

# CENTER FOR ETHICS & PUBLIC SERVICE NEWS

University of Miami School of Law

Volume 5, Issue 1

Fall 2005

## A NOTE FROM CHILDREN & YOUTH LAW CLINIC DIRECTOR BERNIE PERLMUTTER



Bernie Perlmutter and Kele Williams

January 2006 marks the 10-year anniversary not just of the Center for Ethics and Public Service, but also of the Children & Youth Law Clinic. In the spring 1996 semester, the Clinic hung out its shingle and opened its doors to nine legal interns and a small docket of cases. Over the succeeding decade, the Clinic developed a national reputation for its cutting-edge advocacy on behalf of teenagers in the foster care system, providing holistic legal services for clients and fighting for institutional reform.

Whether arguing a case on behalf of an individual child, training law students, or engaging in law reform, the Clinic has been a powerful force for children's rights. Now in our tenth year, we are proud to be formally affiliated with the law school's Center for Ethics and Public Service. With the Children & Youth Law Clinic and the Community Health Rights Education Clinic operating under the same institutional umbrella, the law school for the first time has an integrated live-client clinical program. In the pages of this newsletter, you will read about the work of our outstanding interns, who exemplify both the pedagogical and social justice missions of our Clinic.

## CHILDREN & YOUTH LAW CLINIC MERGES WITH CEPS

by CYLC Director Bernie Perlmutter & Associate Director Kele Williams

When the Children & Youth Law Clinic opened its doors in 1996, among our first clients was a teenager from Haiti, abused and abandoned by his family, living alone on the streets of Miami, and a 14 year-old foster child, a victim of sexual abuse, locked up in a crisis stabilization unit at a private psychiatric hospital in Hialeah. From its earliest days, our students were exposed to real life legal problems and real life ethical dilemmas, with which they grappled in the attorney-client relationship and in court proceedings.

Over the past ten years, the Clinic has fought for institutional reforms, enabling our students to not just *learn* the law, but also to help *make* the law. Teenagers who leave the Florida foster care system face enormous challenges, including homelessness, unemployment, chronic illnesses, and poor educational outcomes. The Clinic litigated numerous federal and state class action lawsuits seeking to reform Florida's foster care system, and submitted *amicus curiae* briefs in a number of cases of national significance. It fought for the civil rights of foster children in the landmark Florida Supreme Court case, *M.W. v. Davis & DCF*, which resulted in the Court's adoption of Florida Rule of Juvenile Procedure 8.350, mandating due process protections for foster children committed to state psychiatric facilities.

This year's partnership with the Ethics Center gives UM law students the opportunity to develop skills and values that are the hallmarks of clinical legal education: problem solving, legal analysis and reasoning, legal research, factual investigation, communication, counseling, negotiation, litigation, alternative dispute resolution, organization and management of legal work, recognizing and resolving ethical dilemmas, providing competent representation, striving to promote justice, fairness and morality, and striving to improve the profession. The Clinic's expansion this year into a larger renovated office, including a work room for students and conference room for client meetings, allows law students to practice in a professional setting, in close proximity to faculty.

Since its establishment, I have been the director of the Clinic. Associate Director **Kele Williams** joined us in June of 2005 from the Brennan Center for Justice at NYU Law School, where she supervised law students in NYU's public policy clinic. **Senior Visiting Fellow Sandy Bohrer**, a partner at Holland & Knight, began in August. With **Peter R. Palermo Fellow Mary Clark** and **Florida Bar Foundation Fellow Talia Houminer**, we now have a team of committed lawyers and mentors for our 18 Interns. While all interns have developed strong client relationships and engaged in zealous advocacy, we highlight a few.

**Interns Jeff Greyber** and **Drews Gossel** filed a successful motion to return one client to a foster home in the community where he had established a support network at church and achieved academic success. According to Jeff, "The move was very important in providing the

## CENTER AWARDS

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SOCIETY, 2002

ETHICS & PUBLIC TRUST *ARETE*  
AWARD, MIAMI-DADE COUNTY  
COMMISSION, 2001

SEVENTH ANNUAL  
PROFESSIONALISM AWARD,  
THE FLORIDA BAR, 2000

FACULTY PROFESSIONALISM AWARD,  
FLORIDA SUPREME COURT, 1999

GAMBRELL PROFESSIONALISM  
AWARD, AMERICAN BAR  
ASSOCIATION, 1998

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client with some stability during his final year of foster care, after a life marked by over 30 different foster homes and constant instability. It was particularly gratifying to help make the client's wishes come true."

Although another client was diagnosed with moderate mental retardation and severe emotional impairments in her early teens, the various agencies and schools responsible for her well-being have consistently failed to provide even the most basic mental health and special education services. Through the diligent efforts of **Intern Kevin Probst**, the juvenile court retained jurisdiction beyond age 18, when teens age out of foster care, and the client is beginning to receive the needed education, health services, and job skills training.

**Intern Tehaura Henning** assisted another long-time client of the Clinic in maintaining eligibility for her post-foster care Road to Independence scholarship and in qualifying for vocational services for her daily living needs as a developmentally disabled client. The same client was a plaintiff in a successful federal court lawsuit challenging the Social Security Administration's denial of disability benefits based on her immigration status.

**Interns Jessica Schnapp** and **Meghan Jacobson** represented a 14 year-old foster child diagnosed with numerous developmental and psychiatric disorders recommended for immediate placement in an inpatient psychiatric program. Although the court ruled that the child was suitable for placement in the program, the evidentiary hearing gave the child the opportunity to speak to the judge and voice her objections to the evaluator's recommendation for residential placement, which promoted both therapeutic and dignitary values for the client.

## ETHICS TRAINING

### ELUCIDATING ISSUES OF LEGAL ETHICS

by Clinical Fellow Jessi Tamayo

The fall semester for the Corporate and Professional Responsibility Program (CAPR) was a wildly successful one. Thanks to generous support from the law firms of **Carlton Fields, Greenberg Traurig, and Kenny Nachwalter**, over 700 members of the community were trained in a wide array of legal and business ethics issues in one of the busiest semesters yet. With 12 hard working law students, we conducted four major Ethics trainings.

On September 16<sup>th</sup>, CAPR was invited to conduct an ethics seminar for the United States Department of Pretrial and Probation Officers. **Zuckerman Spaeder Fellow Kellie Kagan** and **Intern Joe McCoy** developed an interesting training based on the officers' questions regarding ethical conduct and their interface with the judicial system. Issues ranged from involvement in political activities to the role of a pretrial or probation officer in the rehabilitation of an offender. With the help of **Bonnie Phillips-Williams** from the Department of Pretrial and Probation, the training was extremely successful and drew a crowd of over 300.

The Miami-Dade State Attorney's office asked CAPR to conduct an Ethics Continuing Legal Education (CLE) training on September 29<sup>th</sup>. Once again, the State Attorney's Office had specific issues relating to plea bargaining and sentencing of offenders. With the wonderful dedication of **Interns Barrie Filhaber** and **Dean Mallet**, the training sparked much debate among the State Attorneys and proved to be a

thought-provoking and challenging seminar. **Susan Dechovitz** from the State Attorney's Office served as a helpful and effective liaison. Over 150 attorneys attended the training.

A new horizon evolved for CAPR as the Florida Association of Trial Court Staff Attorneys invited our group to conduct an Ethics CLE Training as part of their annual retreat on October 20<sup>th</sup>. The training was held in Ft. Lauderdale, and drew attorneys from all over the state of Florida. The discussion addressed undefined areas of ethics for CAPR, as trial court staff attorneys are not governed by any particular ethics code. As a result, specific and difficult questions arose during the training, and **Interns Alexandra Sencer** and **Adam Spector** handled them brilliantly. Thanks to **Glenn Sheldon** from the Florida Association



Advisory Board members **Holly Skolnick** of Greenberg Traurig, **Patricia Thompson** of Carlton Fields, and **Juan Enjamio** of Hunton & Williams, discussing trial techniques for opening statements.

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of Trial Court Staff Attorneys, the seminar drew over 200 attorneys.

On November, 11<sup>th</sup> **Carlton Fields** invited CAPR to their Miami office to conduct an Ethics CLE Training. The seminar was teleconferenced into all **Carlton Fields** offices in both Florida and Georgia. The ethics training addressed the need for current and specific engagement letters for both long-standing and new clients as a method of preventing future conflicts of interest. **Greenberg Traurig Fellow Randi Macdonald**

and **Interns Sara Paris and Rostyslav Shiller** prepared a complex training which addressed the issues from all angles and proved thought-provoking and engaging. Many thanks to **Michael Virgadamo and Peter Winders** from **Carlton Fields** for their help in organizing the seminar.

In CAPR, we continue to strive to analyze complex issues of legal ethics, to foster thoughtful discourse, and to serve our legal community for the betterment of our profession.

## STREET LAW

### *For Middle School, High School and College Students*

**STREET LAW THRIVES ON FOUR FRONTIERS**  
by Street Law Director Karen Throckmorton, Palmer Trinity Fellow Nathaniel Tobin,  
Hunton and Williams Fellow Nicole Wiseberg & David P. Catsman Fellow Joshua Shore

**B**lending law, ethics and public service is a complex yet inspiring task. Many actions which are not legally proscribed are unethical and/or immoral. In contrast, some laws in our country forbid behavior which arguably should not be legislated. The interplay between law and morality varies according to one's values and perceptions. In all of our outreaches to the community, we aim to establish the correct facts on controversial issues, delineate the legal parameters, highlight this interplay between law and ethics, allow opposing views to be developed and expressed, and help the hearer to define his or her values. A monumental goal.

The sixteen "Street Lawyers" in this program accomplish that feat on four campuses in our community: in Miami Senior High School's Legal Magnet program; in the middle school and high school at Palmer Trinity School; in the legal magnet at Coral Reef High School; and for the undergraduates at the University of Miami. Our methodology is to raise the level of ethical and legal discourse and analysis among teenagers, the leaders of tomorrow.

At Miami Senior High, **William Hoeveler Fellow Shagufa Hossain**, along with **Interns Patrick Johns and Jenna Pantel**, teach a class of 35 juniors in the legal magnet program. They have tackled topics such as education funding, drug control, physician assisted suicide and ethical dilemmas after a natural disaster such as Hurricane Katrina. They have examined various current events including the Supreme Court nomination process, the Iraqi constitution, and freedom of the press. **Hunton & Williams Fellow Nicole Wiseberg**, with **Intern Michael Odrobina and Undergraduate Interns Alicia Kelman and Peter Gauthier**, led stimulating discussions with 42 freshman students on topics such as affirmative action, biomedical ethics, and the family law issues of paternity and child support. **Hunton & Williams Fellow Nicole Wiseberg** remarked, "The format of this semester's teaching moved towards the Street law concept of engaging all learners in meaningful student-centered activities. It has been a successful semester."

At Palmer Trinity School, **Palmer Trinity Fellow Nathaniel Tobin** and **Interns Soozie Klock and Michael Kim** have taught in teacher **Chris Bradt's** middle school classes. The lessons have included topics such as fundamental rights, Native American grave protection, judicial appointments and free speech. On November 30<sup>th</sup>, law students and Palmer Trinity faculty and students presented a Mock Trial to the entire student body. The trial, written for Palmer Trinity is loosely based on *U.S. v. Holmes (1841)* in which a ship's captain was found criminally liable for throwing shipwrecked passengers off of an overcrowded lifeboat which kept gaining water. **Palmer Trinity Fellow Nathaniel Tobin** scripted the trial and noted that, "It's always



*The team for the Palmer Trinity Mock Trial: In front, Interns Michael Kim and Soozie Klock and Palmer Trinity Fellow Nathaniel Tobin surrounded by Palmer Trinity seniors.*

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wonderful to have the opportunity to teach students, promote moral debate, and show them that ethical dilemmas really do exist in the outside world.”

The Street Law Project was expanded this year into the Coral Reef High School’s legal magnet program for eleventh and twelfth grade students in law magnet teacher **Jan Jacobowitz’s** classes. **Fellows Risa Berrin** and **Joshua Shore** and **Interns Mark Santi** and **Joshua Samek** addressed a broad swath of legal terrain, including criminal law and procedure, affirmative action, and constitutional interpretation. **Fellow Joshua Shore** noted, “The Coral Reef students relished their role as critics of numerous political policies, as well as judicial decisions. Their performances playing Supreme Court Justices in **Intern Mark Santi’s** lesson on affirmative action in education ought to cause celebration. They were excellent.” He predicts, “The students in Coral Reef’s legal magnet program are destined to shape the legal landscape for the better.”

In the undergraduate class, “Law, Public Policy & Ethics,” students debated complex ethical and legal issues such as the constitutionality of hateful speech elucidated by **UM President Emeritus** and **CEPS Advisory Board Member Tad Foote**; freedom of and from religion; the death penalty and due process in the criminal justice system discussed by **Visiting Senior Fellow Janet Reno**; discrimination based on race, gender or sexual orientation; abortion; and gay marriage. **Post-Graduate Intern Brette Wolff** and **Undergraduate Intern Jodie Barkin** led many interactive sessions in this freshman seminar which is a challenging and delightful outreach from the law school to the campus.

## PUBLIC SERVICE

### CHRE STUDENTS SERVE CLIENTS & COMMUNITY

by Intern Jennie Kennedy



*Jennifer Lowenstein  
after victory in a Social  
Security case*

**W**hile **CHRE Intern Jennifer Lowenstein** is only in the first semester of her second year of law school, she already has a legal victory under her belt. Lowenstein represented a learning-disabled student twice denied Social Security Insurance benefits. Along with filing the requisite forms, Lowenstein authored a brief that served as the basis for an administrative law judge to issue a directive allowing the student to finally receive benefits. For Lowenstein, clinical education has become the true test of her legal education: "It's one thing to learn about law in the classroom, but being able to apply that knowledge to benefit real people in real situations is an incredibly unique experience, and one that only a clinic like CHRE can provide."

**Interns David Cook** and **McLean Jordan**, learned first-hand that their work could have life-changing results when they began working with a homeless AIDS patient who suffered from a life-threatening infection. When Cook and Jordan met the patient, his Medicaid provider was incapable of treating his infection. The students navigated the Medicaid system to change his coverage to an appropriate provider and helped him obtain Social Security benefits so he could afford to rent an apartment.

These are but two of the more than ninety clients that CHRE students have served during the fall semester alone under the supervision of **Professor JoNel Newman**, a Yale Law School graduate with extensive experience in civil rights and legal services litigation. The Community Health Rights and Education Clinic (CHRE) operates in partnership with the Schools of Medicine and Nursing. Each student intern or fellow has a regular intake site at one of the Ryan White funded HIV Clinics in Miami-Dade County, which include the South Florida AIDS Network (SFAN), the Miami Family Care Program, and the Pediatric Infectious Diseases and Immunology Clinic. Through weekly client intake and referrals from Legal Services of Greater Miami, the twelve law students of CHRE have assisted 4 special education clients; 12 clients with permanency planning matters such as living wills; 18 clients with obtaining Social Security Disability; and 28 clients with the acquisition of public benefits. In addition, students have helped clients with issues such as housing, immigration, consumer matters, and family court.

CHRE’s work has also extended into the community. In October, four students represented the clinic at the Little Haiti Community Health Fair, sponsored by the University of Miami Leonard M. Miller School of Medicine. Students answered questions about public benefits and distributed fliers explaining everything from how to obtain food stamps to where to apply for county assistance.

Students have left their mark through impact work inspired by the stories of individual clients. **Carlton Fields Fellow Shanelle Boyd** organized a group of CHRE students to draft a policy regarding the rights and proper treatment of Miami-Dade public school children living with HIV/AIDS. CHRE students are lobbying state legislators on how the proposed Florida Medicaid Reform could negatively affect high-risk beneficiaries, such as persons with HIV and AIDS.

Through client-specific work and more general community advocacy, CHRE serves as a reminder of the core values of the Center for Ethics and Public Service. “CHRE has shown me that a successful law student is not one who earns high grades, but one who gives his education back to help improve the community,” said **CHRE Intern William Pardue**.

## PUBLIC SERVICE

### GREENBERG TRAUIG-SPONSORED COMMUNITY ECONOMIC DEVELOPMENT AND DESIGN CLINIC EXPANDS

by The CEDAD Fellows



*CEDAD students attend a ribbon-cutting ceremony marking the completion of new streetscape improvements along the Grand Avenue corridor in Coconut Grove. From left, John B. Alfieri Fellow Mark Rooney; Mr. Jihad Rashid, director of Coconut Grove Collaborative, Inc.; and CEDAD Interns Sarah Jones and Ali DiMatteo.*

The Fall semester was one of growth and accomplishment for the Greenberg Traurig-sponsored Community Economic Development and Design (CEDAD) Clinic. Interns **Ali DiMatteo** and **Sarah Jones** and **John B. Alfieri Fellow Mark Rooney** continued the long-standing CEDAD tradition of providing legal advocacy and empowerment training to non-profit organizations and community groups in the west village of Coconut Grove. Working closely with the Coconut Grove Collaborative, Inc., its director **Mr. Jihad Rashid**, the University of Miami's School of Architecture, and other community leaders, CEDAD clinical students provided legal guidance on issues ranging from non-profit governance and land trusts to affordable housing solutions and landlord-tenant disputes.

In September 2005, CEDAD interns and fellows delivered a comprehensive report to the Coconut Grove Collaborative, Inc. on issues of corporate governance. The report explained federal and state law requirements that regulate director and officer competency, discussed the rules governing charitable solicitations and in-kind contributions for nonprofits, and expressed the need for a comprehensive conflict of interest policy. The report also outlined eligibility requirements and registration procedures for certain community economic development tax credits.

At the request of the Coconut Grove Collaborative, Inc., and in conjunction with the Grove-based Homeowners and Tenants Association, CEDAD students produced and distributed *A Guide to Tenants' Rights Under Law*. The pamphlet provides a user-friendly summary of tenant rights and responsibilities under Florida law and is available to Coconut Grove residents through a variety of community organizations and churches.

CEDAD students also serve as standing members of the Tenants Transition Team, a consortium of community leaders dedicated to mitigating the effects of gentrification in Coconut Grove. Through the Tenants Transition Team, students address legal issues surrounding both short-term tenant problems, such as building code violations and procedures for withholding rent, and long-term solutions for creating sustainable, affordable housing.

**Greenberg Traurig Fellow Caroline Klancke** headed the Nonprofit Corporate Responsibility Project in providing technical support and compliance counseling to faith-based and secular nonprofit organizations. She is developing a comprehensive conflict of interest handbook to be used in on-site training sessions designed to address the needs of nonprofit schools. **Caroline Klancke** remarked: "Our project is fulfilling the mission of the Center by empowering nonprofits with the tools necessary to address potential conflicts of interest in an ethical manner as they arise on a day-to-day basis."

CEDAD is pleased to welcome **Adjunct Professor Charles Elsesser**, an attorney with Florida Legal Services, Inc. in downtown Miami, who donates his time and mentoring in overseeing two projects within CEDAD serving nonprofit community groups in Overtown and Liberty City. Since August, **Ray H. Pearson Fellow Kelley Spencer** and Professor Elsesser have been leading a project that seeks to inform the displaced residents and small business owners of Liberty City about their rights. Speaking of Professor Elsesser, Kelley observed: "Civil rights litigation is, in my view, the noblest work an attorney can do, and Chuck is one of the best. He understands the complexities of representing the poor and marginalized in an era where success in civil rights claims is illusory. It's not that he always prevails; it's that everyone in the neighborhood knows him by name, and trusts him as their champion." CEDAD **Intern Paul Kaster** added: "Professor Elsesser's arrival at CEDAD has helped to broaden our exposure to the issues confronted by community lawyers in diverse urban areas. Whether it was the simple difficulty of getting a client to attend a meeting, or the complex problems associated with bringing a claim against a developer or the City of Miami to start a public discourse, Chuck introduced us to real life as a community lawyer in a city sharply divided on socioeconomic lines."

**Lewis B. Freeman Fellow Emily Guerin** and **Kenny Nachwalter Fellow Lauren Littleton** and CEDAD **Interns Trung Nguyen, Trey Jordan, and Aaron Dunlap** actively assisted Professor Elsesser and Florida Legal Services' in their representation of the Power U Center for Social Change, Inc., in its redevelopment efforts in the Southeast Overtown. Power U is a nonprofit group dedicated to organizing residents in low-income communities and helping them to advocate for their own needs. Power U seeks to temporarily halt a construction project in Overtown that will significantly alter the cultural heritage in that community. Power U hopes to compel the City and developer to conduct an environmental study that will assess the impact of the project on the Overtown community and its residents and will allow for potential alterations to the construction project. In this way, CEDAD continues to serve the low-income communities of Miami-Dade County in preserving and rebuilding their businesses and homes.

**University of Miami  
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**MISSION STATEMENT**

Founded in 1996, the School of Law's Center for Ethics and Public Service is an interdisciplinary clinic devoted to the values of ethical judgment, professional responsibility, and public service in law and society. The Center provides training in professional ethics to the Law School and the University as well as to the Florida business, civic, education, and legal communities. The Center also provides legal representation and economic development training to low-income communities. The Center observes three guiding principles: interdisciplinary collaboration, public-private partnership, and student mentoring and leadership training. Our goal is to educate law students to serve their communities as citizen lawyers.

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Lawyers in Leadership Award presentation to UM Law School Dean of Students **Jeanette Hausler**, l-r **Dean Dennis Lynch**; **Jeanette Hausler**; **Archbishop John Falalora**, **Father Patrick O'Neil**, and **Mikki Canton** of **Gunster, Yoakley & Stewart**.



**JoNel Newman**, **Tony Alferi**; celebrating bestowal of Friends of the Center Awards on **Dr. Gwen Wurm**; **Dr. Lawrence Friedman**, and **R.N. JoNell Efantis Potter** for their excellent assistance with CHRE.



CEDAD Interns **Paul Kaster** and **Ethan Barlieb**, UM Adjunct Professor and Florida Legal Services attorney **Charles Elsesser**, and business owners in Liberty City studying the Uniform Relocation Assistance Act.



CEO of the Children's Trust, **Modesto Abety**, awarding the 1<sup>st</sup> "Champion for Children" Award to CYLC Director **Bernie Perlmutter**.



At a panel discussion on Negotiation, **Detra Shaw Wilder** of **Kozyak, Tropin & Throckmorton**, **Judge Herbert Stettin**, Senior United States Magistrate **Judge Peter R. Palermo**, and UM Law School Dean for External Affairs **Carol Cope**.



Undergraduate **Celsus Williams**, Visiting Fellow **Janet Reno**, Post-Graduate Intern **Brette Wolff**, and Undergraduate Intern **Jodie Barkin** before Ms. **Reno**'s discussion of truth finding in the criminal justice system.

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