year project that will produce a variety of reports and published articles in legal and interdisciplinary journals.

The Center will provide consultation to courts locally and elsewhere. Professor Winick is currently working with the judges of a variety of problem-solving courts in Miami-Dade County and Broward County and will expand these service projects and include research into the functioning of a number of the problem-solving court models that have been developed using the therapeutic jurisprudence framework. Professors Winick and Wexler have been the architects of the problem-solving court model. There now are more than 2000 drug treatment courts in the U.S., more than 200 domestic violence courts, and more than 100 mental health courts. Moreover, these court models are spreading throughout the world. Professors Winick and Wexler have published the leading book in the field, *Judging in a Therapeutic Key: Therapeutic Jurisprudence and the Courts* (Bruce J. Winick & David B. Wexler eds., 2003), and are frequent speakers at judicial conferences and training sessions. The Center, perhaps working in conjunction with the University of Miami Medical School's Department of Epidemiology and Public Health and with the School of Education, could contract with state court systems throughout the country to assist in the development, evaluation, and improvement of the increasing number of problem-solving courts that have been and will continue to be established as this model grows.

The Therapeutic Jurisprudence Center also would work closely with the law school's existing clinical programs, and would play an important role in the clinical legal education movement. Therapeutic jurisprudence already has made an important impact on clinical legal education and skills training. In September, 2005, Professors Winick and Wexler edited a symposium issue of the *St. Thomas University Law Review* containing 17 articles dealing with the application of therapeutic jurisprudence in differing clinical legal education and skills training contexts. Professor Winick also has spoken at the annual conference of the clinical section of the Association of American Law Schools, and in 2005, at the UCLA annual conference on Clinical Legal Education. Professors Winick and Wexler also published an article in the December, 2006 issue of the *Clinical Law Review*, the leading publication in the field, entitled "The Use of Therapeutic Jurisprudence in Law School Clinical Education: Transforming the Criminal Law Clinic."

Professor Winick has worked closely with the University of Miami School of Law's Children and Youth Law Clinic, which explicitly uses therapeutic jurisprudence in its work. He will continue to be involved in applying therapeutic jurisprudence in cases being litigated by the clinic and in training the clinic's students. A recent example is the juvenile shackling case being litigated in Miami-Dade, Broward, and Palm Beach counties and in several other jurisdictions throughout the U.S., in which Professors Winick and Perlmutter submitted a therapeutic jurisprudence affidavit concerning the anti-rehabilitative affects of the practice automatically of shackling juveniles to one another when they appear in court. Professor Bernard Perlmutter, the Director of the

Children and Youth Law Clinic, co-teaches a course in lawyering skills with Professor Winick that is based on the therapeutic jurisprudence model. They plan to continue their work in this area, and hope to develop a future casebook in lawyering skills that relies on the therapeutic jurisprudence approach. Professors Winick and Perlmutter would like to extend the interviewing and counseling model they have developed beyond their course, perhaps offering a variant on it as a first-year Spring semester elective, or in a broadened Litigation Skills Program once a new Director is hired, and also using it in the training of students in all of the Law School's clinical programs.

All five of our law school's educator faculty members – Professors Perlmutter, Newman, Williams, Zawid, and Mourer – have expressed interest in working with the Center and in using therapeutic jurisprudence in their clinical programs. The Center will attempt to facilitate the development of several new clinical programs in which therapeutic jurisprudence will be a major component. These include placing students in various problem-solving courts in Miami-Dade and Broward Counties under the supervision of Professor Zawid; a new mediation clinic under the supervision of Professor Zawid; Dean Marni Lennon, and adjunct Professor Mel Rubin; an externship clinical program in conjunction with the Office of the Miami-Dade County Public Defender and under the supervision of Professor Mourer, involving the presentation of mitigation evidence in capital cases; and an externship clinical program involving disability and fair housing law in which Professor Winick and Dean Lennon will work with local attorneys doing disability litigation and negotiation and settlement. The Center also will conduct interviewing and counseling training for the law school's new immigration clinic, as well as with our existing clinical programs. The Center thus will work with many of our law students involved in existing and future clinical programs and skills training opportunities. Professor Winick will work with the other clinical law professors at our law school to expand the use of therapeutic jurisprudence in their programs and to develop new ones based on his approach.

Professors Winick and Perlmutter also will perform empirical research on the juvenile transfer process, by which juveniles are transferred from the juvenile court to adult criminal court. They will study the direct file process in Florida through which prosecutors make these determinations without affording the juvenile a hearing on the all-important transfer issue. Winick is at work on a therapeutic jurisprudence critique of this process that suggests that providing the juvenile a hearing on the transfer issue would promote rehabilitation, and he hopes to conduct empirical research probing the impact of a hearing in this area. Winick and Perlmutter also were instrumental in using therapeutic jurisprudence analysis to convince the Florida Supreme Court to adopt a hearing procedure when juveniles in foster care are transferred to state mental hospitals or residential treatment centers, and they hope to conduct empirical research on the impact of such hearings. Such research will be conducted with affiliated scholars from the Department of Psychiatry and Behavioral Sciences, the Department of Epidemiology and Public Health, and the School of Education, and grants will be sought to fund such research. Funds will be sought to sponsor several law students as Therapeutic

Jurisprudence Scholars each year to assist Professor Winick in the work of the Center and in conducting therapeutic jurisprudence research.



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#### University of Miami school of law establishes nation's First therapeutic jurisprudence center

Posted on Monday, September 21, 2009

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Coral Gables, FL (September 21, 2009) –The University of Miami School of Law announces the establishment of the Therapeutic Jurisprudence Center. The center will be directed by Professor Bruce J. Winick, who, along with Professor David B. Wexler of the University of Puerto Rico School of Law, founded the field of therapeutic jurisprudence in the late 1980s. The inauguration of the Therapeutic Jurisprudence Center will be celebrated on Thursday evening, September 24th at the Lowe Art Museum on campus. Florida Supreme Court Justice Barbara J. Pariente will serve as keynote speaker for the invitation-only event. President Donna E. Shalala will give welcoming remarks.

Announcements

North America

Source: LawFuel.com

"The center will play a significant role in identifying the practical insights of law and psychology," said Dean Patricia D. White. "Professor Winick's work in this arena has been foundational and this center will advance his efforts, taking advantage of the significant interdisciplinary resources of the university."

The center is interdisciplinary in nature, and has ties to other departments and professors within the University and other universities. It will conduct theoretical and empirical research; publish scholarly books, articles, reports; and perform training for judges and lawyers. It will also conduct community programs, host conferences, symposia, and other educational programs. In addition, the center will participate in existing and future clinical and skills training programs at the Law School, helping to train students in the interpersonal skills needed for effective lawyering and counseling.

"The center brings together an interdisciplinary team to conduct research on the legal system," said Winick. "We are seeking grants from government and private foundations to study how the courts can use therapeutic jurisprudence to help offenders solve the psychosocial problems that often are responsible for their repeated court involvement. The center already has received a generous grant from the University of Miami Arshf Ethics and Community Research Projects."

Therapeutic jurisprudence sees the law itself as a therapeutic agent. This innovative field uses the tools of the behavioral sciences to increase the understanding of law and how it can be reshaped to diminish its anti-therapeutic effects and maximize its therapeutic potential. The field has grown enormously and has been recognized as a key scholarly approach in areas across the legal spectrum, including criminal, juvenile, and family law, health and disability law, constitutional law, employment law, and tort law.

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