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ROBINA FOUNDATION

2011 Proposals

Abbott NW Hospital/Allina (Tab 1)

A SUPPORTIVE CARE APPROACH FOR PATIENTS LATE IN LIFE

Reviews: Diane Meier and Eric Coleman

Council on Foreign Relations (Tab 2)

PHASE II OF THE IIGG PROGRAM

ONLINE VIDEOS

DIVERSITY SCAN

University of Minnesota Law School (Tab 3)

ROBINA INSTITUTE OF CRIMINAL LAW AND JUSTICE

Reviews: Jeffrey Fagan, Tracey Meares, Diana Murphy, Thomas Ross

U of M Response to Reviews

Yale Law School (Tab 4)

THE ROBINA FOUNDATION HUMAN RIGHTS FELLOWSHIP INITIATIVE

CENTER FOR IMMIGRATION AND MIGRANTS' RIGHTS

Yale School of Drama (Tab 5)

THE JAMES BINGER CENTER FOR NEW THEATRE

1

ABBOTT NW
HOSPITAL/ALLINA

2

COUNCIL ON FOREIGN
RELATIONS

3

UNIVERSITY OF
MINNESOTA

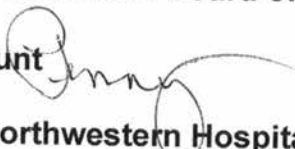
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YALE LAW SCHOOL

5

YALE SCHOOL OF
DRAMA

ROBINA FOUNDATION

TO: Robina Foundation Board of Directors
FROM: Penny Hunt 
RE: Abbott Northwestern Hospital Proposal
DATE: August 9, 2011

We learned today that Marcus Thygeson is leaving the Allina Center for Healthcare Innovation to take a position with a major health care company in San Francisco. Penny Wheeler will resume her prior role as the primary Allina liaison with the Robina Foundation.

Because of this personnel change and in view of the analysis of the Late Life Supportive Care initiative by Robina's reviewers, ANWH/Allina has requested that Robina defer consideration of the proposal until the Board's November meeting. This will give ANWH/Allina time to revise the proposal based on the reviewers' comments and the change in personnel.

That means that you don't need to read the Late Life Supportive Care proposal for the August meeting! We've included it so that you are aware of the proposal and the amount of funding requested as you consider proposals from other Robina Grantees.

Tom and I are trying to set up a meeting with Penny Wheeler and Ken Paulus before the Board Meeting so we may have additional information for you when we meet.

June 30, 2011

Ms. Penny Hunt
Executive Director
The Robina Foundation
4900 IDS Center
80 South 8th Street
Minneapolis, MN 55402



Center for
Healthcare Innovation

Dear Ms. Hunt:

On behalf of Abbott Northwestern Hospital, the Center for Healthcare Innovation, and Allina Hospitals & Clinics, we are pleased to submit this proposal, **A supportive care approach for patients late in life: Creating a sustainable model of systematic care to improve the experience of patients, their families and caregivers**, to The Robina Foundation. This initiative will shift the present late life supportive care paradigm by demonstrating and testing a comprehensive, compassionate and proactive approach to meeting the unique needs of patients with life limiting illness.

Patients with life limiting illness and their families are often at a loss when seeking support within the U.S. health system. Through a combination of poor understanding of late life supportive care services, which include advance care planning, palliative care, and hospice services; lack of systems that prompt a timely referral upon diagnosis; and fragmented care coordination (it is not atypical for these patients to interact with over 130 physicians across 60 practice settings); patients receive duplicative and unnecessary medical procedures, conflicting treatment plans and are ultimately provided with suboptimal care.

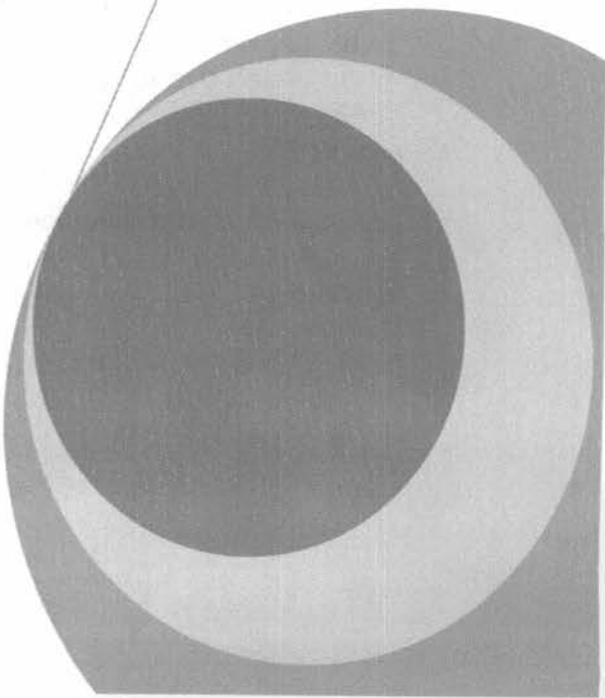
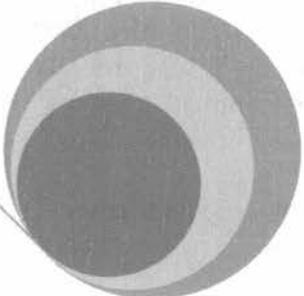
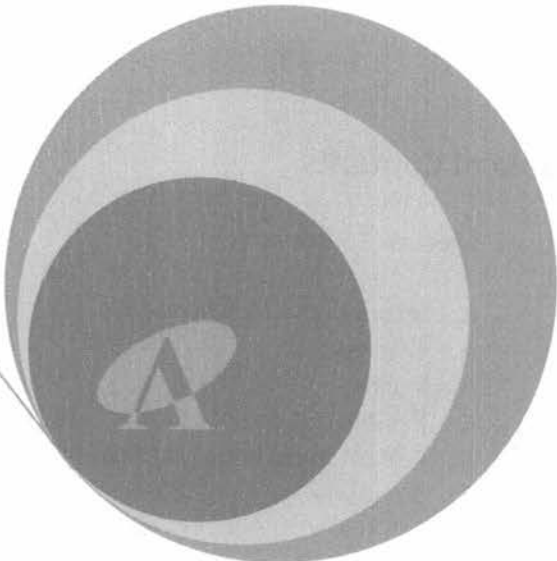
The proposed project will integrate existing late life supportive care services into a unified program. This initiative will introduce a range of system components to address key gaps in services delivered to patients with life limiting illness. Through this effort these services, systems, processes and tools will be deployed in a coordinated fashion in both the primary care and inpatient care settings. In this scenario, late life care for individuals with life limiting illness will have the following characteristics: the patient and their caregivers will be referred for advanced care assessment in a timely manner; the patient's spiritual, marital and mental health needs, and end-of-life wishes will be assessed; and patients, caregivers, and clinicians will be better equipped to discuss and manage end-of-life issues.

At no time in history has this problem been more important to address, with over 130 million Americans now suffering from at least one chronic condition. With the baby boomers aging, this figure is expected to balloon. Support from The Robina Foundation will make it possible for Allina to advance and prioritize this work, and will allow the development of a business model that will support the replication of this approach throughout the Allina system and beyond.

Thank you in advance for your consideration, and that of the Robina Board and external reviewers.

Very sincerely yours,

Marcus Thygeson, MD
President, Center for Healthcare Innovation



A Supportive Care Approach for Patients Late in Life:

Creating a sustainable model of systematic care to improve the experience of patients, their families, and caregivers

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July 2011

Table of Contents

I. Executive Summary	Page 3
II. Background and Justification	Page 5
A. Context	Page 5
B. Vision	Page 7
C. Review of Current State of Late Life Care Services	Page 8
D. Patient Population Justification	Page 12
E. Summary	Page 16
III. Intervention Description	Page 17
A. Late Life Supportive Care Process Overview	Page 17
B. Initial Supportive Care Assessment	Page 22
C. Development of the Supportive Care Plan	Page 24
D. Ongoing Collaborative Communication and Shared Decision-Making	Page 28
E. Integration of Supportive Care Tools	Page 30
F. Clearly Identified Roles and Responsibilities	Page 32
G. Summary	Page 34
IV. Research Design and Methods	Page 35
A. Overview	Page 35
B. Sites	Page 35
C. Patient Recruitment	Page 36
D. Timeline	Page 38
E. Evaluation	Page 39
V. Stakeholder Engagement	Page 49
A. Patient and Family Advisory Council	Page 49
B. Late Life Care Listening Circles	Page 49
C. Engagement with Honoring Choices and Twin Cities Public Television	Page 50
VI. Qualifications and Project Oversight	Page 51
A. Organizational Qualifications	Page 51
B. Key Personnel	Page 53
C. Project Oversight	Page 56
Appendices	Page 58
A. Budget and Budget Justification	Page 59
B. Resumes of Allina Project Team Members	Page 65
C. References	Page 83

I. Executive Summary

Patients with late life limiting illness and their families are often at a loss when seeking support within the current U.S. healthcare system. Poor understanding of late life supportive care services, which include advance care planning, palliative care and hospice services, combined with a lack of systems to promote referral upon diagnosis, results in poor access to services and leaves families with the burden of managing end of life care for their loved ones.

Those who receive services enter a profoundly fragmented system in which care coordination is overwhelming – it is not atypical for patients with late life limiting illness to interact with over 130 physicians across 60 practice settings. The result is duplicative and unnecessary medical procedures and conflicting treatment plans across clinical providers and settings that are part of a health care system that was built to deliver services to acutely ill patients requiring episodic care, not to patients who are chronically and persistently in need of coordinated care.

While clinicians excel at achieving technical outcomes, they lack the skills and tools necessary to engage comfortably and effectively in end of life discussions. Without standardized, reliable systems to integrate late life supportive care services into primary care and inpatient settings, patients, families and care providers are at-risk for managing within an environment where care is suboptimal and misaligned with the values and wishes of patients and their families.

With support from Robina Foundation, we aim to shift the present late life supportive care paradigm by demonstrating and testing a comprehensive, systemic approach that is proactive in meeting the unique needs of patients with life limiting illness. The proposed project will assemble existing supportive care services as a unified program; introduce a range of system components designed to address the gaps described above; and integrate these services, systems, processes and tools into the primary and inpatient care settings.

This Late Life Supportive Care (LLSC) model consists of the following system components:

- Tools to support patient referral upon diagnosis of a life limiting illness
- A comprehensive suite of instruments assess patient and caregivers' quality of life; stress; symptom burden; functional, physical, and mental health status; and experience with the health care system
- Targeted reassessment, triggered at each clinic visit, if the patient is hospitalized, or with recognized disease progression
- Comprehensive Supportive Care Plans built upon assessment findings, are integrated into the electronic records for care coordination and are continually updated as needs, values and wishes change
- Education and support tools foster end-of-life dialogue
- Shared decision making serves as a grounding value and sustaining mechanism to engage health and supportive care providers, patients and caregivers in dialogue and decision making to coordinate care, manage resource needs and continuously align patient preferences with care recommendations
- Integration of supportive care partners, such as family or spiritual counselors, recognizing that patients' definition of health goes beyond physical health
- Electronic support tools that are integrated into the medical record to support systematization of late-life supportive care for patients with life limiting illness and clinicians

Once implemented, the result will be compassionate, comprehensive and reliable late life supportive care services that realize the Triple Aim and other critical outcomes for patients, caregivers and care providers, including:

- Honor patients' and families' end of life wishes and goals
- Maintain the overall quality of life for patients and families
- Improve the patient and family care experience
- Control costs of care for patients with life limiting illness
- Increase access to best practice end-of-life care
- Improve job satisfaction of interdisciplinary team members

This initiative will target a patient population for supportive late life care that includes individuals residing in the seven-county Metro area who are over the age of 65; have a diagnosis of cancer, chronic obstructive pulmonary disease (COPD), renal failure, or congestive heart failure (CHF); have been identified as having a life expectancy of between 6 months and two years based on provider assessment and are receiving treatment either through an Allina clinic or Abbott Northwestern Hospital. This patient population has been selected for the following reasons:

- 1) This initiative aims to improve end-of-life care for patients with ever increasing complex health needs who, in their final years of life, are in need of a well-designed, coordinated system of care.
- 2) The specific disease conditions identified are conditions that are often associated with excessive inpatient stays during the last six months of life; complex medical decisions; significant symptom and caregiver burden near the end of life and complex social, emotional and spiritual needs for patients and caregivers.
- 3) While there are many chronic diseases that might benefit from this approach, focusing on selected conditions will enable the researchers to examine effects within relatively homogeneous patient populations and to contribute to disease-specific literature.

In an approach similar to the 'Care Guides in the Primary Care Clinic' proposal previously funded by the Robina Foundation, a two-phase approach will be used for this effort. In Phase I, the project team will complete design of the model and pilot test the approach at Abbott Northwestern Hospital, Aspen Clinic Bloomington and two Senior Care Transitions facilities. A pre-post design will be used to evaluate the impact of the pilot, comparing patients with both concurrent and historical controls to examine hospice use and hospice length of service. Additional measures will be examined for change over time in intervention patients and caregivers. These measures include quality of life, stress, symptom burden, health care experience, caregiver health care experience, and additional psychosocial measures. Phase I will also include development of a partnership with Honoring Choices, Twin Cities Public Television, and the Citizens League to enhance both the public and internal Allina dialogue around end-of-life. The current proposal focuses on Phase I efforts.

In Phase II, implementation will be extended to one additional metro hospital and regional hospital, as well as across all three major medical groups at Allina. The Phase II robust evaluation design will examine the outcomes of hospice use, hospice length of service, inpatient days near the end of life, patient and caregiver experience, and psychosocial measures refined in Phase I. Further, cooperative discussions with local payers will be launched to allow for the development of a robust business model to support late life supportive care. Phase II will also include continued engagement of the metro Twin Cities community in a public dialogue around end-of-life issues and the need for a supportive care approach. Following Phases I and II, a sustainable, system-wide rollout of this model across Allina Hospitals & Clinics will be initiated.

II. Background and Justification

A. Context

In its 2007 *Health for Life, Highest Quality Care* report the American Hospital Association (AHA) defines health care quality as: *individuals getting the exact care they need, when and where they need it—patients do not miss care that is recommended or get treatments that are not* [1]. According to the AHA, when clinicians and health care organizations across the nation are recommending and achieving compliance with rigid treatment guidelines, they perceive high quality health care is occurring.

Health care quality must be redefined for individuals with life-limiting illness who are in the final stage of the care continuum for the following reasons: 1) because their care is complex, they require a greater number of clinicians and care settings; 2) coordination of care is at highest risk of fragmentation; 3) personal values and wishes often conflict with rigid treatment guidelines; and 4) they have an advanced need for physical, emotional and spiritual support.

The healthcare system also needs to employ innovative thinking and practice in an effort to align personal values and wishes with health and supportive care decisions. Today, there is often gross misalignment between these for patients with life limiting illness. While a majority of Americans (70%) indicate a preference to die at home, only 25% actually die at home [2]. Though individuals express they prefer less aggressive care at end-of-life, 27% of all Medicare spending still goes towards 5% of Americans in their last year of life [3]. Only 40% of patients eligible for hospice services—which help patients' realize goals of less aggressive care outside the hospital setting late in life—receive these services and, of those, 33% are not referred until their last eight days of life [4].

Contributing to this misalignment is the fact that the U.S. health care system was built to deliver services to acutely ill patients requiring episodic care, not to patients who are chronically and persistently in need of coordinated care. The more chronic conditions an individual has, the more care providers they see across multiple care settings. A 2009 study found that for every 100 Medicare fee-for-service patients treated, each primary care physician would typically have to coordinate care with 99 physicians across 53 practices. However, physicians who treated patients with more chronic conditions typically had to interact with 134 physicians across 62 practices [5]. This dizzying number of interactions contributes to duplicative and unnecessary medical procedures; conflicting treatment plans; and an increased burden for patients who are ill-equipped to advocate for their wishes, interpret health information or make informed decisions. The Institute of Medicine estimates that half of Americans have difficulty understanding and acting on health information, a trend that may be more pronounced in the medically needy elderly population [6].

Care utilization and pharmacy costs also factor into the need to build an improved care model for this population. Today, individuals with more than one chronic health condition account for 91% of prescriptions filled, 81% of hospital admissions and 76% of physician visits annually [7]. Given the gravity of the need of this population, the American Hospital Association is calling for expanded research focused on exploring new approaches that impact care coordination for individuals with chronic conditions.

Chuck's story illustrates the degree to which the system is failing for patients with life limiting illness. Chuck was 81 years old: a father, a veteran, a man of strong faith. Chuck was an engineer on secret government projects who loved golfing, fishing and woodworking. He died at home of heart failure, 12 years after a kidney transplant.

In his last year of life, Chuck and his wife, who struggled with memory loss and was wheelchair-bound, faced many challenges, such as:

- Worsening medical problems, including heart failure and kidney transplant rejection
- An emotionally difficult move from their home to assisted living
- Loss of the ability to drive
- Loss of connection with friends from home and church
- Depletion of financial reserves

Due to the worsening of Chuck's heart and kidney failure, the glaring lack of integration in his medical care became evident:

- Stronger medications and hospitalizations were recommended to treat symptoms.
- Visits to specialists, who were focused on episodic care for different organs, resulted in conflicting care plans. Each specialist's recommendations had implications for the others' plan, but there was no primary care physician managing care, explaining his condition or helping navigate choices on behalf of Chuck's overall health, values and wishes.
- Medication adjustments that occurred during hospitalization were not explained to Chuck or integrated into a medical record, resulting in Chuck's primary care physician reversing new orders upon his subsequent visit to the clinic.
- Chuck became gradually weaker from bed rest and began to ask his family and physicians why he would go back to the hospital if it didn't help and, rather than feeling better, he was becoming weaker.
- Chuck began to fall.
- When Chuck's family tried to initiate an end-of-life discussion with his doctors, the response was, "Let's try this new medicine first. Come back in two weeks, and we'll assess its impact."
- MRI scans, endoscopy, and other unhelpful tests were recommended to evaluate Chuck's increasing number of symptoms as his body continued to decline.
- Finally to Chuck and his family's surprise, Chuck's family physician articulated that he was approaching end-of-life, and Chuck died 10 days later.

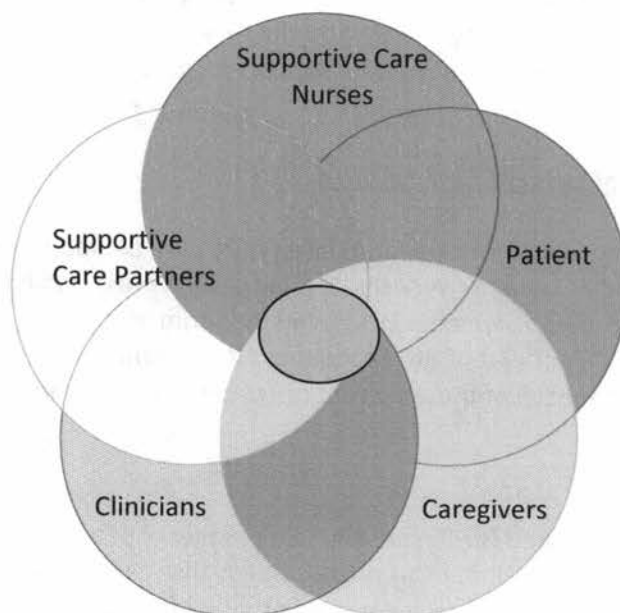
Sadly, Chuck's story is not unique in demonstrating how the current system provides end-of-life care at the crossroads of a crisis, rather than a proactive system of supportive care. Many adults today who are serving as caregivers to parents or other loved one's have a story like Chuck's. At no time in history has this problem been more important to address, particularly as a 2000 RAND Corporation study estimates 133 million Americans—nearly half of the U.S. population – now suffer from at least one chronic condition and nearly half of these individuals have more than one chronic condition. As people age, they develop more chronic conditions; among people age 80 and older, 73 percent have two or more chronic conditions. As baby boomers age, 37 percent more people are projected to have chronic conditions in 2030 than in 2000 [8].

B. Vision

Historically, late life care programs, interventions and research have focused on improving health directives or some other finite aspect of the overall system of supportive care. Still, individuals like Chuck do not get the service they deserve at the most vulnerable time of their lives. We liken such an approach to Chuck's own health care story--where overall health declined as each specialist focused on a disparate body part, but no one assessed, educated and advocated for Chuck holistically.

As with all large-scale systemic change, true change occurs when the system's disparate parts connect and seamlessly integrate. As Dr. Pham of the Center for Studying Health System Change writes, "Coordination of care involves the integration of care across all of a patient's conditions and needs, across providers and settings, and in accordance with the preferences and capabilities of patients and their families. Coordination involves complex activities that require conscious interactions between providers and between providers and patients" [5].

The Late Life Model of Supportive Care (LLSC) will be grounded in the core values of collaborative communication and shared decision-making to ensure the system's many stakeholders are engaged to inform its improvement, coordinate care, compassionately align care recommendations with patients' values and wishes, and adjust care plans as patients' needs and wishes change. The following figure reflects the stakeholders whose engagement in shared decision making is critical to the LLSC model's successful design and implementation.



Chuck's values and wishes, which consisted of such joys as interacting with family, parishioners and friends, enjoying the outdoors and attending church, could have been sustained, along with a higher quality of life, until his final days if mechanisms had been in place to accomplish this integrated model of care. Take a moment to imagine Chuck's care in the context of the LLSC model, where the measure of quality health care is redefined as fulfilling patient-defined choices rather than only compliance with rigid treatment guidelines:

- Chuck and his caregiver are referred for advanced care assessment upon diagnosis of a life limiting illness.
- Chuck and his caregiver's quality of life; stress; symptom burden; functional, physical, mental and spiritual health status; experience with the care system and end-of-life wishes are assessed.
- Chuck, his caregivers and clinicians are educated and supported in exploring and understanding treatment options and in maintaining ongoing dialogue on end-of-life issues.
- Chuck and his caregiver are invited regularly to participate in shared decision-making with his health and supportive care partners to reflect on changes in treatment and supportive care plans, discuss referrals, coordinate care, understand diagnosis and prognosis, manage resource needs, align end of life values and wishes with treatment decisions, and facilitate difficult conversations and care decisions
- Additional supportive care partners are engaged in the advanced care plan through referrals, such as to social work for financial, insurance and legal concerns; mental health to cope with parent-child role reversal; spiritual care to cope with multiple life losses; and physical therapy to assess falls risk.
- Assessments and plans are integrated into the electronic health record to align care recommendations with Chuck's values and wishes and to facilitate care coordination. Chuck can see his care plan via MyChart, a web-based feature of the electronic record.
- Follow-up assessment is initiated with Chuck's clinic visits, hospital admissions or changes in disease progression, recognizing that, unlike treatment guidelines, Chuck's quality of life measures, values and wishes may change and the care plan will require updates.
- Finally, anticipatory grief and bereavement support is coordinated to help Chuck's wife cope his death.

C. Review of Current State of Late Life Care Services

Today, advance care planning, palliative care, and hospice are core components of late life supportive care. While currently treated as separate services, this initiative will assemble these late life supportive care services into a unified program, which is integrated into primary and inpatient care to realize maximum impact on the quality of end-of-life experiences for patients, their caregivers and medical providers. Below is a review of each of these current programs' strengths and weaknesses, which inform the intervention approach.

Advance Care Planning (ACP)

For this initiative, Allina has adopted the Respecting Choices model of advanced care planning developed by Gundersen Lutheran. Under this model, an advance care planning conversation takes place between the patient and health care agent with a trained facilitator. The conversation reflects on the goals, values and beliefs of the patient and puts these in the context of health care choices--either for basic planning or tailored common scenarios based on the individual's disease status. Advance care planning also includes documentation and clear communication of those choices among the patient, caregivers, clinicians and supportive care providers.

Advanced care planning (ACP) programs, following the implementation of the Patient Self-Determination Act (1991), have historically focused on promoting and evaluating the impact of health care directives. The assumption has been that if more people were made aware of their rights, completed legal forms that advised on their wishes and appointed proxies—like family members— for care decisions, end-of-life care would line up with their values and wishes [9]. However, achieving the goal of providing patient determined care near the end-of-life has proven much more complex than implementing health care directives and appointing healthcare proxies [10].

A summary of research funded by AHRQ indicates that less than 50% of the severely or terminally ill patients studied had an advance care directive in their medical record and between 65% and 76% of physicians whose patients had an advance directive were not aware it existed. In addition, having a directive did not increase documentation in the medical chart on patient preferences and language in the directives was often not specific enough to provide clear instructions [11]. Since the focus of health care directives is often life-sustaining treatment written in broad language, studies have also shown they do not provide guidance for people with chronic or terminal diseases [12] [13].

Research on appointing proxies indicates the individuals named in the directive were often not present to make decisions or were too emotionally upset to offer guidance [11]. Other research found proxies were not good at predicting the desired choices of the patient and lacked information to serve as decision makers [14-15]. A recent study of decedents over age 60 documented that substitute decision makers were needed in approximately 30% of deaths [16]. These findings provide compelling evidence of the need to better prepare and assist proxies for their duties as decision makers.

Research has also focused on reasons patients and providers avoid end-of-life discussions [17], finding that professionals are uncomfortable and lack appropriate training to initiate complex end-of-life decision making discussions [18]. Not communicating well with patients about advance care planning may have detrimental effects on patient's and caregivers' mental health [19]. For patients with chronic diseases, much of the literature indicates that patients often do not understand the terminal nature of their disease or prognosis, highlighting the importance of improving communication between providers and patients about end-of-life care.

The Respecting Choices model of advance care planning addresses barriers inherent with advanced directives, including:

- lack of physician awareness of plans
- lack of documentation of preferences in the medical record
- poor communication between providers and patients about end-of-life wishes
- lack of applicability of documented wishes to decisions needed
- poor proxy prediction of patient wishes

In randomized trials, Respecting Choices has been shown to improve proxy knowledge of patient wishes that result in decisions with high levels of agreement with patient desires and reduced decisional conflict among patients [20-23]. Gundersen Lutheran, as a leader in the field of advance care planning, has intentionally set standards related to advance care planning, palliative care and hospice support for patients and families in its community. Approximately 95% of community members have a documented advance care plan. According to the Dartmouth Atlas, Gundersen has one of the lowest costs of care for patients at the end-of-life. It has also documented high compliance with patients' wishes [24].

This process likely has benefits for caregiver well being as well. In an examination of end-of-life planning in cancer patients, one study found patients who did not have end-of-life discussions were more likely to undergo aggressive care, which was associated with diminished patient quality of life as well as bereavement adjustment for the caregiver [19].

Disease-Specific Advance Care Planning (DS-ACP), a relatively new area of focus within the field, was developed to address many of the weaknesses of current end-of-life planning methods. Also part of the Gundersen Lutheran Respecting Choices model, DS-ACP is designed for patients with chronic progressive illness who have begun to experience a decline in functional status, increased comorbidities, more frequent hospitalizations, or are at risk for complications that might leave them unable to make their own healthcare decisions. The in-depth planning process includes the patient, an appointed proxy (and other family members) and a trained facilitator. Tailored to the patient's specific disease and potential complications, this patient-centered intervention aims to uncover gaps in understanding, clarify the patient's goals for future medical care and improve communication between all involved parties.

Initial studies have suggested that DS-ACP can improve the experience of patients with chronic conditions. The Respecting Choices DS-ACP model was tested for immediate outcomes in four randomized trials of patient-proxy pairs. Three small studies with patient-proxy pairs among patients with congestive heart failure, end stage renal disease, cardiac surgery and HIV (adolescents only) all found the DS-ACP intervention associated with increased congruence in decision-making between patient and proxy on the statement of treatment preferences, and demonstrated reduced decisional conflict among patients in the DS-ACP group as compared to the standard treatment patients. Two of the studies found a positive association with quality of provider communication [20, 22-23]. A larger trial with 313 patient-proxy pairs with congestive heart failure or end stage renal disease found a significantly higher degree of understanding of patient goals among intervention surrogates [25]. A trial in Australia examined facilitated ACP, which includes the same basic elements as DS-ACP, in elderly patients and their proxies. Among patients who had died, those who had completed the ACP process were much more likely to have their wishes known and adhered to as compared to the usual care group. Family members of ACP participants also had less stress, anxiety and depression compared to those in the usual care group [26].

Allina Hospitals & Clinics recently implemented the DS-ACP model with a focus on heart failure patients and conducted an evaluation of the first two years of implementation [27]. In contrast to prior randomized trials, this study provides an evaluation of DS-ACP in an applied setting. Nearly one-third (31.8%) of the 1,894 heart failure patients referred to DS-ACP during the study period participated. Referral method was associated with participation, with those referred through a medical provider or care coordinator being most likely to participate. This is likely related to their ability to explain the DS-ACP process and what to expect. The study also identified improved documentation of wishes for DS-ACP participants. A chart audit revealed that of those completing the DS-ACP process, 94.3% had a health directive compared to 24.8% of non-completers ($p < .001$). An important distinction that must be made is that the proxies listed in advance directives of patients who completed DS-ACP had participated in extensive conversations about their loved one's preferences and thus were not just available to make decisions but had increased understanding of those decisions. Additionally patients undergoing the DS-ACP process completed additional documentation known as Statement of Treatment Preferences documenting their preferences for specific actions related to situations that are likely given their chronic condition. Of the patients who died by the end of the study period ($n=286$), DS-ACP participants were more likely to have used hospice compared to non-participants (56% vs. 37%, $p = .002$).

The field of advance care planning is improving the methodology for addressing complex needs of patients with advanced chronic illnesses. The Respecting Choices model chosen by Allina has a growing body of evidence to support it as an effective tool to better address end-of-life decision making. Because the field of advance care planning and especially DS-ACP is still relatively young, health systems are challenged to find the best strategies to integrate these processes into care for people with chronic conditions.

Palliative Care

The purpose of palliative care is to relieve suffering, improve quality of life for patients with advanced illness and provide support for their families, regardless of the state of disease treatment. Palliative care assesses and treats pain and other symptoms, communicates about care goals and provides support for complex medical decision-making. These services typically include practical, psychosocial support, care coordination and bereavement services [33].

Palliative care has been shown to benefit cancer patients, and currently the call is increasing for its application to treat heart failure, renal failure and chronic obstructive pulmonary disease [36-38]. Studies of early palliative care with cancer patients have shown positive outcomes for patients provided with these services. For example, Bakitas et al tested a formal nurse-led palliative care intervention (Project ENABLE) for 322 newly diagnosed cancer patients who all had a prognosis of approximately one year. The intervention included four formal weekly education sessions with a set curriculum and monthly follow-up via phone until the patient died or the study ended. Positive differences were identified for the group provided with palliative care services including: improved quality of life, decreased depression and an indication towards lower symptom intensity over 13 months of follow up [34]. In another randomized trial in which 151 patients with newly diagnosed metastatic non-small cell lung cancer tested an early comprehensive palliative care model in an outpatient setting, results show increased quality of life, less depression, less aggressive treatment and longer survival [35]. Finally, there is some evidence that palliative care is cost effective – a study of three years of data from New York hospitals indicates an average of approximately \$6,900 less in hospital costs for patients receiving palliative care than a group of matched patients who did not receive the care [33].

Palliative care is often constrained by lack of integration into primary care, poor reimbursement, limited public understanding of available late life resources and the overuse of interventions that do not add to quality of life. There is a misperception that palliative care services are only for patients who are actively dying when, in fact, palliative care serves to manage symptoms of people with advanced disease regardless of the stage of illness or treatment. Research indicates palliative care is most effective when integrated early, yet standard care systems often do not provide this integration, with the exception of some comprehensive cancer care models which integrate palliative care at the time of diagnosis along with anti-cancer therapy [21]. Among non-cancer patients, late referrals typically yield inadequate changes in quality of life, which lead patients, families and care providers to doubt its efficacy. Because of these constraints, patients with life-limiting illness too often experience poorly managed pain and symptoms, as well as an incomplete understanding of their wishes.

Hospice

Hospice services focus on caring rather than curing. In most cases, care is provided in the patient's home, but hospice care is also available in hospice centers, hospitals, nursing homes and other long-term care facilities. Hospice integrates palliative care to manage pain and symptoms with other supports for the patient and family. Core hospice services include professional nursing care, personal assistance

with activities of daily living, rehabilitation therapies, dietary counseling, psychosocial and spiritual counseling for both patient and family, training family on how to care for patient, respite care, provision of medications and devices for palliative care and family bereavement services after the patient's death. Hospice services are provided by an interdisciplinary team of nurses, social workers, pastoral counselors, nursing assistants and the patient's primary care provider or a physician directly associated with hospice [4].

Home and community hospice services, shown to markedly improve the experience of patients and their caregivers, are intended to serve those in the last several months of life. It has been shown that patients using hospice have higher quality of life and their lives may be prolonged – by as much as 29 days – compared to terminally ill patients in hospitals [4] [39-42]. These longer lengths of survival were found in four of the six disease categories studied (cardiac heart failure, lung cancer, pancreatic cancer and colon cancer) [43].

Findings of a major study demonstrated that hospice services save money for Medicare and bring quality care to patients with life-limiting illness and their families. Researchers at Duke University found that hospice reduced Medicare costs by an average of \$2,309 per hospice patient and a maximum savings of \$7,000 for those that used the services for over eight weeks. Regardless of primary medical condition, the period associated with achieving maximum savings was 53 – 105 days [44]. However, this time period is longer than the average stay for hospice patients.

As described earlier, despite the benefits of hospice care, a majority of Americans (70%) indicate a preference to die at home, but only 25% actually do die at home [2]. Sadly, of eligible hospice patients, fewer than 40% are served by hospice at the time of death. In addition, the median hospice length of stay is 22 days and over one third of hospice patients receive fewer than eight days of services [22]. Hospice also serves a predominantly (82%) white population [23]. Poor utilization of hospice in the U.S. is thought to be related to demographic factors, misconceptions of financial and eligibility requirements, and difficulty discussing hospice as a treatment option [4]. Lack of awareness of hospice and an inaccurate understanding of one's prognosis are other reasons cited for late or no enrollment in hospice [24].

D. Patient Population Justification

The patient population targeted for this Late Life Supportive Care (LLSC) program includes individuals over the age of 65 who (1) have a diagnosis of cancer, chronic obstructive pulmonary disease (COPD), renal failure, or congestive heart failure (CHF) and (2) have been assessed to have a life expectancy of between six months and two years. Patients will be identified either through a primary care clinic (Aspen Bloomington), an inpatient stay at Abbott Northwestern Hospital (ANW) or by Allina practitioners at one of two skilled nursing facilities served by Allina's Senior Care Transitions program (Walker or Augustana). Patients will be eligible if they have an Allina primary care provider at the pilot clinic site (s) or if they identify a specialist or hospitalist at ANW as their primary physician.

This patient population has been selected for several reasons. First, the program aims to identify patients who have life limiting illness and are within six months to two years of death, which provides the opportunity to improve care coordination and alignment of values and wishes with their care decisions as their condition becomes more complex. Second, the specific disease conditions identified are often associated with excessive inpatient stays during the last six months of life, as well as complex medical decisions, and significant symptom and emotional burden near the end-of-life. Third, these

populations are identified as they may be underserved by current advance care planning, palliative care and hospice programs. A further analysis that provides justification for engaging patients with specific conditions is provided below.

Cancer

While significant progress has been made in cancer treatment, approximately half of all patients with cancer eventually die of their disease, and one-third of cancer deaths happen within six months of diagnosis. Hospice and palliative care have traditionally served predominantly cancer patients; however, these programs are still not integrated well across all cancer care programs [28]. Additionally, integration of advance care planning into cancer care is challenging given that diagnosis is often a shock and is immediately followed by intensive treatment in comparison to the experience of patients with chronic diseases like heart failure and COPD who may have more time to live with and understand their disease state.

Renal Failure

Five-year survival rates for chronic kidney disease drops significantly after age 65, with only 30% of patients surviving five years [29]. Patients with chronic kidney disease have high incidence of comorbidities. A study of patients in Canadian and U.S. dialysis units found 75% of the patients had from three to seven comorbid conditions and all experienced high prevalence of complications [30]. Comorbid conditions have a significant impact on health related quality of life for these patients. One nephrology nursing article indicates that for "patients and their families living with kidney disease, a pervasive lack of correct information concerning the process of dying creates a significant barrier to implementing advance care planning" [29]. Renal failure patients are served well by hospice but, as with other diseases, may be referred later than would be ideal to maximize benefit to the patient and family. Today most hospice care is not offered to renal failure patients until they have made the decision to stop dialysis, which leads to a short hospice stay of 7-10 days for the average patient.

Heart Failure

Heart failure is the most common cause of hospitalization among adults over age 65 [31]. Heart failure is associated with high mortality and hospitalization rates; physical, emotional and functional impairment; reduced quality of life and increased care giver burden [32-34]. Heart failure is the one heart disease that is currently increasing in prevalence [35-36]. A diagnosis of heart failure does not carry the same impact as a cancer diagnosis, yet the five-year survival rate for heart failure patients has been found to be shorter than that for many cancers [37].

Chronic Obstructive Pulmonary Disease (COPD)

The death rate from COPD has doubled over the past two decades. Patients with advanced COPD are likely to be admitted to the hospital three or four times per year with acute exacerbations of their disease. The one-year mortality rate for elderly CPOD patients ranges from 36% to 59% with the higher rate among patients admitted to the ICU [28]. In contrast to patients with advanced cancer, patients with COPD have higher utilization of acute care and are less satisfied with their care [38].

Advance Care Planning in the Target Population

In studies of cancer patients, directive availability and usefulness remains low. A recent review of medical records for 1,186 patients with incurable pancreatic cancer found Advance Directives (AD) in the medical record of only 15% of patients. Of those who did have a directive, 42% had a different person designated as their healthcare proxy in their AD than the individual that appeared as primary "contact person" in the medical record [39]. A study of 75 consecutively admitted patients with cancer

found only 41% had an AD [40]. Other studies [41-42] have found low levels of ADs for patients with advanced cancer or patients with terminal illness. The focus of directives is often on life-sustaining treatment and incorporates generic language that may not provide enough guidance for the wide array of decisions facing people with cancer and/or their loved ones. For 125 proxies of advanced cancer patients who had completed ADs, the proxy reported they found the AD to be helpful in decision making only about half of the time [43].

A review project suggests the pain and delirium often experienced by cancer patients towards the end-of-life can limit the ability to participate in making decisions, thus providing a strong rationale for integrating ACP into oncology care. Also of note is that cancer patients often receive aggressive treatment near the end-of-life, precisely a time when they might benefit from or prefer more comfort oriented care [44]. Most research on ACP indicates the majority of patients will choose to forgo treatment near the end-of-life, opting instead for palliative care [44]. Interviews with 342 patients, some with advanced cancer, found that more patients would choose to forgo the more invasive long-term treatments, such as mechanical ventilation and long-term feeding tubes [45]. Another study found that older patients with metastatic cancer would choose artificial tube feeding less frequently than physicians use it in their practice [46]. An observational prospective cohort study of terminally ill cancer patients found that having end-of-life discussions was associated with lower rates of ventilation, resuscitation, ICU admission, and with earlier hospice enrollment. The study also found an increased quality of life for both patients and their caregivers when less aggressive treatments were provided. Caregivers of patients who underwent aggressive treatment were more likely to experience mental health problems such as depression and feelings of regret after the patient's death [19]. Given these findings, being aware of and honoring a patient's choices is likely to result in fewer hospitalizations, increased hospice use and better quality of life for oncology patients.

An AHRQ report on the state of advance care planning research indicates there is an unfilled need for ACP services for patients with chronic diseases [11]. The report indicates that most people who die in the U.S. are over age 65, Medicare recipients, and most die from chronic conditions such as heart disease, COPD, diabetes, and renal failure. Because the "trajectory of dying" is so different for people with chronic diseases than with cancer, there is considerable uncertainty about prognosis and when death is likely to occur. Patients with chronic diseases often experience episodes of illness requiring hospitalization followed by periods of recovery. This pattern may repeat and be accompanied by mental and physical ability declines. Additionally, these patients are often not told that their condition is terminal. As patients are hospitalized or reach crisis points in their fluctuating pattern, decisions may need to be made and they may not be able to speak for themselves. As indicated earlier, the standard advance directive is often insufficient to make these decisions [11] and proxies are often unprepared.

Recent literature on the management of heart failure stresses the importance of integrating comprehensive ACP into heart failure treatment, with recognition of ACP as an ongoing process to be updated throughout the disease course. However, barriers to effective advance care planning in this population include the unpredictable disease trajectory of heart failure and provider and patient misperception of disease severity [47].

Similar calls for improved advance care planning are being made by those caring for patients with chronic kidney disease. For patients receiving dialysis, end-of-life care is perceived as something that would be started when patients decide to end dialysis, which often means that end-of-life care and decisions may be introduced far later than needed. Patients with kidney disease and their families lack correct information on the process of dying, a barrier to making end-of-life decisions. Lack of attention

to end-of-life discussions and family needs may be a contributor to poor patient and family experience when patients die of renal failure [29]. Research indicates most dialysis patients would welcome ACP discussions and expect their physicians to initiate such conversations. However, only 7% to 35% of dialysis patients complete advance directives [29, 48].

Palliative Care in the Target Population

Among the disease conditions in the proposed target population, palliative care is best integrated into care for cancer patients. However, even cancer patients may not benefit from palliative care services as much as they could. A study to determine the availability and degree of integration of palliative care services in U.S. cancer centers conducted recently found that National Cancer Institute (NCI) cancer centers were far more likely to have palliative care programs (98%) than non-NCI programs (78%). Less than half of the cancer centers offered palliative care outpatient services. Executives of these centers were generally quite favorable towards increasing palliative care services at these centers but cited low reimbursement as a barrier to improved integration [28].

Treatments for heart failure have extended the lives of these patients but as more patients survive into late-stage heart failure, the burden of pain, dyspnea and other symptoms becomes worse [49]. Depression is also of particular concern among heart failure patients. Depression prevalence has been estimated in heart failure patients to range from 21% to more than 30% and even higher in hospitalized patients. Heart failure patients with depression have worse outcomes, with increased risk for cardiac events, hospitalization and death [47].

Patients with renal failure and COPD have been documented to experience a wide variety of symptoms as well that indicate a role for palliative care. A review of symptoms of dialysis patients found more than half of the patients report fatigue, pruritus, and constipation, and more than 40% experience anorexia, pain, and sleep disturbance [50]. As with other diseases, depression is of particular concern with chronic kidney disease [28, 51]. A study comparing symptoms and quality of life in patients with cancer and those with end stage renal disease found that patients with advance renal failure experience a symptom burden and quality of life impairment similar to that of patients with terminal malignancy [29, 52]. Patients with COPD, compared to lung cancer patients are more likely to be admitted to the ICU in the last six months of life and less likely to receive symptom-directed medications such as opioids or benzodiazepines in the outpatient setting [38].

One key challenge to implementing palliative care for heart failure and COPD patients in contrast to cancer patients is the variability of disease progression. While advanced cancer patients have a fairly predictable trajectory of maintaining good functioning until relatively late in their course, the same is not true for patients with advanced heart failure or COPD. This unpredictable disease trajectory combined with misconceptions about the philosophy of palliative care result in few referrals for heart failure and COPD patients. Integration of palliative care into heart failure care is gaining support. The 2005 update of the American College of Cardiology/ American Heart Association guidelines for Chronic Heart Failure care is the first edition to include recommendations for hospice and palliative care for patients with advanced HF for the first time [36]. These recommendations by professional associations indicate the agreement about unmet needs that could be addressed by a palliative care approach. What is not known, however, is how palliative care impacts patients with heart failure. To date, there is little clinically significant data on the impact of a systematic palliative care model integrated into heart failure care.

One outcomes-based study examined a home-based palliative care model for heart failure patients receiving care at Kaiser Permanente [53]. The study found that patients in the home-based palliative care program were more likely to die at home and had lower cost of care. Another study conducted in a primary care setting tested a Comprehensive Care Team intervention that consisted of palliative care team consultations for the primary care provider while patients received advance care planning psychosocial support, and family care givers received training. The study included 90 patients (50 intervention, 40 control) with advanced heart failure, chronic obstructive pulmonary disease, or cancer who had a prognosis of one to five years. At 6 and 12 months, the intervention group had less dyspnea, anxiety, and improved sleep quality and spiritual well being but no change in depression, pain, or quality of life. Recommendations from the palliative care providers to address pain and depression were rarely followed by the primary care providers, highlighting the need for a stronger integration of the palliative care providers [54].

Hospice Use in the Target Population

While patients with cancer have historically been the predominant population served by hospice, that trend is changing slightly with increases in other diseases. One estimate from 2002 indicates that 65% of cancer deaths received hospice services [55]. However there are still many patients with progressive cancer who might benefit from hospice services but are not referred to hospice. A study of 1517 Stage IV lung cancer (metastatic), found that only half (53%) of patients had discussed hospice with a provider within four-seven months after diagnosis. Patients reporting the most severe pain or dyspnea were no more likely to have discussed hospice than those reporting less severe or no symptoms. The study identified a need for improved communication to address patients' lack of awareness about hospice and misunderstandings about their prognosis [56].

Several studies have documented low use of hospice by patients with heart disease, COPD, and renal failure. A study comparing deceased heart failure patients and cancer patients found that heart failure patients were much less likely to enroll in hospice (20.4%) than cancer patients (50.8%)[49]. Among those who did enroll in hospice, the heart failure patients were enrolled for shorter periods of time.

A study examining deaths to people over age 65 in 2002 found an overall utilization rate of hospice to be 29%. More than half of deaths due to malignancies (65%) and deaths due to kidney disease (55%) used hospice while there was lower use for deaths due to COPD (30%) and heart disease (12%) [55].

E. Summary

Background data convey the need and potential to expand access to current advance care planning programs and to improve their effectiveness. From Chuck's story, it is also clear that a comprehensive, patient-defined care model that builds upon existing programs to create a more compassionate and supportive system of care holds potential to significantly alter late life care for patients and families in Chuck's situation.

With support from the Robina Foundation, the late life supportive care team aims to shift the present paradigm for patients like Chuck by developing and testing a comprehensive and more effective system of care for the most vulnerable patients across the Allina organization and beyond. The results will provide a replicable model that will transform services for patients with life limiting illness and their families who are juggling multiple health concerns as they enter the final stage of the care continuum.

III. Intervention Description

A. Late Life Supportive Care Process Overview

Today's Late Life Supportive Care Programs

Families that experience the burden of coordinating care for a loved one with life limiting illness often find that the task is simply beyond their capabilities. Confusion about choices, anxiety about the future and anticipatory grief set in long before death, as loss of relationships, independence, and work identity accumulate. Given these hardships, the customary patient-directed, self-referral to health care services produces unreliable and often deleterious variations in outcomes. A system of care that reliably refers patients upon diagnosis of a life limiting illness is essential to improve these outcomes, along with the patient and provider experience.

Existing programs, such as hospice, palliative care and Gunderson Lutheran's Respecting Choices model of Advanced Care Planning, support patients and caregivers in need of late life supportive care. These programs, as well as quality care guidelines that have been developed for hospice and palliative care, will inform Allina's LLSC model. These guiding principles include: 1) the ICSI Palliative Care Guidelines and National Consensus Project Palliative Care and Hospice guidelines and 2) the National Quality Forum Consensus Report for Preferred Practices for Palliative and Hospice Care Quality. [57-58]

Preferred practices for quality hospice and palliative care will also be implemented, which include: interdisciplinary team support; 24/7 availability to resources and support; proactive advance care planning; shared decision making; regular assessment of pain and symptoms; regular patient family care conferencing and counseling support; timely referral to end-of-life care; culturally sensitive care and access to interpreter services; anticipatory loss, grief and bereavement support; and access to ethics consultation.

These guidelines and practices, when optimally integrated and standardized within primary care and inpatient settings will accomplish the following:

- Identify patients with chronic progressive conditions at the onset of diagnosis
- Focus on the family and caregiver as the unit of care
- Engage comprehensive interdisciplinary care through the dying and bereavement phase
- Support the patient on the care continuum, focusing on care coordination and relief of suffering
- Integrate trained and certified staff that assess and manage complex pain and symptoms
- Integrate communication support to assist with the complex decision-making on disease progression

Sadly, they have yet to be effectively integrated or standardized in inpatient and primary care settings, and systems do not exist to ensure services are accessible early and consistently reliable and flexible to adapt as patients' values and wishes change with their condition. In addition, tools presently do not exist to broadly convey patient's values, wishes and choices to clinicians or to support patients, caregivers and clinicians in open discussions about end-of-life decisions.

The table below shows varying **components of the care process** patients and families from the target population may receive through different care models in a traditional healthcare system contrasted with the proposed Late Life Supportive Care model.

Category	<i>Late Life Supportive Care Model</i>	Traditional Primary Care	Clinic based care management and Care guides	Hospital Based Care Navigation (commonly used for cancer patients)	Palliative Care	Hospice
Enrollment/ Receipt of Services	<i>Intentional capture of a defined patient panel based on diagnosis and life stage. Focus on enrollment early enough for patients and caregivers to experience full potential benefit.</i>	Patient shows up	Patient offered services based on select set of chronic diseases. Referred by primary care provider.	Narrowly provided based on diagnosis or an adverse event.	Dependent on referral by primary provider. Predominantly inpatient. Patients in the target population with CHF, COPD, and kidney disease rarely served by palliative care and cancer patients often referred late.	Dependent on self-, family, or provider referral. Frequently patients are referred late and may not receive full benefit. Patients with some of the target diseases (CHF, COPD, Kidney disease) are frequently not referred at all.
Symptom and Psychosocial Needs Assessment of Patients	<i>Edmonton symptom scale, SF-36, perceived stress scale, quality of life measures, access to resources measures, patient experience measures conducted at baseline and repeated as served.</i>	Presenting complaint gets attention	Needs assessment specific to conditions	No systematic assessment	Symptom assessment at each visit as well as assessment of other psychosocial or spiritual needs.	Symptom assessment at each visit as well as assessment of other psychosocial or spiritual needs.
Caregiver Needs Assessment	<i>Caregiver needs and caregiver experience with health system assessed at baseline and repeated as served. Caregiver is incorporated into supportive care plan developed.</i>	Not addressed	Not addressed	May make some referrals for specific support (e.g., grief, respite, stress).	Caregiver needs are assessed and referrals made.	Caregiver needs are assessed and referrals made.

Category	<i>Late Life Supportive Care Model</i>	Traditional Primary Care	Clinic based care management and Care guides	Hospital Based Care Navigation (commonly used for cancer patients)	Palliative Care	Hospice
Goals of Care/ Care Plan Development	<i>Comprehensive supportive care plan developed that is patient/family centered and based on a comprehensive needs assessment of symptoms, medical diagnosis and psychosocial needs of patient as well as caregiver.</i>	Addressed in an episodic visit based fashion (i.e., after visit summary)	Care guides are focused on addressing a pre-defined set of focused goals related to diseases/ risk factors. Care managers focus on a slightly expanded set of patient goals related to conditions on which they are working.	Care navigator focuses on goals related to specific treatment plan related to diagnosis.	Care plan developed with patient and caregiver during office/ inpatient visit focused on symptom management and addressing spiritual, quality of life needs.	Focused on end-of-life care, symptom management, caregiver needs.
Advance Care Planning	<i>Disease specific advance care planning conducted with all patients and their proxies. Plan and goals reviewed and updated continuously.</i>	Focus only on advance directives/ proxies. Generally not brought up in primary care setting.	Not an area of focus.	Often not brought up, focus only on advance directives/ proxies. If ACP is available in system may refer for facilitated ACP.	Able to start advance care planning discussions and complete some documentation. If ACP available in system may refer for facilitated ACP / Disease Specific ACP.	Specific components of ACP completed at the time of hospice enrollment.
Advanced Illness Care	<i>Provides interdisciplinary advanced illness care as main focus.</i>	Chance. Some providers do it well.	Not explicitly in the role.	Role coordinates advanced illness care.	Focused on symptom management.	Provides interdisciplinary advanced illness care as main focus.
Accessibility	<i>24-hour RN triage</i>	Appointment desk, after hours call service.	Care guide available during clinic hours. Care manager available during clinic and after hours via RN triage.	Available during specific hours.	Available during inpatient stays, and some outpatient clinic appointments. Initially accessed through primary doctor's referral.	24-hour RN triage

Category	Late Life Supportive Care Model	Traditional Primary Care	Clinic based care management and Care guides	Hospital Based Care Navigation (commonly used for cancer patients)	Palliative Care	Hospice
Primary Care Integration	Utilizes the interdisciplinary team (IDT) to unite late life care and primary care team members	--	Care guides and managers communicate with providers on disease specific risk factors.	May provide basic connection back to primary care provider.	Physician to physician communication when appropriate.	Select communication between hospice and primary care providers as needed.
Counseling Services	Integrated into holistic assessment and ongoing care as a standard.	Provider referral based upon mental health condition.	No systematic assessment for counseling needs.	No systematic assessment for counseling needs. Referral if resources available	Social workers and chaplains on inpatient palliative care team. Added referrals, as needed.	Integrated into social work and chaplain role of IDT and bereavement counselor at death.

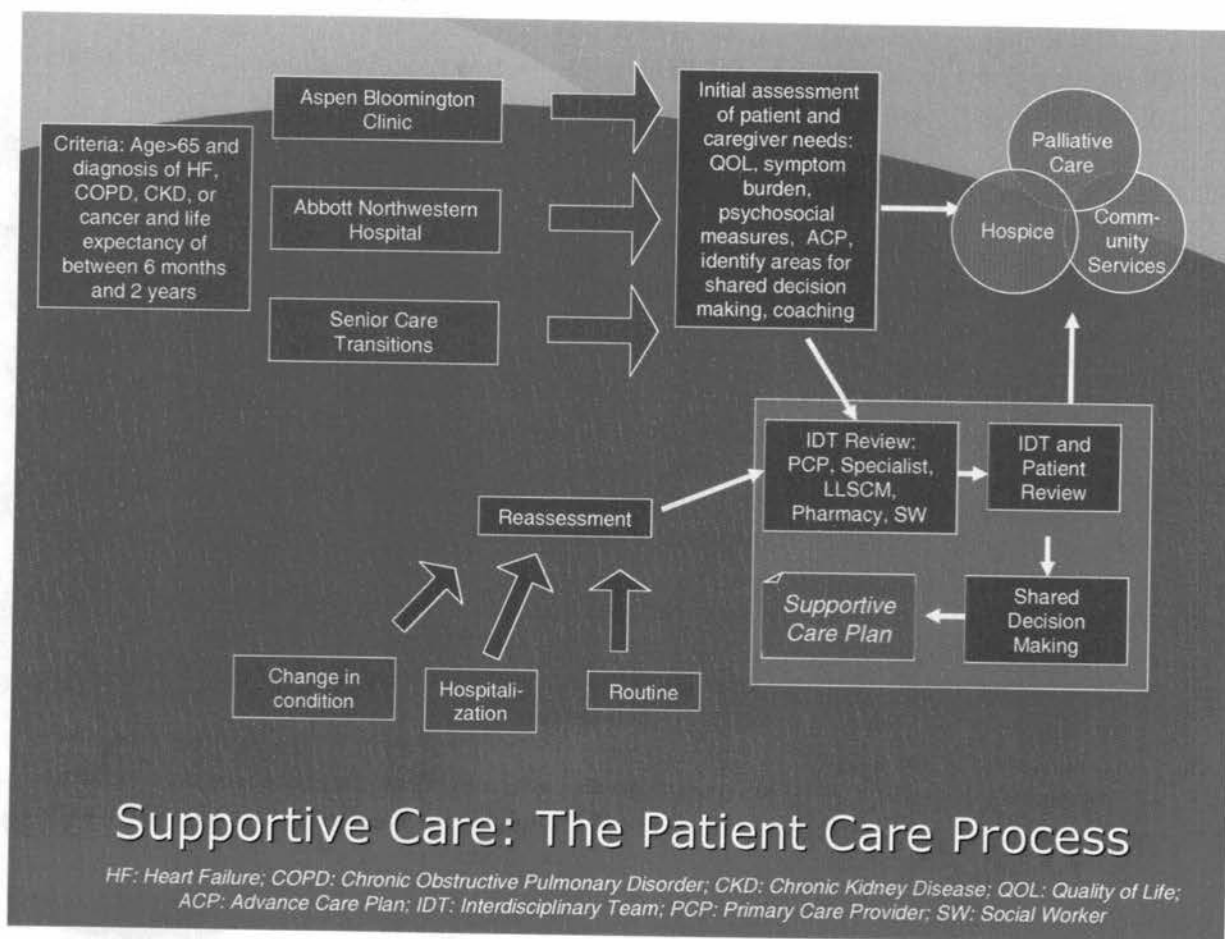
Tomorrow's Late Life Supportive Care System

With support from the Robina Foundation, Allina aims to shift the present paradigm by demonstrating and testing a comprehensive, systematic approach to late life supportive care that is proactive in meeting the unique needs of patients with life limiting illness as they enter the final stage of the care continuum. The proposed project will introduce a full range of system components essential to truly addressing the gaps described above; integrate these new systems, processes and tools into primary and inpatient care settings; and do so in a way that provides reliable service and outcomes for patients, families and care providers.

To accomplish this essential shift in care delivery from a broad "one size fits all" approach to an approach that is founded on individualized care will require an innovative, detailed intervention plan that will easily integrate into current practices. This innovative model is described in the figure below and in the paragraphs that follow.

Definitions of key abbreviations from the following table include:

- Late Life Supportive Care Manager (LLSCM)
- Interdisciplinary Team (IDT)
- Primary Care Provider (PCP)
- Advanced Care Planning (ACP) Facilitator
- Social Worker (SW)



This visual illustrates the patient audience that will serve as the focus for this demonstration study and their diagnoses. It also reflects systematic methods of referral, assessment and reassessment that will engage health and supportive care providers, patients, and caregivers and in collaborative communication and shared decision making as fundamental drivers of a more effective system of care.

Components of the Late Life Model of Supportive Care, which will be described in greater detail in the paragraphs that follow, include:

- Tools to support patient referral upon diagnosis of a life limiting illness
- A comprehensive suite of instruments to assess patient and caregivers' quality of life; stress; symptom burden; functional, physical, and mental health status; and experience with the health care system
- Targeted reassessment, which is triggered at each clinic visit, if the patient is hospitalized, or with recognized disease progression
- Comprehensive Supportive Care Plans that build upon assessment findings, are integrated into the electronic records for care coordination and are continually updated as needs, values and wishes change
- Education and support tools to foster end-of-life dialogue
- Shared decision making, which serves as a grounding value and sustaining mechanism to engage health and supportive care providers, patients and caregivers in dialogue and decision making to coordinate care, manage resources and align patient preferences with care recommendations
- Integration of supportive care partners, such as family or spiritual counselors, recognizing that patients' definition of health goes beyond physical health
- Electronic support tools that are integrated into the medical record to support systematization of late-life supportive care for patients with life limiting illness and clinicians

B. Initial Supportive Care Assessment

The assessment is divided into five components:

1. Assessment of the patient and caregiver's understanding of the cause and prognosis of the illness; its disease burden such as current and future symptoms; and complications and management challenges. Information will be gathered related to how the illness has changed their life; patient and family worries, concerns and fears; patient defined quality of life; coping strategies and support system; family dynamics and goals for living well.
2. Exploration of past and current experiences of patient's, family or friends health care experiences and how they may affect individual treatment choices. Exploration of care options is discussed to understand gaps in current or future care needs and decisions about care, including choices for end of life.
3. Clarification of goals to meet current care needs and exploration of treatment wishes for future care needs based upon complications anticipated as illness progresses.
4. Summarization of discussion and goals in a follow up plan for the patient, provider and care team, which should include a completed advance care plan.
5. Documentation of the supportive care assessment and follow up visit using a smart form in the electronic health record (EHR), which can serve as a running flow sheet of key data fields that can be evaluated and trended over time; populate the supportive care plan; and download to a letter format given to the patient, family, provider and team members.

Assessment Approach

The Supportive Care Assessment is completed by the Late Life Supportive Care Manager (LLSCM) using active listening and communication skills, motivational interviewing techniques, a representational approach to patient education and adult learning and the seven core components of communication and decision making found in the Transitions and Palliative Care Therapy Model (TPCT).

Assessment Visits

- The LLSCM meets the patient in the home, clinic or senior care setting. The number of visits depends upon the time it takes to appropriately complete the initial assessment process. Assessment visits also include the person the patient counts on most for day to day help (caregiver) and the person the patient has appointed as the decision maker in the living will (proxy), if available.
- The LLSCM reviews the data collection tools that were mailed and guides patients and caregivers in completing any questionnaires that are not complete.
- The LLSCM conducts a Disease-Specific Advance Care Planning session, which follows the pattern of the standard complex ACP session of the *Respecting Choices* model. This discussion focuses on assessing quality of life, which is noted by the LLSCM for future planning related to the patients' values and wishes in regards to future medical treatment.
- The LLSCM asks the patient and caregiver questions about how they are generally feeling in regards to their present quality of life.
- For patients who complete the advance directive process with the LLSCM:
 - Documents are completed, notarized and copied into the electronic medical record.
 - A Provider Order for Life-Sustaining Treatment (POLST) form is completed for patients who are unable cognitively to complete an advance directive or who want one in addition to their advance directive.
- The LLSCM will ask patients and caregivers to describe what is most important to them in the weeks or months ahead, which may focus on a medical concern. However, patients and caregivers may be most concerned about other issues, like their living situation or connections to other kinds of support in the community. What seems most important to the patient and caregiver will be written down in a plan that will help guide them, their provider and the Supportive Care team.
- At the end of the visit, the LLSCM will then establish next steps with the patient and caregiver.

Assessment Instruments

The assessment interview will embrace components that are similar to Gunderson's Respecting Choices Model's Disease Specific Advance Care planning interview. Instruments that will be integrated into Late Life Model of Supportive Care assessment include:

- Edmonton Symptom Assessment Scale (ESAS)
- A functional assessment using the palliative performance scoring system
- Perceived stress scale
- SF-36 survey
- A patient experience measure
- A quality of life measure
- Access to resources measures
- Transitions in Care measure TCM-3--*only for patients transferring from a facility*
- The LLSCM works with the caregiver in cases of patient cognitive impairments that make it difficult for them to complete the measures

C. Development of the Supportive Care Plan

Assessment findings are used to generate a supportive care plan, which serves to:

- Document the prioritized goals and action steps needed to achieve those goals. Action steps may be for patient, caregiver, LLSCM, or related to coordination of other resources
- Provide an electronic health record-integrated tool to support patients, families and care teams in aligning and monitoring efforts to achieve specific patient/family goals and guideline-based supportive care interventions
- Provide a two-way interaction between the care team and the patient/family, encouraging joint ownership in achieving goals and positive reinforcement for meeting goals
- Provide a formal testimony of the patient's commitment to the prioritized goals and action steps

Plan Elements

Elements of the supportive care plan, which build upon Allina's existing care management plans within the Electronic Health Record, include:

- Patient demographics
- Primary Care provider
- Health System Care Team Members
- Non-Health System Care Team Members
- 24/7 phone number contact and directions on how to access assistance and support with a plan for avoiding re-hospitalization.
- Emergency contact
- Advance Care Plan
 - Health care agent
 - AD document type
 - Specific treatment preferences and wishes
- List of all resources providing care and support to patient and family.
- Listing of the top three patient and family centered goals
- Listing of 1-3 disease-related self management goals
- Resources necessary to achieve goals are listed along with IDT members assigned to support patient and family in meeting specific goals
- Plan for the next supportive care visit
- The Supportive Care plan will be linked and included in the in the clinic after visit summary (reviewed by provider, SC nurse or medical assistant) and hospital discharge writer (reviewed by discharging RN)

In addition to these elements, the Supportive Care Plan incorporates the following:

- A plan for follow up from IDT meetings, either by phone or personal visit
- Plans for subsequent visits
- Specific disease-related self-management tasks, such as daily weights, Red-Yellow-Green card check-ins
- Date of the next set of assessment surveys
- Family and caregiver communication plans
- How to contact the LLSCM or program at any time

Process for Creating the Supportive Care Plan

The Late Life Supportive Care Manager (LLSCM) works to construct the Supportive Care Plan, in partnership with the patient and caregiver, using the following steps:

- A deck of goal cards are created using salient findings from the SF-36, perceived stress scale, the symptoms assessed with the Edmonton, the patient's broadly stated goals from the advance directive dialogue, and quality of life goals that emerged from discussion.
- The LLSCM discusses goals with the patient and caregiver to ensure salient points are captured and others are not overlooked. A similar concept has been employed to document end of life wishes [59].
- The patient identifies the three most important goals.
- The LLSCM lays out a board, with the patient at the center of a pie. In the wedges of the pie are some categories of resources, such as "My doctor," "Family," "Spiritual support," "Supportive Personal Counselor," "A support group for people like me," and "My caregiver." Others are left blank, to be completed during the session.
- The patient (with caregiver) is asked to place chosen goals in what is perceived to be the appropriate spot on the board, enabling the patient to begin to describe accountability and visualize the connection between him/herself and the resource.
- Initial plans are made to begin progress toward the patient's identified goals.
- Patient goals are transferred to the electronic supportive care plan.
- The process of Interdisciplinary Team (IDT) involvement is described. Arrangements are made to schedule the patient and caregiver's engagement in an IDT, as appropriate.
- Processes for how the primary care provider's input is integrated into the plan to align patients' and caregivers' goals and wishes with care recommendations is described.
- The goal cards, board, and a written summary of the goals and plans is provided to the patient.
- The patient and family are enrolled in MyChart and given instructions on how to find the individualized Supportive Care Plan on the Internet and check it for updates.

In addition to these baseline elements, assessment results and goals are reviewed and additional service needs are discussed in the context of the patient and caregiver's defined needs. While a baseline Supportive Care Plan is featured on the next page, the full plan incorporates referrals to various internal and external resources that align with the patient and caregiver's goals, which change over time. The LLSCM is responsible for ensuring that the appropriate services are included and coordinated with members of the IDT if action steps need to be taken prior to the IDT meeting.

Examples of Services Coordinated by Supportive Care

Service	Agent Providing Service		
	Supportive Care team	Allina	Non-Allina
Advance Care Planning	✓	✓	
Disease Management	✓	✓	
Diabetic Education		✓	
Family Counseling	✓	✓	✓
Planning for a Change in Living Situation	✓	✓	✓
Palliative Care Consultation	✓		
Creating a Will			✓
Driving Assessment		✓	✓
Neuropsychiatric Assessment		✓	
Referral to Hospice	✓		
Live-in Help			✓
Translator Services		✓	
Medication Coverage	✓		
Respite Care		✓	✓
Home Infusion		✓	✓
Transportation		✓	✓
Medical Coverage, MES, etc.	✓		

Sample SUPPORTIVE CARE PLAN

Patient Name, MRN DOB

PCP

Emergency Contact

Health Care Agent

Supportive Care Team Members with contact information

Health System Team Members

Non-Health System Team Members

I can access the Allina Care Navigation Help desk for 24 hour 7 day week assistance at 651-635-9173 and should call when ("my weight goes up three or more pounds; I get short of breath; My family needs help caring for me").

My health condition (s) includes (s) (list health conditions identified by patient and family) ***

My understanding of my illness is that it is: (a. reversible, temporary and short term; b. chronic, life limiting and incurable; c. end-stage and terminal, d. ***)

My Advance Care Plan (needs to be reviewed/revised/was completed) on ___/___/___ and centrally located in my medical record.

Based upon my current understanding of my illness I would prefer to be (resuscitated/not resuscitated).

My goals for medical care are to receive (aggressive care – full treatment to live as long as possible, length of life is more important to me than quality of life; limited intervention – treat reversible conditions and avoid care that will cause me more harm or worsen my quality of life; comfort care – keep me pain and symptom free so I can have good quality of life for the time I have left)

Sample SUPPORTIVE CARE PLAN (continued)

The three most important things to help me live well are:

Goal	Patient and Family Centered Goal	Intervention/ patient/family/team member	Goal start date	Date/Progress/goal revised	Goal achieved date
#1	"I want my back pain to be less than a 5, and I don't want to have to get up in the middle of the night to take a pain pill."	Start methadone, change medication schedule – PCP, LLSCM, Pharmacist			
#2	"I don't think that my family will see things eye to eye. I want them all to agree on decisions."	Review disease specific advance care plan with family; family care conference – LLSCM, Marriage and Family counselor			
#3	"I want to be at home at the end. I am not a burden on my family when I need more care"	Social work visit to assess for resources, hospice consult			

To manage my health condition I have agreed to:

Goal	Patient and family Centered Goal	Intervention/ patient/family/team member	Goal start date	Date/Progress/goal revised	Goal achieved date
#1	"Take my medications on time"	Pharmacy consult to evaluate medication profile; LLSCM			
#2	"Weigh myself everyday and call the nurse when my weight goes up"	Install home cardiac monitoring system;			
#3	"Avoid salty foods and restrict how much I drink everyday"	Dietary consult; meal planning; home care visits for cardiac teaching.			

I agree to the supportive care plan developed collaboratively with my doctor, family and care team to achieve my goals. I will need the assistance of *** to assist me in achieving my goals.

Patient name and signature: _____ Date: _____

Provider and Care team signatures: _____ Date: _____

D. Ongoing Collaborative Communication and Shared Decision-Making

Approach

The Late Life Supportive Care model is built upon the principles of collaborative communication and a shared decision-making process that empowers and enables patients and caregivers to express and receive care that aligns with their values, preferences and wishes. Patients and caregivers are invited to define their preferences regarding communication, care and supportive services at various points throughout the last state of the care continuum.

An Interdisciplinary Team (IDT) collaborates across the major care domains. The team, comprised of a set of core members and extended members as necessary, communicates and collaborates with patients and caregivers and with one another--sometimes as a large group (patient-to-provider) and sometimes as a care team only (provider-to-provider), depending on the issue or challenge being faced.

Shared decision-making is a core value that grounds the work of all IDT members, establishing common and continuously evolving knowledge across patients, caregivers, clinicians and supportive care providers. These shared decision making values, reinforced by decision aids, foster communication that results in health and supportive care decisions that align with patient and caregivers' expressed wishes and values.

Patient and Caregiver Communication Plan

Each patient and caregiver will establish a communication plan, indicating when and how to use telephone, e mail, mail and face-to-face visits. Communications will also include direct links to the Supportive Care Plan in MyChart for the patient. The communication plan ensures patients and caregivers receive critical information and maximize efficiency for all members of the care team.

Throughout the course of illness, the LLSCM remains in contact with the patient and family. At a minimum, this occurs monthly, but could increase to two or three times per week. The Supportive Care team is available 24 hours a day, seven days a week. At night, a Supportive Care-trained triage RN answers the phone.

Interdisciplinary Team Meeting

An Interdisciplinary Team will be identified for each patient. The core team will consist of the patient, a key family member or friend named by the patient who agrees to support the patient, an LLSCM, the primary care provider (PCP), a social worker and a counselor who specializes in the complexity of family systems. In addition, an extended care team, which could include hospitalists, specialists, pharmacists, palliative care specialists, chaplain, home care, complementary medicine providers, the broader family/friend support system, and community resources will be involved as needed.

A primary goal of the IDT will be to alleviate the inadequacies of traditional, ad hoc care teams by using regular electronic and phone communication, facilitated by the LLSCM. Efforts of the IDT are focused collectively on meeting best practice palliative care guidelines and the patient and family goals.

The IDT meets every other week to review the patient's case. Clinicians have time allotted to review electronic Supportive Care Plans prior to meetings and are compensated for time spent in care oversight. The LLSCM talks with providers who are unable to meet face-to-face, prior to each meeting. Patients and caregivers are invited to participate in the IDT as their case is discussed.

Participants in IDT meetings review the patient's Supportive Care Plan goals and discuss:

- Who is engaged to reach this goal? Is progress being made?
- Are there other resources internally or externally to support the patient's goals?
- Is the patient on the right medicines? Do they know how to take them? Can they afford them?
- What is likely to happen next? How does the team plan for decline?
- What current and future shared decision making topics are relevant to patient/family centered goals? Is there a plan to proactively discuss?
- What specific changes are advised to the plan of care?
- Is the patient at risk for readmission? What is the plan to prevent it?
- Have advance care planning, palliative care, and hospice been addressed in a timely fashion?

As the IDT concludes, the patient's plan of care is amended. Patients and caregivers who did not attend in person are updated electronically, based upon their communication plans.

A week following the IDT, the LLSCM contacts the patient and caregiver to review the plan of care, assess progress and identify new resources. The Edmonton Symptom Assessment Scale is repeated. The patient's goal cards are used as the basis for review and modification.

The case manager communicates input from the IDT, and brings specific issues back to the IDT or to particular team members for advice.

Supportive Care Interdisciplinary Team Member Roles

Core Team

<i>Team Member</i>	<i>Role</i>
Provider - primary provider (e.g. Allina PCP, Specialist, Allina Senior Care Transitions Provider) who administers the majority of medical care to the patient	Confirms baseline understanding of illness' progression and prognosis with the patient, family and care team in addition to usual medical care.
Supportive Care Case Manager – primary coordination of team	Complete description of role in section 3.3
Counselor – Trained in family therapy and counseling	Identify, assess and support the patient and family through unresolved stressors, e.g. complex decisions, anticipatory grief, changes in family dynamics, roles and responsibilities.
Social Worker – Masters in Social Work. Hospice and Palliative Care experience	Assess psychosocial needs and assist in connecting with resources.

Extended Team

<i>Team Member</i>	<i>Role</i>
Pharmacist –Pharm D	Assess and recommend changes in medications to simplify regime (e.g. dose, schedule, route), reduce adverse interactions and high cost medications when an alternative is available.
Chaplain with Hospice and Palliative Care Experience	Provide direct spiritual care support to address spiritual suffering or act as a conduit to the patient and families faith community.
Supportive Care Medical Director – Board Certified in Palliative Medicine	Provide consult to LLSCM and PCP with the intent to reduce the burden of the illness.
Clinic team and Nursing home team - staff that will interact with patient and families in the care process.	Common understanding of the supportive care project and direct patients and families to the SC nurse for assistance.
Volunteer Coordinator and volunteers	Coordinates members of the community committed to supporting patients and families where traditional care and support services are not available, i.e. respite, companionship.
Community Services and Programs: e.g. home care, custodial care teams	Agree to adopt the supportive care plan and participate as an active member.
Extended IDT members (next door neighbor, apartment manager, home care nurse, care guide)	Interact with and support patient and family as needed.

E. Integration of Supportive Care Tools

Critical to the success of the LLSC model will be an integrated suite of EHR tools. The design principles that will be employed as these tools are built or updated are outlined below. They will be dependent upon the area and the current capabilities of Allina's electronic health record (Excellian, an Epic product).

Principles:

1. The majority of late life supportive care data need to be available at the patient level. Traditionally data in an EHR are available at an encounter or visit level, masking critical information to all care team members at every encounter.
2. Regular communication with other members of the care team (i.e., primary care provider, primary specialty provider) about late life care progress should be predictable, reliable, and easy to use. Quarterly updates to all critical members of the IDT will be expected, with additional important updates added as warranted.
3. The most current late life care work should be visible, with prior goals and activities archived for easy review, but not front and center distractions competing against current state.
4. All late life supportive care data are patient owned. Patient owned information is part of a two-way dialogue between patient/caregiver and late life supportive care team. Patient/caregiver goals and perceptions, as well as visit and LLSC team encounter information, will be made available to patients electronically (i.e., through Epic's personal health record, MyChart) and in a printed format (i.e., via a modified After Visit Summary).

5. Changes to the EHR will align with expectations of meaningful use and will exploit optimal use of the EHR.
6. As changes are made to the EHR, Allina will connect with Epic and advance the notion that updates to and changes in late life supportive care tools should be part of future Epic upgrades for all health systems using this EHR product.

EHR tools are required for a variety of purposes, from identification of eligible patients to reporting, to ensure the efficient implementation of the LLSC model. The following EHR components will be built to enhance this project:

Best Practice Alerts: Alerts will be integrated into the medical record to reliably identify patients eligible for supportive care and to trigger the need for pro-active intervention according to the supportive care plan, i.e. updating advance care plan, hospice consult based up disease progression.

Eligibility Report: At minimum, a Clarity and/or Reporting Workbench Report identifying potentially eligible Abbott Northwestern Hospital and Aspen Bloomington patients will be developed. Parameters of this report will be built upon the patient inclusion/exclusion criteria previously identified. During the design phase, the Research Team will also consider whether best practice alerts might be an option for triggering record review by the study coordinator and the care team.

Study Enrollment: Once patients/caregivers have been informed about the study and invited to participate, the study coordinator or late life care manager will initiative an order to opt a patient in or out, depending upon the enrollment decision by the patient. If patients become unable to participate or unwilling to participate in the study going forward, an inactivate order will be entered. "Late Life Supportive Care Study" will also be added to the patient's problem list.

Late Life Supportive Care Team Identification: Using Epic's care team functionality, the entire late life supportive care team, including members of the patients' circle of concern (e.g., spouse, adult child) will be listed and roles identified so that everyone partnering with the patient is aware of the LLSC.

Supportive Care Initial Assessment Visit, Supportive Care Follow up Visit Contact Documentation: Progress notes, documentation flow sheets, and orders (where required) will be used to document interactions with patients. As noted in the design principles, quarterly updates to care team members (broadly) will be distributed.

Cross Continuum Based Episode of Care: Initial assessment, IDT team discussions, ongoing supportive care visit documentation will be available at the patient level in an episode of care listed by the usual criteria in chart review and appropriate filtering capabilities.

Billing: Where billing is necessary for services not currently billed for, a revenue cycle component of Epic will be developed and implemented. Research dollars will be used to cover the cost of any services provided through LLSC that are not covered by a payer.

Quality Improvement and Outcomes Reporting: Patient, late life supportive care manager, and Aspen Bloomington PCP level reports will be available to assess performance on goals and wishes, supportive care plan items, and other salient quality and outcome measures. For patients/caregivers, these reports will be embedded in the supportive care plan that is updated and made available during each LLSC interaction. For LLSC managers and PCPs, Clarity reports will be made available.

Needs Assessment: A needs assessment and documentation flow sheet will be developed in order to record all of the relevant measures from the initial needs assessment with the patient and caregiver. This tool will include at minimum information about an advance care plan (beyond Allina's current scanned record of ACP), values and preferences of patient, assessment tool data, and identified shared decision making opportunities.

F. Clearly Identified Roles and Responsibilities

Late Life Supportive Care Manager (LLSCM)

The central facilitator of the proposed intervention will be the LLSCM. As defined in this intervention, this will be a registered nurse with specialized training in case management, disease specific advance care planning, palliative care and hospice who focuses on: (1) assisting patient and family to develop a supportive care plan, (2) providing expert symptom and disease management, (3) providing regular holistic assessment of patient and families needs, and (4) facilitating care coordination and transitions.

The supportive care intervention will utilize nurse case managers whose fundamental goal will be to support the actualization of goals for patients and their families living with chronic progressive illness by:

- Providing patients with practical guidance, skills, and tools that will assist them to manage their chronic progressive illness and prepare for current and future decisions.
- Assisting patients and family members in overcoming informational, financial, social, emotional, logistical, and motivational barriers to care.
- Giving patients and families a familiar, trusted point-of-contact within the healthcare system.
- Assisting all members of the care team to focus and provide best practice supportive care as identified by patient and family centered goals.

Key Activities

- Actively work with patients and families through phone contact, email or in person, to "check in" with patients, assess for disease burden, anticipate and plan for changes based upon known progression of illness, review progress towards goals, and to inquire about any personal situations that may be impeding progress.
- Develop, review and update the Supportive Care Plan at a minimum monthly or more when a patient/family's status changes.
- Communicate with the patient/family before and after primary care encounters to facilitate agenda setting, review the supportive care plan and goals, prepare for current and future shared decision making experiences and prompt necessary action.
- Active member of the inpatient experience by: ensuring the supportive care plan is visible to hospitalists, inpatient staff and other caregivers across the care continuum, prompting an inpatient palliative care consult or family care conference, assisting inpatient discharge planning team to facilitate an optimal transition plan, encouraging the patient to discuss the in hospital stay with PCP during clinic follow up.
- Facilitate interdisciplinary team meetings at least once a month or more when there is a change in status, adjust the supportive care plan, coordinate and communicate updates to the IDT and patient/family. Integrates proactive patient/family care conferencing as status changes.

Personal Education, Experience, Background, Attributes and Skills

Bachelors prepared; Current Minnesota Registered Nurse licensure; Minimum 3-5 years nursing experienced required (prefer critical care/oncology/med surg background with a strong knowledge of pain and symptom management and chronic illness management). Case Management, Hospice, Palliative Care and/or Home Care experienced highly preferred. Certified in Hospice and Palliative Care preferred. Excellent written and verbal communication skills; organized with ability to multi-task; problem solver and critical thinker; creative able to think "outside of the box", ability to proactively plan care; self-directed while working collaboratively with the health care team.

Required Training and Education

- Palliative Care Core Competency training: Pain and symptoms management, conducting a patient/family centered care conference, communication skills for having difficult conversations
- Disease specific advance care planning facilitator training and certification
- Motivational Coaching training
- Adaptive Leadership training
- Shared Decision Making training
- Sensitivity training – understanding the role of poverty, illiteracy, depression, isolation, aging, isolation, managing multiple medical conditions, culturally sensitive behaviors.
- Resource and referral mechanisms – health system resources
- Phone and interpersonal etiquette
- Excellian (electronic health record) training

Interdisciplinary Team (IDT)

While the roles and responsibilities of the team were defined previously, required education and training will include the following. The depth of training for each team member will be based upon level of involvement in the care process.

- Shared understanding of supportive care plan, process and IDT roles versus with other team members
- General understanding and competency of adaptive leadership and shared decision making skills
- Clear understanding of the range of resources to allow for easy access to care/support.
- Excellian training to appropriately navigate the medical record
- Message delivery techniques and communications
- Basic Advance Care planning education and training
- Sensitivity training – understanding the role of poverty, illiteracy, depression, isolation, aging, isolation, managing multiple medical conditions, culturally sensitive behaviors
- Understanding how to have difficult conversations

Inpatient Palliative Care Team

The inpatient Palliative Care team is in a unique position to identify patients appropriate for Supportive Care. They can immediately begin delivering key elements of supportive care by providing expert symptom management, clarifying goals of care, and ensuring follow up with complex Advance Care Planning after discharge. Palliative Care recommendations should be incorporated in the supportive care plan.

For patients admitted during their enrollment in Supportive Care, the inpatient team is consulted to see the patient. They address symptoms, goals of care, and advance directives. Palliative Care works with the SC case manager to facilitate the care conference and coordinate care transitions.

G. Summary

Though good late life supportive care programs exist to build upon, the need to improve services for patients with life limiting illness and their caregivers is clear. The many components of the intervention, by collectively redefining the system of care and integrating this system seamlessly within primary and inpatient care settings will help people like Chuck by redefining the measure of quality health care as fulfilling patient-defined choices rather than only compliance with rigid treatment guidelines:

Compassionate, comprehensive and reliable late life supportive care services will also help care delivery organizations, health and supportive care providers, patients, and caregivers realize the Triple Aim and other critical outcomes, including:

- Honoring patients' and families' end of life wishes and goals
- Maintaining the overall quality of life for patients and families
- Improving the patient and family care experience
- Controlling costs of care for patients with life limiting illness
- Increasing access to best practice end of life care
- Improving job satisfaction of interdisciplinary team members

The Research Design and Methods section that follows will describe in detail how these and other outcome measures will be assessed throughout the project to guide effective development of the model and its components and to understand the impacts of this new system of care for patients, caregivers, care providers and health care delivery organizations.

IV. Research Design and Methods

A. Overview

In a manner similar to the 'Care Guides in the Primary Care Clinic' proposal previously funded by the Robina Foundation, the research team will employ a two-phase approach for the current effort. During Phase I, the design of the model will be completed and pilot tested at Abbott Northwestern Hospital, Aspen Bloomington Clinic, and two senior care facilities – Walker Methodist and Augustana Health Care Centers. A pre-post design will be used for evaluating the impact of the pilot, comparing patients with both concurrent and historical controls, where appropriate and feasible. An additional focus will be on testing and refining the set of measures to be employed in Phase II.

Launching the Phase I pilot in an inpatient acute setting, a traditional primary care setting, as well as senior care facilities, will offer the opportunity to develop and test the late life supportive care approach with three different types of care teams. The inpatient hospital team includes hospitalists, specialty care physicians, and inpatient care management staff, while the primary care clinic team includes a primary care provider, nursing staff, and clinic care management staff. The senior care facility team includes a senior care provider, nursing staff, and staff from the senior care facility. Developing the model in these three environments where the patient population traditionally accesses healthcare ensures generalizability and a greater likelihood for successful implementation in Phase II.

In Phase I, Twin Cities Public Television and the Citizens League will be engaged to extend their late life care dialogues. Researchers will partner with the Honoring Choices collaborative in order to further define and advance the work of healthcare organizations in Minnesota focused on late life care. Finally, internal stakeholders at Allina will be engaged in a listening process and dialogue intended to promote the needed internal culture shift related to late life supportive care.

In Phase II, the researchers will target implementation at an additional urban hospital, a rural hospital, and across all three major medical groups at Allina (i.e., Aspen, Quello, and Allina Medical Clinic). A rigorous evaluation design will be applied in this scenario. Further, cooperative discussions will be launched with local payers to allow for the development of a robust business model to advance late life supportive care.

During Phase II, Allina Hospitals & Clinics will also build on the work advanced during Phase I regarding community engagement and dialogue. The researchers will seek to expand the internal dialogue outward, thus furthering public discussion and debate related to late life care issues. Additional potential partners for these public discussions include the University of Minnesota Law School and the University of Minnesota Bioethics Department. By engaging the community in confronting ethical care issues, a balance will be achieved between autonomy and social justice. By continually improving the supportive care model based upon these dialogues, Allina will be well positioned, following Phases I and II, to replicate a sustainable model across Allina Hospitals & Clinics.

B. Sites

The pilot phase of this work will involve an inpatient care setting, a primary care clinic, and two Allina Senior Care Transition sites. Developing and testing this model in different healthcare settings allows the

establishment of a referral process and interdisciplinary team care review process in different environments. As previously stated, Phase I of this work will take place at ANW Hospital, Aspen Bloomington Clinic, and Walker Methodist and Augustana Health Care Centers.

Abbott Northwestern Hospital

Abbott Northwestern Hospital (ANW) is the largest tertiary care hospital in the Twin Cities. In 2010, ANW served 27,927 inpatients. Of those, 34 % (9,483) were over age 65, 8 % (2,333) had heart failure (19% of those over age 65) and 12% (3,414) had been diagnosed with COPD (18% of those over age 65), indicating a patient population ideal to this project. ANW staffing includes six interdisciplinary palliative care experts and the hospitalist group at ANW is part of the Allina Medical Clinic.

Aspen Bloomington

Aspen Bloomington is located near the intersection of highway 494 and 77 in Bloomington. The Clinic offers comprehensive primary care (eight internal medicine providers) with several specialist services relevant to the target population available on site including endocrinology, cardiology, and urology. The clinic also offers diabetes services, an anticoagulation clinic, imaging services, behavioral health, and urgent care services. In 2010, Aspen Bloomington served 3639 patients over the age of 65. Of these, 29% (1054) had an active diagnosis of cancer, 10% (363) had renal failure, 2% (80) had congestive heart failure, and 1% (27) had COPD. Aspen is one of Allina's three major medical groups and Aspen Bloomington directly refers patients to ANW for tertiary and quaternary care.

Senior Care Transitions Sites: Walker Methodist & Augustana Health Care Centers

Allina Senior Care Transitions is a team of 36 nurse practitioners and 15 physicians who provide primary medical care to patients and families in over 120 senior living campuses across the seven county metropolitan area. Several of the senior care physicians provide hospitalist care at ANW hospital and at Allina Primary Care Clinic sites. The Walker Methodist and Augustana Senior Campuses are two of the top five senior living locations for ANW discharges to skilled nursing and assisted living facilities. In the first six months of 2011, 1781 ANW discharges were to a skilled nursing facility.

The Walker Senior Campuses include Walker Methodist Health Care Center (Minneapolis) and Walker Assisted Living sites --- Westwood Ridge (St. Paul), Walker Elder Suites (Edina), Walker Place (Minneapolis), and Walker Plaza (Anoka) --- all located within the seven county metro areas. The Allina Senior Care Transitions team serves an average panel size of 124 patients in these Walker campuses.

Augustana Senior Campuses include four sites located in the seven county metro areas --- Augustana Health Care Center (Minneapolis), Augustana Apple Valley Long Term Care (Apple Valley), Augustana Apple Valley Villa Assisted Living (Apple Valley) and Augustana Hastings Long Term Care (Hastings). The Allina Senior Care Transitions Team serves an average panel size of 105 patients in the Augustana Campuses.

C. Patient Recruitment

Patients will be recruited through the inpatient, outpatient, and senior care settings. Patient eligibility will be determined uniquely in each of these settings. Recruitment will be completed by study coordinators at each of the three study recruitment venues (one at Abbott Northwestern Hospital (ANW), one at the Aspen Bloomington Clinic, and one covering both Senior Care Transition sites).

In all of these settings potentially eligible patients will be identified using EHR generated reports created for the project. The reports will identify patients being served by each setting who are age 65 or older, and have a diagnosis of cancer, heart failure, chronic kidney disease, or chronic obstructive pulmonary disease. These lists will then be narrowed to patients who are likely to be within the target life expectancy range (see paragraph below) and subsequently reviewed with providers to confirm eligibility.

In an effort to identify patients who are most likely to fall into the life expectancy eligibility range of between 6 months and 2 years, we will explore the possibility of using disease specific life expectancy prognostication tools such as the Seattle Heart Failure Index and statistical predictive modeling using information in the EHR or some combination of the two. Any predictive modeling would be done for EHR data extractions for the clinic panel population as patients from the other settings are identified and entering on a rolling and spontaneous manner not conducive to predictive modeling. The use of prognostication tools would be automated into reports generated when possible based on EHR information or would be completed by the study coordinator through a review of EHR information. The specific prediction instruments or modeling criteria will be established in the planning phase in combination with the palliative care providers, primary investigators, and academic team members.

Inpatient Recruitment

Potentially eligible patients at ANW will be identified based on a report generated listing patients hospitalized who are age 65 or older, live in the seven county metropolitan area of Minnesota (i.e., the Twin Cities), and who have one of the following chronic diseases: cancer, heart failure, chronic kidney disease, or chronic obstructive pulmonary disease. The study coordinator will apply the selected life expectancy prediction methods. Study coordinators will screen these patients through the EHR with additional information from the current inpatient care team to determine the patient's primary provider. Patients who are identified as having an ANW primary provider who is a specialist in oncology, renal, pulmonary, or cardiology will be eligible. Patients whose primary provider is in the Allina system (i.e. Aspen or Allina Medical Clinic primary care provider or an ANW hospitalist) are also eligible.

The study coordinator will review the patient prognosis with the primary provider (and palliative care provider if currently involved in care) and assess condition and life expectancy for pilot eligibility. The study coordinator will seek permission from providers for staff to introduce the project to the patient. With agreement from the care team, a late life supportive care manager will introduce the project to the patient and patient's family if available in the hospital. Patients will be given written information about the project. Study coordinator or LLSCM will contact additional family (adult children/ spouse) after permission is provided by the patient. At this point, the patient and family may consent to participate in the pilot research project, ask for more time to consider or refuse. Patients who agree to participate will have a home visit scheduled. Those who want more time will be contacted later by the LLSCM.

Clinic Recruitment

Clinic patients at the Bloomington Aspen Clinic will be identified and recruited in one of two ways. The first method focuses on patients as they come in for appointments. Reports identifying potentially eligible patients by age and condition from patients scheduled to come in for appointments will be generated through the EHR. The clinic study coordinator will review potentially eligible patients with providers before they come in, or while the patient is there to assess if the patient's prognosis fits within the pilot eligibility range. If determined eligible for the pilot, clinic nursing staff or physicians will introduce the project and hand off to the study coordinator for more information. If there is sufficient time, the consent process and enrollment may be completed at this point. Otherwise the study

coordinator or LLSCM may make a follow up appointment at the patient's house or at the clinic with the patient and family members to further discuss the project and complete enrollment and consent.

The second method of recruitment for clinic patients will focus on patients who identify Bloomington Aspen as their primary care clinic but do not have an upcoming appointment scheduled. Potentially eligible patients will be identified through lists generated from the EHR. The study coordinator will screen these patients for prognosis using methods noted above and will validate this information with the patient's primary care provider. Letters will be sent to patients determined eligible from this screening as well as to the person listed in the patient's health record as "responsible party". At the same time, the patient's health record will be flagged as a person who is "eligible for supportive care pilot". The letters will provide information about the study and an invitation for participation, as well as a call-in number to schedule a visit to discuss the opportunity. At the next visit, clinic staff will be able to introduce the project generally to the patient based on the flag and the provider will obtain permission for the study coordinator to meet with the patient and their family at that clinic visit for a more comprehensive introduction to the project and for enrollment and consent if interested. If the patient and/or caregiver do not contact the clinic within a certain time range, the clinic will reach out to schedule an appointment.

Senior Care Transitions Recruitment

Patients being served by Allina's Senior Care Transitions program at Walker Methodist and Augustana Health Care Centers will be recruited through a similar method as the clinics, beginning with a list of potentially eligible patients identified through the EHR. The study coordinator will review potentially eligible patients with the senior care transitions providers to determine which patients have a prognosis in the eligibility range. The provider will then get permission for the study coordinator or LLSCM to talk with patients and their family members about the project. The study coordinator or LLSCM will make an appointment to introduce the project to the patient and family and provide background information.

D. Timeline

The pilot Phase I project will commence in January of 2012 and extend through June of 2014. Phase I will include four major components – Design Refinement & Pre-Work (January 2012 through June 2012), Patient/Caregiver Enrollment (July 2012 through December 2012), Implementation of Late Life Supportive Care Process (beginning with study enrollment and ending in December 2013), and Analysis and Phase II Development (January 2014 through June 2014).

	2012				2013				2014	
Milestone/Key Activity	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2
Design Refinement & Pre-Work: January 2012 – June 2012										
Hiring of project manager										
Steering Committee established, meeting										
Research Team established, meeting										
Adaptive health leadership training of design team										
Establishment and regular meetings of Patient & Family Advisory Council										
Expert observation of best practice										
Model refinement										
Supportive care plan development										

Milestone/Key Activity	2012				2013				2014	
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2
Design Refinement & Pre-Work: January 2012 – June 2012 (continued)										
Electronic health record tool development										
Culture shift preparation and discussion										
Decision aid selection										
Development of LLSCM and IDT training and curriculum										
Final selection and development of outcome measures										
Workflow development for LLSCM										
Workflow development for IDT										
Space creation										
Hiring of LLSCMs, study coordinators, other care team members										
Institutional Review Board submission and communication										
Resource and referral materials development										
Overall Operations Team established, meeting										
Model and AHP training of participating providers and staff										
Networking and training with extended care team providers										
Site Based Operations Teams established, meeting										
Patient/Caregiver Enrollment: July 2012 – December 2012										
Identification of eligible patients										
Enrollment of eligible patients										
Implementation of Late Life Supportive Care Process: July 2012 – December 2013										
Initial assessment and pre-data collection										
IDT meetings										
Patient follow-up										
6 month measurement										
12 month measurement										
18 month measurement										
Study closeout										
Analysis and Phase II Development: January 2014 – June 2014										
Analysis										
Paper writing and development										
Development of Phase II model										

E. Evaluation

1. Framework

The evaluation design for the pilot phase of late life supportive care will include a **process** (implementation) evaluation as well as a quasi-experimental observational **outcome** evaluation.

The **process** evaluation will enable researchers to assess whether the project was developed as intended (e.g., establishing the necessary infrastructure), as well as if it was implemented as intended (e.g., delivering the program as intended to the target audience). The primary purpose of the process evaluation is to allow for meaningful data collection about program development and implementation to enable continued development and improvement to the program. In addition, the process evaluation will enable the researchers to establish the context for interpretation of outcome results. If outcome results indicate success or challenge in a particular measure, it will be critical to contextualize those findings with the process implementation findings. Finally, process evaluation will be important to Phase II in which late life supportive care will be expanded.

The **outcome** evaluation will enable researchers to determine the success of Phase I of the project based upon a variety of outcome measures that are important to patients, caregivers, care team members and the healthcare system. Measures focus on hospice and hospital use, patient goals and wishes honored, patient and caregiver experience with care, patient and caregiver quality of life, access to resources and coordination of care, as well as health care team engagement with practice and total cost of care.

The outcome evaluation uses three different approaches to describe effect based upon the outcome of interest and the setting in which patients are enrolled. For hospice, hospital use and total cost of care, researchers will examine patients enrolled in the intervention at ANW and Aspen Bloomington, as well as concurrent (i.e., patients eligible but not enrolled) and historical (i.e., patients eligible in the year prior to the study) comparison patients. Concurrent comparison information will also be gathered for a set of patients at United Hospital and Aspen Bandana Square, sites comparable to the intervention hospital and clinic site. For patients enrolled in the senior care sites, researchers will examine those enrolled in the intervention because comparable controls may not be available. They will explore the possibility of examining senior care transition patients at other sites, but it is uncertain whether this is a viable option.

Goals and wishes honored; patient and caregiver experience with care; patient and caregiver quality of life; access to resources and coordination of care; and health care team engagement with practice are not standardized measures collected through the course of traditional clinical care, therefore changes in perception and self-report of these measures will be collected for enrolled patients, caregivers and health care team members.

2. Outcome Measures

Primary Outcomes

The current proposal seeks primarily to understand the impact of late life supportive care on hospice enrollment and utilization, inpatient hospital stays, and alignment of care with patient goals and wishes. Below each of these outcomes is described in more detail, including the assessment mechanism/tool, comparison population, data collection plan, and subset analysis, where appropriate.

Proportion of patients who die during the 12 month study period enrolled in hospice

- Assessed via: Electronic health record
- Comparison population: Historical (i.e., previously eligible and died in the previous year) patients at ANW Hospital and Aspen Bloomington; concurrent (i.e., currently eligible but not participating or at a comparison site and die during the 12 month study period) patients at ANW Hospital, Aspen Bloomington, United Hospital and Aspen Bandana Square; no comparison population for senior care sites

- Data collection: At the point of study initiation, all patients who would have been eligible for the study one year prior to enrollment and died will be identified using Allina's electronic health record. Hospice enrollment for all previously eligible patients will be assessed and a dataset developed reflecting all eligible patients and previous hospice enrollment. Also at the point of study initiation and through the enrollment period, all eligible patients will be identified and similar hospice data will be extracted from Allina's EHR for one year following actual (i.e., for those patients enrolled) and potential (i.e., for those patients eligible but not enrolled) patients.
- Hypothesis: The primary hypothesis is that a greater proportion of patients participating in the intervention will enroll in hospice as compared to historical and concurrent controls. The null hypothesis is that patients will enroll at the same or lower rates. This is the primary outcome upon which the sample size for the proposal is built.

Median hospice days (length of service) over the 12 month period study period

- Assessed via: Electronic health record
- Comparison population: Same as proportion of hospice patients enrolled, with the exception that all eligible patients will be included, not just those who died during the study period
- Data collection: Same as proportion of hospice patients enrolled
- Subset analysis: Comparison of median hospice days for patients who die during study and patients still living

Median inpatient hospital days over the 12 month study period

- Assessed via: Electronic health record
- Comparison population: Same as proportion of hospice patients enrolled, again with the above exception
- Data collection: Same as proportion of patients enrolled in hospice with a focus on inpatient hospital days
- Subset analysis: Comparison of median inpatient hospital days for patients who die during study and patients still living

Patient goals and wishes honored

- Assessed via: Development of a specific tool to assess alignment with patient goals and wishes
- Comparison population: No comparison population, pre-post comparison of those enrolled in intervention only
- Data collection: At study enrollment, patients will be queried about their individual goals and wishes across the seven palliative care domains. Patient developed goals will be recorded in the electronic health record supportive care plan. Patient-developed goals will be recorded in the electronic health record Supportive Care Plan. Patients may add or retire goals at any time. Periodic assessment (i.e., every three months unless care pattern necessitates more frequent update) of goal progress will be completed by the LLSCM. Proportion of goals that are 'met' will be tracked over time for each enrolled patient.
 - Patients will score their satisfaction with goal progress at each encounter, and not less than once a month. If the goal is a caregiver measure, for example, "My caregiver gets six hours of uninterrupted sleep," then both the patient and caregiver will score progress toward the goal.
 - For purposes of analysis, patient-derived goals will be assigned to a palliative care domain by reference to a comprehensive list of domain attributes. An example of the type of tool that will be developed is included below:

Sample Patient Goals and Wishes Statements

Palliative Care Domain	Patient and Family Centered Goals: "I hope or I want..."	How satisfied are you with progress on this goal?				
		Very	Neutral	Not at all		
Process of Care: (goals of care, prognosis, disposition, safety)	"I want the doctors to talk to my daughter after they see me."	5	4	3	2	1
Process of Care: (goals of care, prognosis, disposition, safety)	"I don't want to spend 6 hours in the Emergency Room again."	5	4	3	2	1
Physical: (pain and symptoms)	"I want my back pain to be less than a 5, and I don't want to have to get up in the middle of the night to take a pain pill."	5	4	3	2	1
Psychological	"I want to talk with someone who knows what I'm going through."	5	4	3	2	1
Social	"I am not a burden on my family when I need more care"	5	4	3	2	1
Spiritual, Religious	"I want my family to be okay after I die."	5	4	3	2	1
Cultural	"It is important that I not die here in my son's home."	5	4	3	2	1
Cultural	"I want you to do everything to keep her alive. We cannot stop life-saving therapy."	5	4	3	2	1
End of life Care	"I want to be at home."	5	4	3	2	1
End of life Care	"I don't want any pain at the end. You can just knock me out."	5	4	3	2	1
Advance Care Planning	"I don't think that my family will see things eye to eye. I want them all to agree on decisions."	5	4	3	2	1

Secondary Outcomes

In addition to the above primary outcomes, the proposed study will examine patient and caregiver experience with care, patient and caregiver quality of life, access to resources and coordination of care, health care team satisfaction with practice, and total cost of care over 12 month study period

Patient experience with care

- Assessed via: Standardized patient experience tool for those in late life care; selection of final tool to be completed during design period; options include: Medical Outcome Study Satisfaction Survey and/or the Palliative Care Outcome scale
- Comparison population: No comparison population, pre-post comparison of those enrolled in intervention only

- Data collection: At study enrollment (via a mailed packet sent to patient prior to the initial assessment visit), patients will be queried about their current experience with care. Results will be recorded and the assessment will be repeated at 6 months and 12 months into enrollment or when patient is close to death.

Caregiver experience with care

- Assessed via: Standardized caregiver experience tool for those supporting a loved one in late life care; selection of final tool to be completed during design period; options include: Medical Outcome Study Satisfaction Survey, After-Death Bereaved Family Member Interview (with obvious modifications), and/or the Palliative Care Outcome scale
- Comparison population: No comparison population, pre-post comparison of those enrolled in intervention only
- Data collection: At study enrollment (via a mailed packet sent to caregiver prior to the initial assessment visit), caregivers will be queried about their current experience with care. Results will be recorded and the assessment will be repeated at 6 months and 12 months into enrollment or when patient is close to death.

Patient quality of life

- Assessed via: Standard Form-36 (mental: vitality, social functioning, role-emotional, mental health; physical health: physical functioning, role-physical, bodily pain, general health), Perceived Stress Scale, and a standard quality of life tool for patients in late life care; final determinations to be made during the design phase; possible additions include: McGill Quality of Life Questionnaire or the European Organization for Research and Treatment Core Quality of Life Questionnaire version 3.0
- Comparison population: No comparison population, pre-post comparison of those enrolled in intervention only
- Data collection: At study enrollment (via a mailed packet sent to patient prior to the initial assessment visit), patients will be queried about their quality of life. Results will be recorded and the assessment will be repeated at 6 months and 12 months into enrollment or when patient is close to death.

Caregiver quality of life

- Assessed via: SF-36 (mental: vitality, social functioning, role-emotional, mental health; physical health: physical functioning, role-physical, bodily pain, general health) and Perceived Stress Scale
- Comparison population: No comparison population, pre-post comparison of those enrolled in intervention only
- Data collection: At study enrollment (via a mailed packet sent to caregiver prior to the initial assessment visit), caregivers will be queried about their quality of life. Results will be recorded and the assessment will be repeated at 6 months and 12 months into enrollment or when patient is close to death.

Access to resources and coordination of care

- Assessed via: Transitions of Care Measures-3 (for patients facing a transition between facilities) and instrument to be developed during design phase
- Comparison population: No comparison population, pre-post comparison of those enrolled in intervention only

- Data collection: At study enrollment (via a mailed packet sent to patient/caregiver prior to the initial assessment visit), patients/caregivers will be queried about their access to resources and coordination of their care. Results will be recorded and the assessment will be repeated at 6 months and 12 months into enrollment or when patient is close to death.

Health care team engagement with practice

- Assessed via: Maslach-Burnout Inventory and Areas of Worklife Survey
- Comparison population: Health care teams at Aspen Bandana Square and United Hospital
- Data collection: Prior to study enrollment launches, all eligible care team members (i.e., late life supportive care managers, primary care teams at Aspen Bloomington and Aspen Bandana Square, hospitalist, palliative care and specialist teams at Abbott Northwestern and United Hospital, and senior care teams at Augustana and Walker Methodist) will be surveyed using the assessment tools. Assessments will be repeated 6, 12 and 18 months after enrollment is launched.

Total cost of care over 12 month study period (including total inpatient stay costs)

- Assessed via: charge data from electronic health record
- Comparison population: Same as proportion of hospice patients enrolled, again with the exception that all eligible patients will be included
- Data collection: Same as proportion of patients enrolled in hospice with a focus on inpatient stay costs.
- Subset analysis: Comparison of total cost of care for patients who die during study and patients still living

3. Process Measures

The process evaluation will include measures on infrastructure development indicated below. Many of these measures are focused on the completion of tasks to be done in the project planning phase and will be measured in the context of a time line. Qualitative information will also be collected on the satisfaction of providers and clinical staff in the pilot sites with the training and infrastructure development.

Measures Assessing Development of Infrastructure

- Establishment of reliable method to automatically identify (through the EHR) all patients in the target population in order to generate referrals for assessments as well as triggers for re-assessment
- Protocol and instruments finalized for assessment process
- Protocol finalized for interdisciplinary team review process
- Protocol and instruments finalized for shared decision making process after assessment
- Referral process established and automated into EHR
- Training curriculum established for staff at pilot sites – facilitators, interdisciplinary team members
- Satisfaction of providers and clinical staff with training and infrastructure development

Below is an additional set of measures to be examined in the process evaluation. This phase of the evaluation will focus on measuring implementation of activities relative to goals (to be established) and to continue to identify areas for improvement. These measures generally examine coverage of the intervention (proportion of the eligible target population getting the service) and dosage (percent

getting the full late life supportive care program), service delivery efficiency (time to accomplish activities) and patient and provider experience with implementation. Much of the data necessary to assess process measures will be built into the related EHR component. Qualitative data will be collected via methods deemed most appropriate for patients and providers (e.g., key informant interviews, focus groups).

Measures Assessing Program Implementation

- Number of eligible patients identified and referred, proportion of those who are self-referrals
- Degree of engagement of referring clinical team in referral and assessment processes
- Percent of referred patients who complete assessment
 - Percent of these who are completing ACP for first time
- Time from referral to completion of assessment
- Number and percent of patients with Interdisciplinary reviews completed, includes communication of ACP plan to entire care team
- Time from assessment completion to interdisciplinary review
- Number and percent of shared decision making processes completed
- Number and percent of patients for whom selected action steps are addressed with strategic partners
- Effectiveness of shared decision making: A good indicator of the decision quality is whether or not the patient and care team follows through with their chosen option
- Documentation of barriers and facilitators to implementation of all program components (referral, assessment, interdisciplinary team review, shared decision making, working with strategic partners)
- Patient and provider experience measures, perceptions and experiences related to process

4. Data Privacy and Security Assurance

When information collected during the contract visit becomes part of the EHR, these data will become subject to all the privacy, confidentiality, and protection offered by Allina's EHR system which is bound and protected by HIPAA. All Allina EHR data are strictly protected by password-only access, secure data archival practices, and data encryption. Patient data that resides in the EHR will be accessed only by physicians, clinic staff, and care guides, and project investigators will not require access to data on an individually identifiable basis. Data to be analyzed by the investigators of this project will have been stripped of personal identifiers and all analyses will be conducted in aggregate.

5. Sample Size

In order to calculate the appropriate sample size for the proposed pilot, the research team identified two possible primary outcomes – inpatient days in the last six months of life and proportion of patients who died that were enrolled in hospice. Analysis revealed that powering the study to detect a reasonable change in the mean number of inpatient days (anywhere between 0.75 to 2 fewer inpatient days) would require a prohibitively large sample size (see table below).

Considerations on Sample Size – Inpatient Days in Last 6 Months of Life

ANW Data - IP Days in last 6 months of life (Patients who Died in 2010)

Condition	Count	Mean 1	SD of Means
CHF	107	20.35	22.396
Renal Failure	263	16.85	19.11
Cancer	520	14.02	13.54
COPD	40	16.79	11.085

Detected Change in Mean	Power		
	0.6	0.7	0.8
0.75	8,737	11,008	13,998
1	4,915	6,192	7,874
1.25	3,146	3,963	5,040
1.5	2,185	2,752	3,500
2	1,229	1,548	1,969

Detected Change in Mean	Power		
	0.6	0.7	0.8
0.75	6,361	8,015	10,192
1	3,578	4,508	5,733
1.25	2,290	2,886	3,669
1.5	1,591	2,004	2,548
2	895	1,127	1,434

Detected Change in Mean	Power		
	0.6	0.7	0.8
0.75	3,194	4,024	5,117
1	1,797	2,264	2,878
1.25	1,150	1,449	1,842
1.5	799	1,006	1,280
2	450	566	720

Detected Change in Mean	Power		
	0.6	0.7	0.8
0.75	2,141	2,697	3,430
1	1,204	1,517	1,929
1.25	771	971	1,235
1.5	536	675	858
2	301	380	483

Assumptions

1. Alpha = 0.05, two-tailed
2. SD of means are the same

ANW Data - IP Days in last 6 months of life (All Patients in 2010)

Condition	Count	Mean 1	SD of Means
CHF	640	11.77	14.55
Renal Failure	1659	9.3	13.46
Cancer	2613	7.56	9.92
COPD	246	9.35	10.25

Detected Change in Mean	Power		
	0.6	0.7	0.8
0.75	3,688	4,646	5,909
1	2,075	2,614	3,324
1.25	1,328	1,673	2,127
1.5	922	1,162	1,478
2	519	654	831

Detected Change in Mean	Power		
	0.6	0.7	0.8
0.75	3,146	3,976	5,056
1	1,776	2,237	2,844
1.25	1,137	1,432	1,821
1.5	789	994	1,264
2	444	560	711

Detected Change in Mean	Power		
	0.6	0.7	0.8
0.75	1,715	2,160	2,747
1	965	1,215	1,545
1.25	618	778	989
1.5	429	540	687
2	242	304	387

Detected Change in Mean	Power		
	0.6	0.7	0.8
0.75	1,830	2,306	2,932
1	1,030	1,297	1,650
1.25	659	831	1,056
1.5	458	577	733
2	258	325	413

Assumptions

1. Alpha = 0.05, two-tailed
2. SD of means are the same

Turning instead to powering the study on the proportion of patients enrolled in hospice revealed a more viable alternative for sample size determination. In examining the extant literature around proportion of patients who died who were enrolled in hospice by clinical condition, the researchers evaluated cancer (65%), COPD (30%), congestive heart failure (12%) and renal failure (55%). They assessed what sample size would be required to detect a 5%, 10%, 15%, and 20% increase in those proportions. Data from this analysis are included below:

Increase in Proportion Enrolled in Hospice (5 to 20% Increase)

Condition	Proportion 1	% Increase in Proportion 1			
		5%	10%	15%	20%
Cancer	65	68.25	71.50	74.75	78.00
COPD	30	31.50	33.00	34.50	36.00
CHF	12	12.60	13.20	13.80	14.40
Renal Failure	55	57.75	60.50	63.25	66.00

Necessary Sample Size to Detect Above Percentage Increases

Condition	% Increase			
	5%	10%	15%	20%
Cancer	3,365	835	367	204
COPD	14,989	3,178	1,737	996
CHF	47,369	12,170	5,554	3,205
Renal Failure	5,177	1,302	581	327

Assumptions:

1. Alpha = 0.05, two-tailed
2. Power = 0.8

The proposed study is designed to allow for enrollment of all eligible patients identified as being 65 and over, having COPD, CHF, renal failure or active cancer and in need of late life supportive care. Given this, the largest patient populations available for enrollment are those patients with active cancer; therefore, sample size calculations are based upon cancer patients and a minimum enrollment of those patients. There are approximately 1,054 eligible patients at the Aspen Bloomington clinic currently and there were approximately 520 eligible patients at ANW in 2010. Assuming 10% of these patients are inactive and accounting for a six- month enrollment period, approximately 787 patients remain for potential study participation. While a moderate to high response rate to the initial invitation to participate is anticipated, based upon prior success with the care guide project (i.e., 75%, yielding 590 patients enrolled), even a more conservative estimate of response (i.e., 60%, yielding 472 patients enrolled) generates a sufficient number of cancer patients to detect a meaningful change in the primary outcome using the assumption that 45% of all enrolled patients will ultimately pass away during the course of Phase I (i.e., 212 enrolled patients who die and would have been eligible for hospice services).

Based upon wanting to increase the proportion of cancer patients who are enrolled in hospice from a national level of 65% to 78% and seeking a 95% change of detecting this change (2-tailed), the proposed study would require a minimum of 204 cancer patients eligible for hospice. The sample size calculation is based upon a z-test analysis, comparing national prevalence with post-pilot attainment. The research team will seek to enroll up to 250 cancer patients and up to 50 patients in each of the other conditions, bringing intended enrollment to approximately 400 patients.

6. Analysis

Primary Outcomes

Proportion of patients enrolled in hospice over the 12 month study period

After outcome data are examined and cleaned as necessary, a z-test will be performed to determine if the final proportion of enrolled deceased cancer patients who utilized hospice is different from: national proportions, historical comparisons, and concurrent comparisons. Preparations for Phase II of this work will be contingent upon detecting at least a mildly significant (i.e., $p < 0.20$) difference in proportions.

In addition to a basic z-test, where possible and appropriate, a propensity score approach to 'matching' enrolled patients with historical and concurrent non-enrolled patients will be employed to allow for

more appropriate analysis of differences in proportions. Where possible, patients will be 'matched' on important clinical characteristics, demographic factors, and prognostication assessment. Z-tests, Chi square and other appropriate comparisons will be performed after possible matches have been identified (i.e., the construction of an artificial, better 'matched' comparison patient population).

Sub-group analysis will be also performed, not with the aim of demonstrating statistical significance, but with the aim of understanding proportion change in non-cancer patients (i.e., CHF, COPD and renal failure patients). Further, subgroup analysis will focus on differences in proportions by: patient cultural background, age group, payer, and late life supportive care manager.

Median hospice days over the 12 month period study period

Median inpatient hospital days over the 12 month study period

Following a similar analysis plan to the above primary outcome measure, additional outcome data will be examined and cleaned as necessary, and a Mann-Whitney test for median comparison will be performed to assess whether the median hospice days over the 12 month study period and the median inpatient hospital days over the 12 month study period are different from: historical comparisons and concurrent comparisons. Similar propensity score analysis and sub-group analysis will be performed as possible and appropriate.

Patient goals and wishes honored

Because the development of a patient goals and wishes tool is new for the purposes of the proposed pilot, researchers will examine, clean and describe the distributions and changes in these data over time. Statistical tests will be conducted if appropriate, but the primary purpose of the pilot data collection with this new tool is to understand the data's basic characteristics and to potentially use this information to determine sample size for Phase II of this project.

Secondary Outcomes

Analysis of patient, caregiver and health care team experience data, patient and caregiver quality of life, access to resource and coordination of care measures, as well as qualitative process measures, will be conducted in accordance with the data collection method used. Where data are collected through surveys, descriptive statistics and full response frequencies will be used to understand the experience and quality of life of patients and clinic staff and providers. Where focus groups and key informant interviews are the method, transcribed notes will be reviewed for key themes, key quotes, and messages that will inform Phase II. All quantitative analysis will be performed in Stata 11 and all qualitative analysis will be performed using NVivo 9.0. Again, analysis of secondary outcomes will not be undertaken for purposes of establishing statistical significance, but rather to better understand the successes and challenges of the pilot.

Total cost of care will be examined to determine the total direct cost of the program and its services, as well as to compare costs to historical and concurrent comparison patient care costs. This analysis will provide information about the potential positive economic benefit of late life supportive care in comparison to the customary care provided.

V. Stakeholder Engagement

In order to inform the design and build knowledge and support in the organization for this new and innovative model of late life supportive care, a stakeholder engagement process will be implemented. This process will include three key strategies: 1) development of a Patient and Family Advisory Council; 2) implementation of Late Life Care Listening Circles across Allina; and 3) engagement with Twin Cities Public Television, Honoring Choices, and the Citizens League to extend ongoing public dialogues.

A. Patient and Family Advisory Council

A Late Life Supportive Care Patient and Family Advisory Council (LLSC PFAC) will inform the design and implementation of Allina's Late Life Supportive Care (LLSC) model. Researchers will work with ANW Hospital palliative care providers, Allina Home & Community Services senior care team members and primary care providers from Aspen Bloomington to identify patients and/or caregivers who might be possible members of the Advisory Council. The aim will be to assemble an Advisory Council of 12-15 members that would meet monthly during project start-up and eventually meet quarterly to offer input on the successes and challenges of project implementation and specifically steer changes to the model in preparation for Phase II. Meetings will be facilitated by an external facilitator to maximize participation. The specific charge of the Advisory Council will be to provide meaningful input on the development of Allina's late life supportive care model by:

- Providing their perspective on the 'ideal' experience and how that differs from their current experience
- Identifying challenges and barriers to reaching the ideal
- Advising on the selection and use of measurement tools, especially those focused on experience and quality of life
- Previewing and offering feedback on patient and caregiver recruitment materials, tools, and educational materials
- Engaging directly with other Allina care team members and leaders to become a "champion" for this work

B. Late Life Care Listening Circles

Struggling with the notion of death, palliative and hospice care and patient versus care team preferences at the end of life are not only issues for the patient and their families, but for care providers as well. Allina will work with the Citizens League to conduct a series of internal Late Life Care Listening Circles with employees and care team members (e.g., primary care providers, nurses, specialists, operations leaders, clinic staff, hospital staff). The purpose of these Listening Circles will be to foster dialogue about the challenging conversations and internal cultural barriers related to late life care that Allina faces as an organization. Approximately 12 Listening Circles will be held in 2012 at locations throughout the Allina system including: ANW and United hospitals, clinics across Allina's three medical groups and among operations leadership. The Listening Circles will follow the Citizens League model of inviting *allcomers*, providing information for consideration in advance and include a mix of individual, small group and large group activities to fully engage participants. Reports from the Listening Circles will be made available via Allina's intranet and will be shared with the LLSC PFAC, the Research and Operations Team for the pilot study, as well as Allina's clinical and operations leadership.

C. Engagement with Honoring Choices and Twin Cities Public Television

The Honoring Choices Minnesota collaborative is an actively engaged group of late life care leaders from the major health care provider and payer organizations in Minnesota. Currently the group is partnering with Twin Cities Public Television (TPT) to host a series of dialogues and to implement public listening sessions to better understand the barriers and challenges of discussing end-of-life issues. The ultimate goal of this collaborative is to create video vignettes that increase public awareness of advance care planning and end-of-life care. Absent from these dialogues, however, is the actual care experience of patients, families and their care teams. Allina will collaborate with TPT and Honoring Choices Minnesota to capture on video the late life supportive care experience of enrolled patients, caregivers and their care teams. This opportunity will add to and extend the current work of TPT and Honoring Choices Minnesota, as well as enhance the visibility of the Late Life Supportive Care model at Allina.

VI. Qualifications and Project Oversight

A. Organizational Qualifications

Overview

Allina is extremely well positioned to be a national leader in late life supportive care services. Given its experience building an infrastructure and implementing a truly integrated model of advance care planning (ACP) that includes: an electronic health record (EHR) component, comprehensive staff training and provision of dedicated resources at a level beyond that of other health systems nationally, Allina has clearly demonstrated its organizational commitment and readiness to reach the goal of providing comprehensive late life supportive care services to its patients and families across its system. While Gundersen Lutheran has focused on rigorous studies to test and refine its ACP method and widespread basic advance care planning in the two counties their system serves in Wisconsin, Allina Hospitals & Clinics is the first large U.S. health system to adopt and spread both the basic and disease specific models of ACP at the system-wide level. In addition, Epic, the vendor for Allina's health record and the largest EHR vendor in the country, has expressed interest in standardizing the EHR component designed and built by Allina.

Advance Care Planning Infrastructure

Starting in 2007, Allina Hospitals & Clinics began implementing a strategic plan for a comprehensive advance care planning process system-wide. As a first step in this process, eight Allina Hospice and Palliative Care Clinicians underwent extensive training in the Respecting Choices model to become certified facilitators of both basic and disease-specific advance care planning discussions. Additionally, Sandra Schellinger, Director of Palliative Care, received certification at the level of national faculty member by Gundersen Lutheran to train new facilitators.

From 2008 to 2010, Allina piloted a model of Disease Specific Advance Care Planning (DS-ACP) for patients with heart failure, chronic obstructive pulmonary disease (COPD) or chronic kidney disease. This process included the development of a Physician's orders for life sustaining treatment (POLST) form and related process to be done within the DS-ACP process or other appropriate clinical contexts. The POLST process was pilot tested with hospice patients in 2009 and then moved system-wide in 2010. The trained facilitators accomplished the following during the time period:

2008 - 268 Disease Specific Advance Care Plans for heart failure patients in 2008

2009 - 758 DS-ACP for patients with any chronic condition and 200 POLST with Hospice patients

2010 - 1,218 Basic Advance Care Plans, 1,803 DS-ACP and 3,329 POLST forms for hospice and nursing home patients.

Based on the experience of the DS-ACP pilot, Allina created a component of the electronic health record (EHR) specific to Advance Care Planning in 2009. This component identifies ACP on the problem list, aids in the referral process through an ambulatory consult order for ACP (either basic or disease specific) and has built in forms using smart and free text to enable facilitators to easily document preferences directly into the EHR in addition to providing easy access to scanned documents such as a health care directive, health care power of attorney, living will and POLST. This documentation can be easily updated as medical conditions and preferences change. Upon completion and implementation of the EHR ACP component, a system-wide training on ACP was launched in early 2010. Training requirements were different based on level of knowledge needed. However, the training was comprehensive enough to

ensure that all staff with patient care responsibilities received some basic training. All nurses and physicians received basic advance care planning training that included how to: introduce the concept to patients, initiate an order in the EHR and view and update information in the EHR component. Social work and palliative care staff received more extensive training. Also more staff received ACP facilitator training. The training was implemented for staff in all inpatient settings followed by a continuing roll-out of ACP education across ambulatory care sites.

Evaluation of our DS-ACP pilot implementation from 2008 – 2009 found 94% of patients participating in DS-ACP had some type of health directive compared to 25% without DS-ACP facilitation. Only those patients undergoing DS-ACP had documentation about their desires and wishes for treatment choices specific to their disease status. Among patients who died during the pilot phase, those who participated in DS-ACP were twice as likely to (56% vs. 37%) receive hospice care. After adjustment for age and recruitment differences between the groups, DS-ACP participants were still over twice as likely to participate in hospice (OR = 2.21, $p = 0.003$, CI 1.3, 3.7). Additionally, mean length of service (LOS) was 27.5 days longer among DS-ACP participants however this was not statistically significant likely due to a lack of power when examining the subset of patients who died and used hospice [31].

Business Model

As Allina developed and implemented the strategic roll out of basic and disease specific advance care planning, Palliative Care leadership worked collaboratively with payers to explore reimbursement strategies. Specifically, Allina worked with Blue Cross Blue Shield of Minnesota to support its advance care planning efforts over three years and conduct a quasi-experimental evaluation of cost of care for disease-specific advance care planning. This information will help Allina's leadership understand how to evaluate cost of care over the last several years of a person's life.

Allina's leadership also established reimbursement for disease-specific advance care planning services with Blue Cross Blue Shield, Health Partners, and UCare. This experience of negotiating reimbursement structures to sustain late life supportive care services demonstrates Allina's interest in ensuring the sustainability of these critical services.

Organizational Leadership

Allina's Clinical Leadership Team authorized the development of a key system measure focused on decreasing hospital days in the last 6 months of life across the system. Of particular importance is the fact that this measure is part of every Allina leader's (e.g., hospital Presidents, clinic Managers) performance expectations and a financial incentive is tied to that performance. This measure will ultimately be part of a late life care 'scorecard' or dashboard that includes multiple measures focused on the care that hospitals and Allina medical groups provide to patients and families facing life limiting illness. Finally, in an effort to more tightly link the home and community services segment of Allina (e.g., palliative care, care management, hospice and home care) with the primary care segment of Allina (e.g., Allina Medical Clinic, Aspen Medical Group), all of these business units report to a single senior leader, which has greatly facilitated operational and clinical connections.

Human Capital

Because of Allina's ACP experience, the system has a growing number of staff including nurses and social workers who are certified as advance care planning facilitators. Allina's Division of Home and Community services offer several levels of hospice and palliative care services as well as Home Care and a Senior Care Transitions program. Home Care includes nurse case managers that visit patients' homes to help manage care needs and may also include visits from other professionals such as physical

therapists. Senior Care Transitions is designed to help patients and their families manage medical care in a number of settings including: transitional or short-term care, nursing homes or long-term care and senior residential communities with on-site medical teams. Allina also offers hospice care services in the home, in an inpatient setting and through hospice residential facilities.

Community Leadership

Allina is a member of the Honoring Choices Minnesota -- a collaborative initiative led by Twin Cities Medical Society to better address advance care planning needs. Members of the collaborative include Twin Cities' hospitals, health systems and health care organizations. Allina Hospitals & Clinics was one of the two lead health care organizations in the Honoring Choices Minnesota collaborative when it began in 2009, and the group has continued to add new hospitals and organizations since.

B. Key Personnel

The budget and justification for key personnel and all other project related expenses are included as Appendix A. A description of key personnel is included below and curricula vitae for Allina personnel are included in Appendix B.

Executive Sponsor: Marcus Thygeson, MD, President, Center for Healthcare Innovation

As President of the Center for Healthcare Innovation, Marcus Thygeson leads a team focused on fostering innovation throughout Allina to achieve improved health, patient experience, affordability and staff well-being. The Center is currently engaged in promoting community health improvement, care delivery redesign, clinical and health services research, patient engagement, professional development and well-being and the practical application of systems thinking to healthcare improvement. Prior to joining Allina, Marcus served as the Corporate Medical Director and Vice President for Consumer Health Solutions at HealthPartners, where he focused on promoting health and wellness programs, shared decision-making, and value-based benefit design. Prior to joining HealthPartners, Marcus held a series of medical leadership and entrepreneurial jobs, including Medical Director for Definity Health, Chief Medical Officer of Mywayhealth, and a number of medical management positions at Alta Bates Medical Center, in Berkeley, California. From 1996 to 2000 he served as the Medical Director from Alta Bates Medical Group, an award winning California IPA. Marcus received his B.S. summa cum laude from the University of California at Davis, and is a graduate of Harvard Medical School. He received his medical training at Virginia Mason Hospital, where he was Chief Medical Resident, and at the University of California San Francisco. Marcus is Board Certified in Internal Medicine and Gastroenterology.

Business Leader: Gayle Mattson, BSN, President, Allina Home & Community Services

Gayle Mattson is the President of Allina Home & Community Services that includes hospice, palliative care, advance care planning, care management and geriatric services and is a natural host for this project. She has worked in late life care/palliative care in an executive leadership role for the past eight and a half years providing a strategic vision that has advanced Allina's capacity in this area – she has led the development of Allina's palliative care and advance care planning programs. Under her leadership, Allina Home and Community Services has expanded its hospice program from one location with daily census of 200 patients to three locations with daily census of 475 patients. In addition an eight-bed residential hospice and a second residential hospice are under construction. Ms. Mattson will devote a portion of her time to this work, providing business unit leadership, partnering with the Executive Sponsor in facilitating system-wide communications, and addressing operational barriers and challenges faced by the operations or research teams.

Co-Principal Investigator: Sandra E. M. Schellinger, RN, MSN, NP-C, Program Development Manager for Advance Care Planning, Allina Home & Community Services

Sandy Schellinger has over 25 years of nursing experience focusing on the care of patient's and families with chronic progressive illness. Her nursing degrees were obtained at the University of Minnesota and at Metropolitan State University for her Master's of Nursing Science. Sandy is AANP board certified as an Adult Nurse Practitioner. Currently Sandy is the program development manager for advance care planning for the Allina Health System. Sandy provides hospice and palliative care consult for Allina patients and families and is also a National Faculty Member and Instructor for the Respecting Choices: First Steps and Disease Specific Advance Care Planning Facilitator training. Ms. Schellinger will devote 75% of her time to the project in the design period and 50% of her time to the project during enrollment, implementation and analysis. She will serve as the operational lead for the Principal Investigator team and will have authority and accountability around hiring of Late Life Supportive Care Managers, staff and care team training and development, creation and implementation of electronic health record tools, and project implementation.

Co-Principal Investigator: Eric W. Anderson, MD, Medical Director, Palliative Care, Allina Home and Community Services

Dr. Anderson has been involved in end of life, interdisciplinary care for nearly 30 years. This has included helping start a rural hospice program in the pre-Medicare Hospice Benefit days, serving as a hospice medical director since 1986 and full time palliative medicine since 2001. In his current role as Inpatient Palliative Care Medical Director for Allina Health System's Home and Community Services, Dr. Anderson oversees clinical services that combine home care, hospice, and palliative care programs serving the 19-county area of eastern Minnesota. Overall these programs have a combined daily census of 1,500. In addition to his clinical practice, Dr. Anderson, teaches interdisciplinary palliative care to diverse groups of students at the University of Minnesota School of Health Sciences Center for Spirituality and Healing. Dr. Anderson received his medical training at University of California San Diego and the University of Minnesota. He pursued additional study with Dr. Robert Twycross and the Harvard Program in Palliative Care and Education. He is board certified in both Internal Medicine and Palliative Medicine. Dr. Anderson will devote 50% of his time to the project in the design period and 35% of his time to the project during enrollment, implementation and analysis. He will serve as the clinical lead for the Principal Investigator team and will have authority and accountability around partnerships with primary care and specialty providers, development of the supportive care plan, design of the assessment and re-assessment visits and associated clinical measurements, patient population selection and clinical leadership for Late Life Supportive Care Managers.

Co-Principal Investigator & Evaluation Director: Abbey Sidebottom, MPH, Senior Research Scientist, Center for Healthcare Innovation

Abbey began as a Senior Research Scientist with the Center for Healthcare Innovation in Mid-August 2009. In this position Abbey has worked on a variety of grant proposals, data analysis, presentation and article development, study design development and participated as an IRB member. She currently serves as the lead researcher for Advance Care Planning and Palliative care for Allina, working on an evaluation of the implementation of Disease Specific Advance Care Planning for Heart Failure patients and more recently on a study design to test standard palliative care for heart failure patients. Prior to coming to Allina, Abbey worked as an Epidemiologist for the Minneapolis Department of Health and Family Support for 11 years coordinating a wide variety of primary research and public health evaluation efforts across the city of Minneapolis and the greater metropolitan area. During this time, she served as the evaluator of the Twin Cities Healthy Start infant mortality reduction program, and was Co-investigator and project coordinator of a federal research grant (through HRSA) to study a psychosocial

screening tool for pregnant women (screening tool used as part of the TCHS program), evaluator for a federal research grant (through the DHHS Office of Public Health and Science, Office of Population Affairs and Office of Family Planning), to reduce sexually transmitted infections and increase the use of contraception among young males through a clinic based street-outreach and peer education model. Ms. Sidebottom will devote 50% of her time to the project during the design, enrollment and analysis phases and 30% of her time during the implementation phase. Ms. Sidebottom will be the research and evaluation lead for the Principal Investigator team. She will partner with Drs. Christianson and Wholey in her efforts and will have accountability and authority for the research design, process and outcome measure definition and data collection, hiring and oversight of the Project Manager and Study Coordinators, data quality and integrity and analysis and publications.

Evaluation Co-Investigator & Health Economist: Jon Christianson, PhD, James A Hamilton Chair of Health Policy and Management, University of Minnesota

Dr. Jon Christianson is an economist and the James A. Hamilton Chair in Health Policy and Management at the University of Minnesota. He has substantial experience evaluating and merging impact and process data from large-scale organizational redesign efforts. Pertinent to this project, he has published a book on chronic illness models of team care. Dr. Christianson has been a senior investigator on the Robert Wood Johnson Foundation's Community Tracking Study for ten years, and is one of four senior investigators combining and evaluating qualitative and quantitative data for Robert Wood Johnson's Aligning Forces for Quality Initiative. This work included fielding a national consumer survey designed to collect data from individuals with chronic illness regarding interactions with the healthcare system and the degree of their personal involvement in managing their care. Dr. Christianson earned his B.A. in mathematics and economics from St. Olaf College, and his master's and doctoral degrees in economics from the University of Wisconsin, Madison. He will devote 15% of his time for the duration of the project, providing shared oversight with Ms. Sidebottom and Dr. Wholey of the collection and analysis of all process data for the project.

Evaluation Co-Investigator: Doug Wholey, PhD, Professor of Health Policy and Management, University of Minnesota

Dr. Doug Wholey is a professor of Health Policy and Management in the School of Public Health at the University of Minnesota. He is one of the foremost organizational sociologists in the United States and the United Kingdom. Dr. Wholey's current research examines social networks in medical clinics and his expertise more broadly includes healthcare organization and performance. He is a visiting professor at the National Primary Care Research and Development Centre at the University of Manchester, England, where he is contributing to the examination of team integration and patient outcomes in the general practice clinics of England's National Health System. Dr. Wholey is a member of the steering committee for the Center for Chronic Disease Outcomes Research, a VA Health Services Research and Development Center of Excellence. His educational background includes an MBA in management from the University of California, Berkeley, and a PhD in organizational behavior and industrial relations from the Haas Graduate School of Business Administration also at UC-Berkeley. Dr. Wholey's research and expertise will provide a strong foundation for the evaluation of care team evolution and dynamics in this intervention. He will devote 15% of his time for the duration of the project, co-directing the evaluation team with Dr. Christianson and Ms. Sidebottom. Assisting Dr. Wholey in his efforts will be Research Associate Dr. Katie White. Dr. White is also an expert in organizational development and is especially skilled at qualitative data collection, including key informant interviews and focus groups. She has served in this capacity in the Care Guides project and will continue her role with the current initiative. Most importantly, Dr. White will facilitate the Patient and Family Advisory Council.

Other Support

In addition to the team listed above, a Project Manager and three site Study Coordinators will be hired to support the implementation of this work, complementing the Late Life Supportive Care Managers and other members of the site clinical teams. The Project Manager will devote 100% effort to the project for its duration. Key accountabilities for the Project Manager will include facilitation of operational design and implementation efforts, personnel oversight for Study Coordinators, data quality and integrity and communications and budgeting. The Project Manager will be a skilled leader with substantial experience implementing new, large operational initiatives, broad data collection efforts and overseeing personnel. The site Study Coordinators will be responsible for facilitating the patient identification and enrollment process, for data collection, data quality and integrity and general implementation troubleshooting. Study Coordinators will need previous clinical site experience with a special focus on this patient population, as well as experience enrolling and tracking patients throughout a research study. A number of additional individuals from Allina will support the project efforts, including highly skilled members of the Clinical Decision Support team, our electronic health record implementation and reporting teams, data analyst from the Center for Healthcare Innovation, marketing and communications support, as well as Allina's learning and development team.

C. Project Oversight

LLSC Patient and Family Advisory Council (PFAC)

In an effort to develop a late life supportive care model that is grounded in guidance and feedback from patients and families who have or are experiencing life limiting illness, patients and family members will be engaged throughout the pilot process in an Advisory Council comprised of 12–15 individuals. The project team is enthusiastic about inviting patients and their family members into this process as full partners because the team appreciates that late life supportive care is ultimately about meeting the needs, wishes and values of the patient and his/her caregivers.

LLSC Steering Committee

In addition to the Advisory Council, we will convene a Late Life Supportive Care Steering Committee to provide general oversight to the project. The Steering committee will consist of the Investigator team, the Project Manager and Study Coordinators, at least one Late Life Supportive Care Manager from each site, at least one PCP/hospitalist from each site, at least one specialty provider from Abbott Northwestern, another staff member (e.g., unit or clinic nurse) from each site and a key operational leader from each site. The charge of this group will be to address significant operational and communications issues and challenges, provide feedback on successes and failures, explore new directions and strategies, identify compelling feedback and information to share with senior Allina leadership and serve as a representative body for extended care team members participating in the project.

Research Team

To advance the research and evaluation component of this work, the Research Team will meet weekly at project onset and biweekly following the first month of enrollment. The Research Team will include the Principal Investigators (Dr. Anderson, Ms. Schellinger and Ms. Sidebottom), the Co-Investigators from the University of Minnesota (Drs. Christianson and Wholey), the Project Manager and Study Coordinators and any additional necessary staff from the Center for Healthcare Innovation. While the research team will aim to make research and evaluation decisions in a consensus fashion, the Principal Investigators ultimately have accountability for the project and will make final decisions. Where the Principal Investigators face an operational or clinical question that remains unresolved, Dr. Anderson

and Ms. Schellinger will confer with Ms. Mattson and Dr. Thygeson to make a final decision. Where the Principal Investigators face a research or evaluation question that remains unresolved, Ms. Sidebottom will confer with Dr. Christianson to make a final decision.

LLSC Operations Team

In order to facilitate the operational work of the project, the Operations Team will meet weekly to develop, implement and improve workflows and processes. The team will identify global successes and challenges across sites, opportunities for quality and systems improvement, special issues faced by patients and their caregivers, and extended care team and LLSC team personnel challenges and possible solutions. Members of the Operations Team will include Dr. Anderson and Ms. Schellinger, the Project Manager, Study Coordinators and the lead LLSC Manager from each site.

LLSC Site Teams – Abbott Northwestern, Aspen Bloomington, and Walker Methodist/Augustana

To enable the daily and weekly operational and care team work at each site, LLSC Site Teams will meet weekly to review and address operational successes and challenges, to discuss patient-specific supportive care plans and to navigate extended care team communications. Each site will have a team comprised of the site Study Coordinator, the LLSC managers from that site, the lead physicians (i.e., PCP, hospitalist, palliative care provider, primary specialty provider leads) and other key staff (e.g., senior nurses, clinic manager). The team will meet for approximately half an hour or less each week to address major issues. Longer monthly meetings will be convened to supplement the weekly sessions as necessary. Where possible, the Project Manager will attend these meetings, especially early in enrollment and implementation, in order to identify global issues that need to be brought forward to the larger Operations Team.

LLSC Manager Learning Collaborative

Throughout Phase I, the Project Manager will convene monthly group meetings with the Late Life Supportive Care Managers. Given the relatively uncharted nature of this work, the LLSC Managers will be provided with training and tools and then unleashed into the living laboratories of Abbott Northwestern Hospital, Aspen Bloomington Clinic and Walker Methodist and Augustana Health Care Centers. It will be critical to provide these individuals with regular opportunities to seek guidance, exchange ideas, discuss challenges and trends, and generally support each other. In conjunction with these meetings, structured continuing education will be provided to keep the LLSC managers abreast of updates in process, resources and broad project goals. While every effort will be made to maintain the unique LLSC Manager – Patient/Caregiver interaction, creating a unified and well-connected body of LLSC Managers will serve to minimize the disruption and reduce patient and caregiver anxiety when substitutions become necessary.

Appendices

A. Budget and Budget Justification

Budget Category/Item					2012	2013	2014	Total
PERSONNEL	Base Salary (Year 1)	% Effort	# FTEs	Staffing Ratio				
Late Life Supportive Care Managers								
Abbott Northwestern Hospital	\$85,000	100%	2	1:25	\$127,500	\$175,100	\$90,177	\$392,777
Aspen Bloomington Clinic	\$85,000	100%	4	1:25	\$255,000	\$350,200	\$180,353	\$785,553
SCT: Augustana & Walker Methodist	\$85,000	100%	2	1:25	\$127,500	\$175,100	\$90,177	\$392,777
Core Interdisciplinary Team Members								
Social Worker	\$65,000	100%	2	1:70	\$65,000	\$133,900	\$68,959	\$267,859
Marriage & Family Therapist	\$85,000	100%	1	1:80	\$42,500	\$87,550	\$45,088	\$175,138
Primary Care Provider	\$180,000	5%	20		\$90,000	\$185,400	\$95,481	\$370,881
Pharmacist	\$120,000	50%	1	1:240	\$30,000	\$61,800	\$31,827	\$123,627
Chaplain	\$65,000	60%	1	1:80	\$19,500	\$40,170	\$20,688	\$80,358
Palliative Care Medical Director	\$190,000	10%	1		\$9,500	\$19,570	\$10,079	\$39,149
Volunteer Coordinator	\$55,000	50%	1	1:100	\$13,750	\$28,325	\$14,587	\$56,662
Research Team								
Co-PI: Sandy Schellinger	\$115,000	75%/50%/50%	1		\$86,250	\$59,225	\$30,501	\$175,976
Co-PI: Eric Anderson	\$210,000	50%/35%/35%	1		\$105,000	\$75,705	\$38,988	\$219,693
Co-PI: Abbey Sidebottom	\$95,000	50%/30%/50%	1		\$47,500	\$29,355	\$25,196	\$102,051
Project Manager	\$85,000	100%	1		\$85,000	\$87,550	\$45,088	\$217,638
Study Coordinator: ANW	\$70,000	100%	1		\$52,500	\$72,100	\$37,132	\$161,732
Study Coordinator: Aspen Bloomington	\$70,000	100%	1		\$52,500	\$72,100	\$37,132	\$161,732
Study Coordinator: Augustana & Walker Methodist	\$70,000	100%	1		\$52,500	\$72,100	\$37,132	\$161,732
Research Assistant	\$60,000	100%	1		\$45,000	\$61,800	\$31,827	\$138,627
Additional Support Services for Patient								
Care Navigation & Triage					\$20,000	\$40,000	\$20,000	\$80,000
Translation Services					\$15,000	\$30,000	\$15,000	\$60,000
Technical & Analytic Support								
Clinical Decision Support	\$85,000	50%	1		\$42,500	\$21,888		\$64,388
Excellian Support	\$85,000	50%	1		\$42,500	\$21,888		\$64,388
Clarity Reporting	\$85,000	25%	1		\$21,250	\$10,944		\$32,194
Health Informatics Specialist	\$75,000	50%	1		\$37,500	\$19,313		\$56,813
Communications & Marketing	\$75,000	25%	1		\$18,750	\$19,313	\$19,892	\$57,954
Learning & Development					\$104,000			\$104,000
Benefits (29% of all above personnel)								
					\$466,320	\$565,614	\$285,737	\$1,317,672
University of MN Advisors								
Evaluation/Health Economics: Christianson		20%			\$75,000	\$77,250	\$39,784	\$192,034
Evaluation: Wholey		15%			\$37,500	\$38,625	\$19,892	\$96,017
Evaluation: White		20%			\$31,250	\$32,188	\$16,577	\$80,014
Research Assistant		100%			\$75,000	\$77,250	\$39,784	\$192,034
Consulting Resources								
Expert Mapping					\$75,000	\$50,000		\$125,000
Clumsy Conversations					\$15,000	\$15,000		\$30,000
Adaptive Practice					\$15,000			\$15,000
Motivational Interviewing/Coaching					\$15,000			\$15,000
Shared Decision Making					\$25,000	\$15,000		\$40,000
Personnel Total								
					\$2,438,070	\$2,821,320	\$1,387,074	\$6,646,465
ADDITIONAL COSTS								
Per Patient Fund					\$150,000	\$450,000		\$600,000
Clinic Reimbursement for SC Visits	\$112.50/visit				\$33,750	\$56,250		\$90,000
Video Development for Training					\$60,000			\$60,000
Resource Materials Development					\$15,000			\$15,000
Printing					\$6,000	\$6,000		\$12,000
Patient & Family Advisory Council: Stipends					\$2,250	\$2,250	\$2,250	\$6,750
Training Stipends					\$138,000			\$138,000
Food					\$10,000	\$10,000	\$10,000	\$30,000
Furniture & Equipment					\$54,500			\$54,500
Research Support: IRB + SPA					\$10,000			\$10,000
Home Monitoring, Computer Access					\$200,000			\$200,000
Community Engagement Support								
Honoring Choices + TPT Partnership					\$250,000			\$250,000
Internal Dialogue Facilitation					\$25,000	\$50,000	\$25,000	\$100,000
Internal Dialogue Materials					\$10,000	\$20,000	\$10,000	\$40,000
Assessment Instruments					\$15,000			\$15,000
Additional Costs Total								
					\$979,500	\$594,500	\$47,250	\$1,621,250

TOTAL PHASE I COST \$8,267,715

2012: Design & Prework + Enrollment, 2013: Implementation, 2014: Analysis

Justification

Personnel

Each key project staff member has been previously identified in the Key Personnel section of the narrative. The budget on the previous page identifies all personnel connected with the project, their base salaries, initial percentage of effort and the number of full time equivalents in each role. Inflation of 3% is applied to Year 2 salaries based on Year 1 and Year 3 salaries based on Year 2. Merit percentages are assigned based on level of support and input required by each staff member.

Late Life Supportive Care Managers (\$1,571,106)

For Phase I, 6 Late Life Supportive Care Managers (LLSCMs) will be hired, with appropriate assignment based on patient load at each site. LLSCMs will provide initial assessments (3-4 hours), coordination of IDT discussions and supportive care plan (0.5 hours), weekly to monthly phone calls (0.5 hours) and a minimum of monthly in-person reassessments (1-2 hours) per patient/caregiver unit per month (totaling approximately 6 hours per month/patient & caregiver unit). These individuals will be hired prior to enrollment launches to allow for training and practice.

Core Interdisciplinary Team Members (\$1,113,673)

Social Worker: The social worker provides a phone assessment for 100% of LLSC patients/caregivers to determine ongoing needs. Follow-up in-person and by phone will be required for an estimated 75% of patients. Expected social worker productivity per patient while enrolled in LLSC including IDT participation and phone/in-person contact is 20 hours.

Marriage & Family Counselor: The marriage and family counselor provides support to the patient and family unit as the changes from the illness force members to assume roles and responsibilities beyond their usual norm. While counseling will be offered to individual family members, primarily the family will be treated as a whole unit. Approximately 25% of LLSC patients will have complex needs requiring an initial counseling assessment and follow-up. Expected marriage and family counselor productivity per patient while enrolled in LLSC including IDT participation and phone/in-person contact is 30 hours.

Primary Care Provider: The Primary Care Provider will participate in daily 15 minute IDT discussions and coordination totaling 1 hour/week. In addition, there will be an additional 1 hour per week in non-IDT supportive care activities. Twenty providers are included (3 specialist providers at ANW, 9 providers at senior care sites and 8 providers at Aspen Bloomington Clinic).

Pharmacist: LLSC patients will receive 1-2 pharmacist consultations (defined as verbal communication between a pharmacist and patient, or agent of the patient, about medications or health). Consultation may include, but is not limited to, provision of information about the name and purpose of the medication, directions for use, side effects, interactions, contraindications, continuity of therapy and monitoring. Expected pharmacist productivity per patient while enrolled in LLSC including IDT participation and phone/in person contact is 3 hours.

Chaplain: The chaplain will provide phone assessment to 100% of LLSC patients to determine community support and provide in-person visits for spiritual, religious and emotional support for those without community resources or requiring more intensive follow up. Expected chaplain productivity per patient while enrolled in LLSC including IDT participation and phone/in-person contact is 3 hours.

Palliative Care Medical Director: The palliative care medical director provides phone consultation to the LLSCM and PCP for pain and symptoms management totaling up to 30 minutes per enrolled LLSC patient.

Volunteer Coordinator: The volunteer coordinator recruits, trains and coordinates placements in response to requests from patients and families. About 50% of LLSC patients and families will request additional volunteer support. Expected volunteer coordinator productivity per patient while enrolled in LLSC will include one hour for a phone assessment and one hour IDT participation/follow up coordination with community volunteer/documentation totaling 2 hours per patient.

Research Team (\$1,339,180)

Ms. Schellinger, Dr. Anderson, and Ms. Sidebottom will serve as Co-Principal Investigators for the duration of the project. Ms. Schellinger will devote 75% of her time to the project during the design and enrollment period and 50% during the implementation and analysis periods. Dr. Anderson will devote 50% of his time to the project during the design and enrollment period and 35% during the implementation and analysis periods. Ms. Sidebottom will devote 50% of her time to the project during the design, enrollment and analysis periods and 30% of her time to the project during the implementation period.

A full time Project Manager, as well as three full-time Site Study Coordinators, will be hired to oversee operational implementation of the model, facilitate recruitment and enrollment and enhance workflow. Finally, a Research Assistant will support the entire Research Team in their efforts.

Additional Support Services for Patient (\$140,000)

Care navigation resources and after hours nurse triage resources are budgeted for patients and their caregivers during enrollment and implementation of the late life supportive care model. Resources are budgeted based on use of these resources by essentially all patients and caregivers, given the nature of illness and late life experiences.

Basic translation services are included for enrollment and implementation. While the Aspen Bloomington Clinic is majority native English speakers, Abbott Northwestern Hospital and the senior care facilities have a greater proportion of patients who are non-Native English speakers needing translation support.

Because all of these services are charged on an hourly utilization basis, we have included a flat fee in the budget in order to accommodate variable usage by patients and caregivers.

Technical & Analytic Support (\$379,736)

A variety of technical and analytic staff will support the proposed efforts. The project will involve 50% of an FTE from the Clinical Decision Support team to guide and assist in the design of electronic health record tools. Partnering with this resource will be a 50% FTE from the Excellian team, Allina's electronic health record team. This individual will be responsible for actual coding and other changes to the record, based on the agreed upon design parameters. Another 25% FTE from the Clarity Reporting Team will support the development and implementation of quality and process reports for all staff. Half of a health informatics specialist will be retained to develop the specifications for changes and to lead this work. These resources will be devoted during the design and enrollment period and initially during implementation until all issues with the electronic health record are worked out. Approximately one-quarter of a communications and marketing FTE will be devoted to the project, helping to advance

internal and external communication around the effort for the duration of the project. Finally, a flat fee supporting the learning and development team is included. These funds are geared specifically for the three tiers of training that will be developed for individuals participating in this model – Late Life Supportive Care members, Interdisciplinary Team members and other individuals in the clinic, hospital and senior care sites that will be interacting with the project and care teams.

Benefits (\$1,317,672)

Benefits for all above personnel are estimated at 29%.

University of MN Advisors (\$560,098)

The Research Team will partner with the University of Minnesota for the completion of the research design and the evaluation activities. Drs. Christianson, Wholey and White from the University of Minnesota's School of Public Health will be involved in the effort. Each of these individuals have worked previously with Allina on the care guide project, so they are familiar with the organizational milieu, successes and challenges of the previous project and well prepared to engage in the design and implementation of the Late Life Supportive Care model. Dr. Christianson will serve as the Evaluation Co-Investigator and the Health Economist for the project. He will devote 20% of his time to the project for its duration. Dr. Wholey will serve as the organizational development expert and Dr. White will serve as the qualitative data collection lead, facilitating the Patient and Family Advisory Council, as well as all interviews and focus groups with staff intended to gather process evaluation information. Dr. Wholey will devote 15% of his time to the project for its duration and Dr. White will devote 20% of her time to the project for its duration. Budgeted figures include an appropriate indirect rate for the University of Minnesota. The Research Team is delighted that these faculty from the University of Minnesota have agreed to partner around the Late Life Supportive Care project.

Consulting Resources (\$225,000)

Included in the budget are a set of consulting resources designed to complement the full-time and University of Minnesota teams. Outlined below is a brief description of each resource:

- **Expert Mapping:** In order to establish the workflow for the new position of Late Life Supportive Care Managers, as well as the workflow of care team members serving in new roles (i.e., clinic PCPs serving on a late life IDT), funds are set aside to contract with an expert in the development of workflows through the observation and mapping of expert healthcare team members. Deployment of this 'expert mapping' approach will happen both prior to the initiation of enrollment, as well as ongoing during implementation as models are refined.
- **Clumsy Conversations:** Because there will be a number of new staff working together and a number of current staff working in new ways, as well as increased interactions around end-of-life issues with patients and caregivers, we anticipate a number of awkward conversations will be repeated again and again. To mitigate this and to help the team through these conversations, funds are set aside to contract with an expert in developing methods to work through 'clumsy conversations.' Deployment of this approach will also happen prior to the initiation of enrollment, where expected awkward conversations have been identified, as well as ongoing during implementation.
- **Adaptive Practice:** While Dr. Thygeson will serve as an internal resource around adaptive practice, a small amount of contracting funds are set aside for additional external resources when Dr. Thygeson is not available, especially because adaptive practice training will be part of the on-boarding curriculum for all new staff, in addition to current care team members.

- **Motivational Interviewing/Coaching:** For the care guide initiative, the project team contracted internally with the Institute for Health and Healing for training and expertise around motivational interviewing and coaching. We will use this same model for the current proposal.
- **Shared Decision-Making:** Because shared decision-making, both in a formal sense and an informal sense, will be a part of the current initiative, funds are set aside to contract internally or externally for additional support in training, coaching and mentoring, and development of necessary decision aids.

The total budget for Personnel is \$6,646,465.

Additional Costs

Per Patient Fund (\$600,000)

Because not all of the needs of patients and their caregivers will be covered by insurance or usual programs, funds are set aside to cover such needs. These may include home visits, physical or occupational therapy, safety evaluations, transportation and medication. We anticipate half of enrolled patients will need these funds and have budgeted \$3,000 per patient/caregiver unit. We anticipate 50 patient/caregivers needing this support during the enrollment period and another 150 needing support during the implementation year.

Clinic Reimbursement for Supportive Care Visits (\$90,000)

Two evaluation and management visits will be reimbursed per patient per provider for unreimbursed care conferencing and to cover the facility fees for the IDT. This cost is estimated at \$112.50 per visit.

Video Development for Training (\$60,000)

Cost for development of patient, caregiver and care team videos to describe late life supportive care, as well as four late life supportive care competency videos (e.g., discussing goals of care, breaking bad news, codes status, hospice and end-of-life) are included. Sixty minutes of total video will be produced at a cost of \$1,000/minute.

Resource Materials Development (\$15,000)

Development of resource materials that do not already exist will be required, including content and design creation. A total of \$15,000 is devoted to supporting development of resource materials, especially those materials that cannot be developed solely by project staff.

Printing (\$12,000)

Materials for patients and their family members will be printed, including the resource materials noted above, as well as the supportive care plan. Printing costs of \$15 per patient/caregiver is included in year one and in year two.

Patient & Family Advisory Council: Stipends (\$6,750)

Stipends to support involvement (\$150/patient or caregiver/year) are included.

Training Stipends (\$138,000)

To cover the time of clinic, hospital and senior care team staff who will be participating in training, \$138,000 is included in training stipends during the pre-work and enrollment period.

Food (\$30,000)

To facilitate ongoing conversations between investigators, late life supportive care managers, and other project personnel, as well as at the Patient and Family Advisory Council meetings, funds for food are included. These funds will be devoted specifically to supporting monthly late life supportive care manager learning collaborative meetings, clinic staff project update meetings, investigator gatherings, and project team meetings with external personnel.

Furniture & Equipment (\$54,500)

Approximately 17 laptop computers (\$2,500/person), as well as three stationary workstations (\$4,000/person for space and desktop computer), are included to ensure adequate equipment is available all new staff.

Research Support: IRB + SPA (\$10,000)

Application fees for Allina's Institutional Review Board and Sponsored Projects Administration are included.

Home Monitoring, Computer Access (\$200,000)

We estimate that approximately 100 patients (especially those with heart or renal failure) would benefit from home monitoring and have budgeted \$2,000/patient for these costs.

Community Engagement Support (\$390,000)

Partnership and video production funds of \$250,000 are included for our work with Twin Cities Public Television and Honoring Choices. In addition, funds are included to facilitate internal Allina dialogues, in partnership with the Citizens League. Where materials need to be developed and printed, funds are included to cover this expense as well.

Assessment Instruments (\$15,000)

Where assessment instruments are not available in the public domain, licensing fees must be paid for administration. Funds are included to cover these costs so that a robust and adequate set of measures can be assessed during the enrollment and implementation periods.

The total for additional costs is \$1,621,250.

The total cost for the Phase I is \$8,267,715. Estimated cost for Phase II is \$12 million, given a more robust design, larger patient enrollment, and increase in sites. Grand total cost for implementation of both Phases of the Late Life Supportive Care model is approximately \$20 million.

B. Resumes of Allina Project Team Members

N. Marcus Thygeson, MD

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Office: Mail Route 10105, 2925 Chicago Avenue, Minneapolis, MN 55407-1321

Office: 612-262-4945

Cell: 651-269-1404

marcus.thygeson@allina.com

mthygeson@gmail.com

Professional Experience:

Allina Hospitals and Clinics

Minneapolis, MN

August 2010 to present:

President, Center for Healthcare Innovation

I am accountable for leading the Allina CHI, a new institute focused on supporting research, care delivery redesign, patient-centered care, community health improvement, professional well-being, and developing innovation capacity in a major care delivery system.

HealthPartners, Inc.

Bloomington, MN

December 2004 to January 2010:

Associate Medical Director and Vice President, Consumer Health Solutions

Senior Fellow, HealthPartners Research Foundation

HealthPartners is a leading regional Health Plan and integrated delivery system offering a broad array of insurance products and clinical services. I had strategic and operational responsibility for our Worksite Health programs; was responsible for providing medical direction in sales, marketing and product development and innovation; and led a team of medical directors who supported new sales and account management.

Key accomplishments:

- Led the development of an enterprise-wide strategic plan for addressing unwarranted variation in supply- and preference-sensitive care, which is critical to achieving health care affordability.
- Designed and launched Well@Work, a new program integrating care delivery and health plan capabilities to provide onsite clinical, wellness, and patient advocacy services in the worksite. We currently have three worksite clinics in operation.
- Grew the Worksite Health Department by adding FMLA, Disability, and non-certified workers compensation management programs and expanding the existing EAP, Work Comp Certified Managed Care, and Corporate Flu Shot programs.
- Published the first study documenting retail clinic costs of care and patient demographics.
- Since joining HealthPartners, the company has added over 150,000 members. Prior to that HealthPartners had been losing membership.
- Led the expansion and repackaging of a telephonic patient advocacy program which was subsequently adopted by several of our largest clients.
- Led the launch of a statewide Community Collaborative to promote shared decision making and improved patient decision support.
- Current research interests include: development of medical decision quality measures to promote shared decision making; health and health cost benefits of participation in community supported agriculture program; use of social network analysis to evaluate impact of quality improvement programs on surgical safety; fractal analysis of health care quality and utilization data; and application of natural language processing to identify unrecognized adverse drug reactions.

Bush Foundation Fellowship

September, 2008-July, 2010

The Archibald Bush Foundation is dedicated to "developing courageous leaders." In 2008, I was selected to receive a Bush Medical Fellowship. I studied the application of complexity science to health care, with the specific goal of researching and developing new approaches to reducing wasteful services and improving both quality and affordability.

Definity Health

Minneapolis, MN

November 2001 to November, 2004

Medical Director

Definity Health pioneered account based consumer driven healthcare products in the United States. While at Definity Health, my responsibilities included development and implementation of Personal Care Support health management strategy and operations, and supporting network development, provider strategy, sales, account services, and product development. During my three years at Definity Health, the company grew from 5,000 to 500,000 covered lives.

Mediphonics, Inc

Emeryville, CA

February 2001 to December 2006:

Co-founder

Mediphonics was a start-up service provider for scheduled compensated medical communications between physicians and their patients. The company provided an automated system for managing telephone appointments, documenting the transactions and collecting payment. My responsibilities included designing and testing the service, market research, and co-authoring a patent.

National Imaging Associates, Inc.

San Bruno, CA

February 2002 to February 2004:

Consultant, Provider Clinical Profiling Program.

February 2001 to October, 2001:

Medical Director and Vice President, Clinical Operations

NIA provided telephone and Internet based Imaging (radiology and nuclear medicine) Utilization and Cost Management services for major Health Plans. My responsibilities and accomplishments included developing and implementing a suite of twelve Imaging Provider Clinical Profiles for client health plans; and developing and implementing a suite of Performance Improvement and Inter-rater Reliability management tools for physician clinical reviewers. After implementation of the latter program, we substantially increased the number of service denials while reducing the number of complaints and appeals.

Mywayhealth, Inc.

Walnut Creek, CA

January 2000 to June 2001:

Senior Vice President of Medical Affairs and Chief Medical Officer

Mywayhealth was an innovative start-up e-health insurance company building a consumer-centric, provider friendly "third generation" health insurance product. My responsibilities included designing our medical management services, network strategy, and related business development.

Alta Bates Medical Group/East Bay Medical Network

Oakland, CA

July 1996 through May 2000:

Medical Director

- Medical Director for major Northern California Independent Physicians Association with 140,000 covered lives, approximately 750 participating physicians, and 12 capitated, shared or full risk health plan contracts.
- Supervised one full-time Associate Medical Director, 3 part-time Associate Medical Directors, and 4 part-time Regional Medical Directors.

- Responsible for all aspects of medical management including utilization review, concurrent review, case management, best-practice guideline development, disease management, quality improvement, credentialing, grievances and appeals.
- Conducted a wide variety of provider contract negotiations.

January 1994 to June 1996

Associate Medical Director, Medical Subspecialties

- Part-time position, responsible for Medicine Subspecialties.

Alta Bates Medical Center

Berkeley, CA

January 1995 to June 1996

Chairman, Department of Medicine and Family Practice

- Supervised Utilization Management, Peer Review and Quality Improvement for 200+ member department.
- Developed quality improvement program that succeeded in achieving the JCAHO standard for medical record completion.

January 1993 to December 1994

Chairman, Department of Medicine Utilization Management Subcommittee

- Participated in the development and implementation of a clinical practice guideline program with guidelines on the management of Community Acquired Pneumonia, CVA, Gastrointestinal Bleeding, DVT, and CHF.
- Introduced and conducted an ongoing quarterly series of "Clinical Effectiveness Conferences" to educate the medical staff about innovations that increase quality or reduce the cost of care.
- Developed and implemented a method of profiling physicians using DRG-adjusted hospital utilization (length of stay and variable cost) data.

Gastroenterology Associates of the East Bay:

Berkeley, CA

July 1996 to September 2002

- Part time practice of Gastroenterology

July 1987 to June 1996

- Full time practice of Gastroenterology
- Managing partner, in charge of supervising the compensation system.
- Negotiated the merger of two, three-person GI groups and the addition of another physician to create one, seven-person group with revenues in excess of two million dollars per year. Redesigned compensation system to facilitate merger.

North Basin Health Services

Odessa, Washington

July 1983 to June 1985

Physician and Chief of Staff, Odessa Memorial Hospital

- National Health Service Corps physician manpower shortage area
- Solo practitioner in a farming community of 3,000 people
- Supervised a Physician Assistant

Education:

1. University of Minnesota, 2008-present; course work in support of Executive MPH degree program.
2. University of Arizona, Fall 2008; Soc 578 Comparative Qualitative Methods with Prof. Charles Ragin.
3. ACMPE Management Education Program sponsored by Palo Alto Medical Foundation, 1994-1995.
4. Harvard Medical School, Boston, Massachusetts, 1976-1980; M.D.
5. University of California, San Francisco, 1975-1976; graduate studies in Immunology

6. University of California, Davis, 1971-1975; B.S., Biochemistry, Summa Cum Laude.

Academic Awards and Honors:

1. Excellence in Teaching Award, Joint Medical Program, UCSF-UC Berkeley, 1993, 1995, 1996, 1997
2. Recipient, Robert A. Pomeroy Award, for contributing "significantly to the teaching program of colleagues at the Virginia Mason Hospital." 1983
3. Member, Phi Beta Kappa.
4. Recipient, University of California President's Scholarship, U.C. Davis, 1974-1975.

Professional Training:

1. Gastroenterology Fellow, University of California Affiliated Hospitals, San Francisco, California, 1985-1987.
2. Intern, Resident, and Chief Medical Resident, Virginia Mason Hospital, Seattle, Washington, 1980-1983.

Board Certification:

1. Diplomate, Gastroenterology, American Board of Internal Medicine, November, 1987.
2. Diplomate, Internal Medicine, American Board of Internal Medicine, September 1983.

Medical License:

1. Minnesota, 2005-present
2. California State, 1985-present.
3. Washington State, 1980-1987

Academic Appointments:

1. Instructor, University of California San Francisco-University of California Berkeley Joint Medical Program, 1987 to 2002.
2. Assistant Clinical Professor of Medicine, University of California, San Francisco, Department of Medicine, 1990-2002.
3. Clinical Instructor, University of California, San Francisco, Department of Medicine, 1987-1990.
4. Clinical Instructor, University of Washington Family Medicine Program (Spokane Residency); 1984-1985.

Current Professional Society Memberships:

1. International Society for Social Network Analysis
2. Society for Chaos Theory in Psychology and the Life Sciences
3. System Dynamics Society

Current Hospital Appointments:

1. None at this time.

Service on Boards of Directors:

1. The Wedge Natural Foods Community Co-op, 2007 to 2010.
2. Alta California Eye Research Foundation, 1993 to present.
3. Bay Area Outreach Project, 2000-2002.
4. Alta Bates Medical Group, 1992-1996

Publications:

1. Thygeson NM, Solberg LI, Asche SE, Fontaine P, Pawlson LG, Scholle SH. Using Fuzzy Set Qualitative Comparative Analysis (fs/QCA) to Explore the Relationship Between Medical "Home-ness" and Quality. Health Services Research, *in press*.

2. Thygeson NM. Retail Clinics and Healthcare Costs. In: The Healthcare Imperative: Lowering Costs and Improving Outcomes: Workshop Series Summary (eds: Yong, Saunders, and Olson), 2010, pp: 438-443. National Academies Press, Washington, DC.
3. Thygeson NM, Morrissey L, Ulstad V. Adaptive leadership and the practice of medicine: a complexity-based approach to reframing the doctor-patient relationship. *Journal of Evaluation in Clinical Practice* [in press].
4. Thygeson NM. A Health Plan Perspective on Worksite-Based Health Promotion Programs. *Am J Prev Med*. 2010;38(2S):S226-S228.
5. Solberg LI, Asche SA, Sepucha K, Thygeson NM, et al. Informed Choice Assistance for Women Making Uterine Fibroid Treatment Decisions: A Practical Clinical Trial. *Med Decis Making*. 2009 Nov 30. [Epub ahead of print].
6. Solberg LI, Thygeson NM, et al. Evaluating preference-sensitive care for women with uterine fibroids—it's not so simple. *Journal of Women's Health*, in press.
7. Mehrotra A, Liu H, Adams JL, Wang MC, Lave JR, Thygeson NM, Solberg LI, McGlynn EA. Comparing costs and quality of care at retail clinics with that of other medical settings for 3 common illnesses. *Ann Intern Med*. 2009;151:321-328.
8. Thygeson NM, Gallagher J, Cross K, Pronk NP. Employee health at BAE Systems: An employer-health plan partnership approach. In: Pronk NP, ed. *ACSM's Worksite Health Handbook, Second Edition, A Guide to Building Healthy and Productive Companies*. Champaign, IL: Human Kinetics; 2009.
9. Thygeson NM, et al. Utilization and Costs of Care in Retail Clinics Compared to Traditional Care Sites. *Health Affairs*, 27, no. 5 (2008): 1283-1292
10. Pronk N, Thygeson NM. From managing disease to managing health. *Group Practice Journal* 2007;56(9):8-13.
11. Thygeson NM, Kraemer K. Talk it out: shared decision-making improves the patient experience. *Minnesota Physician* 2007;21(7):p. 1, 12-13.
12. Allison JE, Thygeson NM, et al. Angiodysplasia, colorectal neoplasms are infrequent causes of bleeding in patients admitted to community hospitals for hematochezia. *Gastroenterology* 108(4): A2; 1995.
13. Thygeson M. Glucocorticoid Withdrawal. In: *Blue Book of Endocrinology*; Metz R, Larson EB (Eds.). W.B. Saunders, Philadelphia, 1985; pp. 61-66.
14. Thygeson NM. Preoperative assessment of adrenal insufficiency in glucocorticoid therapy. *Arch Intern Med*. 1984; 144:2288.
15. Thygeson NM. Herpes Zoster: role of antiviral therapy. *Bulletin of the Mason Clinic* 37:83-88; summer, 1983.

Recent Invited Presentations:

1. "Retail Clinics: Promises and Pitfalls." Presented at Careum Conference, Zurich, Switzerland, November 17, 2009.
2. "Retail Clinics: Cost-Saving, or Just Convenient?" Presented at the *Strategies that Work* workshop, part of a workshop series *The Healthcare Imperative: Lowering Costs and Improving Outcomes*, sponsored by the Institute of Medicine, Washington D.C., July 17, 2009.
3. "Evidence-Based Medicine: How Well are Health Plans Doing?" Medical Technology Leadership Forum, San Francisco, June 6, 2008.
4. "The Business Case for Wellness", IPMA-HR Central Region Training Conference, Minneapolis, MN, June 11, 2007.
5. "Analyzing Your Data To Show Value: Using Health Assessment Data to Translate Positive Health Outcomes into Quantifiable Cost Savings"; World Research Conference on Health Assessments, Chicago, IL, May 23, 2007.
6. "Using Health Assessment Data to Manage Population Health"; Lockheed Martin Quality Conference, Washington, DC, November 14-15, 2006.
7. "Worksite Health Improvement Programs: The HealthPartners Experience"; New York State Department of Health Cardiovascular Health Task Force, October 11, 2006.

8. "Information Therapy and Decision Support: Opportunities and Challenges"; Catalysts for Change ix Therapy Conference, Park City, Utah, September 25-26, 2006.
9. "Population Health Management Using a Validated Health Assessment and Health Improvement Programs Integrated with Benefit Design"; Measuring and Quantifying the Value of Health Risk Assessments Conference, Boston, MA, May 22-24, 2006.
10. "Minute Clinic Year One—The Payer Experience"; Lockheed Quality Conference, Washington, DC, November 4, 2005.
11. "Driving Performance Improvement with Value Based Purchasing"; OPM Federal Employees Health Benefits Program Carrier Conference, Washington, DC, April 5, 2005
12. "Consumer Driven Health Care—The Provider Experience"; AHIP Physician Leaders—Medical Managers Forum, Dallas, TX, October 1, 2004
13. "Improving Case Finding, Member Participation, and Satisfaction"; CDHCC, Spring 2004, Las Vegas, NV, March 30, 2004
14. "Consumer Driven Healthcare: A Paradigm Shift"; American College of Healthcare Executives, Chicago, IL, March 2, 2004
15. "Information Therapy and Consumer Driven Healthcare"; Information Therapy Conference: From Idea to Action, Park City, Utah, September 15, 2003
16. "Consumer Driven Healthcare: What's a Doctor To Do?"; California Medical Group Management Association, Long Beach, CA, March 24, 2003.
17. "Consumer Driven Healthcare and Disease Management"; Disease Management Association of American Conference, San Antonio, TX, October 24, 2002.
18. "Quality and Consumer Driven Healthcare"; Health Policy 61/161 class, Stanford University, May 13, 2002.
19. "Medicine and the Internet: Healthcare in the 21st Century"; Medical Staff Conference, Alta Bates Medical Center, August 15, 2000.
20. "ABMG Maternity Statistics"; Sutter IPA Council, January 28, 2000.
21. "HEDIS Best Practices: Challenges and Strategies"; Health Net Teleconference, November 3 and 4, 1999.
22. "Genetic Testing for Hemochromatosis"; Clinical Effectiveness Rounds, Alta Bates Medical Center, September 14, 1999.
23. "Physician Compensation: The View from the Front Lines"; PBGH Provider Partners Committee Meeting, April 20, 1999.

GAYLE MATTSON

16807 ISLAND TERRACE, LAKEVILLE, MN 55044
CELL (612) 805-4278 HOME (952) 898-2189

PROFESSIONAL EXPERIENCE

Highly committed, values driven leader with demonstrated ability to establish a shared vision, develop strategy, create culture, engage others, set priorities and deliver results.

Allina Home & Community Services, St. Paul, MN

2003 – Present

President, 2010 - Present

- Led a \$5.1 million dollar residential hospice capital campaign.
- Developed Allina Senior Services Strategy to span care at home, clinics, hospitals, nursing homes and end-of-life.
- Co-Led design of Allina Case Management model.
- Developed Late Life Supportive Care model to serve patients in the last two years of life and their families.

Vice President, 2003 - 2010

- Provided executive leadership to Home Care, Hospice, Palliative Care, Home Oxygen and Medical Equipment, Nursing Home Geriatric Practice, Care Management, Care Navigation Help Desk and Allina Call Center across Allina Hospitals & Clinics, with over 925 employees, 400 volunteers, \$100m revenue.
- Implemented a Skilled Home Care program, building average daily census to 800 over five years.
- Implemented a Care Navigation Help Desk; a one-stop referral resource for health care providers, patients and families seeking home & community services.
- Developed a Palliative Care program
 - Initiated a Palliative Care Consult service for Allina Hospitals and Clinics.
 - Convened Allina-wide Palliative Care Planning Summit, Palliative Care Steering Committee, and Physician Advisory Committee. Developed a two-day Palliative Care course, palliative care reference materials for consumers and clinicians.
- Designed and implemented an Advance Care Planning consult model across Allina.
- Implemented an Electronic Medical Record and Revenue Cycle System for the community division.
- Achieved highest employee engagement scores in the company in 2004 and 2005.
- Created Voice of the Customer system for real-time feedback from patients, families, employees, and community partners.
- Provide performance improvement leadership in Allina Health System, serving as performance improvement faculty for Allina Management Essentials program.

St. Francis Regional Medical Center, Shakopee, MN

1996–2002

COO and Vice President Mission, 2002

- Developed a mission plan.
- Co-lead Healthy Communities Initiative, enlisting forty community leaders to build relationships and develop strategies to meet needs of the underserved.

Interim President, November 2001 – May 2002

- Provided leadership to developing market-based plans in six primary communities.

Vice President Patient Care Services, 1997-2001

- Provided administrative leadership to patient care functions during a period of fifty percent volume growth and significant improvement in patient satisfaction and clinical outcomes.

Manager of Inpatient Services, 1996 – 1997

- Supported move to a new hospital campus.
- Coordinated integration of three patient care units into an integrated inpatient service.

Abbott Northwestern Hospital, Minneapolis, MN

- Nurse Manager, Med/Surg Service, Medicine Clinic and IV Team
- Nurse Manager, Urology/Gastrointestinal
- Assistant Nurse Manager, Urology/Gastrointestinal
- Staff Nurse, Urology/Gastrointestinal

EDUCATION

- Advanced Training Program, Intermountain Health System, Salt Lake City, UT, January – April 2010
- Patient Safety Officer Program, Institute for Healthcare Improvement, Cambridge, MA, September 2006
- Improvement Advisor Professional Development Program, April – October 2005
- Bachelor of Science In Nursing, St. Olaf College, Northfield, MN

COMMUNITY INVOLVEMENT

- Minnesota Intercollegiate Nursing Program Advisory Board Member – 2009 - Present
- Mentor to emerging health care leaders – 2003 - Present

Sandra E. M. Schellinger, RN MSN NP-C
1055 Westgate Dr. #100
St. Paul, MN 55114
651-635-9173

PROFESSIONAL EXPERIENCE

Allina Hospitals and Clinics

1988 to present

Program Development Manager for Advance Care Planning--- Hospice and Palliative Medicine Consultant

2007 to present

Manage the facilitation, development, and growth of Allina's advance care planning standards and program. This includes the standardization of advance care planning facilitator resources, education, training, documentation and process improvement efforts. In addition provides palliative medicine consultation for hospice and palliative care patients and their families.

Director of Palliative Care

2004-2010

Managed the facilitation, development, growth and daily operations of the Allina inpatient and community Palliative Care Program across Allina's various care settings as well as collaborating with the greater metropolitan community. This included recruitment, development of human resource standards, hiring and managing staff/providers; development of the infrastructure/systems for documenting and billing for care; support standard palliative care education and training; development and implementation of policies and procedures

Co-Chair/Principle planning committee member and faculty

2004-2010

Developed, organized and convened an annual two-day palliative care course that provides the foundational knowledge for best practice of palliative care. The interdisciplinary attendees gain and understanding in the provision of palliative care for those with advanced illness or dying patients and their families.

RN Lead Palliative Care Nurse Specialists

2001-2004

Provided palliative care consultation to patients and their families with advanced chronic illness needing pain and symptom management, support with resources, education, care coordination and advanced care planning. Managed and facilitated the development and growth of the Allina Palliative Care Program across the health system care settings as well as the greater metropolitan community.

Hospice Community Representative

1999-2001

Provided support to patients and their families with terminal illness needing assistance with discharge planning and advanced care planning. Developed and provided end-of- life education and resources to the health system and community.

Hospice RN Case Manager

1988-1999

Provided care and support for patients and their families with terminal illness.

Registered Nurse

1985-1988

Registered Nurse at **Abbott Northwestern Hospital** on cardio renal floor, where provided care for patients with heart disease, heart failure and end stage renal disease.

COMMITTEES

- Steering Committee Member, Institute for Clinical Systems Improvement: Palliative Care Initiative to create standard model and delivery system, Fall 2009-Spring 2011
- Advisory Committee Member, Honoring Choices Minnesota Advisory Committee, Summer 2009 to present

EDUCATION

- Metropolitan State University, School of Nursing, MS in Nursing, May 2008, St. Paul, MN
- University of Minnesota, School of Nursing, BS in Nursing, June 1985, Minneapolis, MN

CERTIFICATION/ADVANCED TRAINING

- Certified Respecting Choices First Steps Advance Care Planning, Facilitator, April 2011
- Respecting Choices National faculty – First Steps Basic Advance Care Planning Instructor, April 2011
- Respecting Choices National Faculty – Disease, Specific Patient-Centered Advance Care Planning Instructor, November 2008
- AANP Certified Adult Nurse Practitioner, July 2008
- Certified Respecting Choices Disease Specific Patient Centered Advance Care Planning Facilitator, July 2007

PUBLICATIONS

Peer reviewed

S Schellinger, AC Sidebottom, LA Briggs. (In Press) Disease Specific Advance Care Planning for Heart Failure Patients: Implementation in a large health system. *Journal of Palliative Medicine*

Non-peer reviewed

S Schellinger, AC Sidebottom, LA Briggs. Disease-specific advance care planning: Conversations emphasize patient preferences and provide clarity. *Oncology Nurse Advisor*, October 2010.

RECENT SPEAKING ENGAGEMENTS

- Understanding a Model for Contracting and Implementing Community-based Palliative Care Services, Stratis Health Rural Palliative Care Initiative, October 2010
- Managing Advanced Illness: From Advance Care Planning to Late in Life Care, American Medical Group: Accountable Care Organizations, October 2010
- Centrally Documenting Advanced Care Planning, EPIC UGM, September 2010
- End of Life Initiatives in Minnesota: Centralized Documentation for Advanced Care Planning, Minnesota Rural Palliative Care Initiative Outcomes Conference, April 2010

Evaluation of a Pilot Project to Implement Disease-Specific Advance Care Planning for Heart Failure Patients, 14th Annual Minnesota Health Services Research Conference, March 2010.

Curriculum Vitae

Eric W. Anderson, MD

Medical Director, Inpatient Palliative Care
Allina Home and Community Services
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651.635.9173
voicemail: 612.262.7029
pager: 612.654.0743
FAX: 651.628.2999
e-mail: eric.worden.anderson@allina.com

Current Positions:

- Inpatient Palliative Care Medical Director for Allina Health System. Allina Home and Community Services combines home care, hospice, and palliative care programs serving the 19-county area of eastern Minnesota. These programs have a combined daily census of 1500.
- Clinical instructor, Center for Spirituality and Healing, University of Minnesota School of Health Sciences

Clinical Practice: Inpatient Palliative Medicine consultation at United Hospitals.

Education

2001	First graduating class of the Program in Palliative Medicine Education and Practice, Harvard Medical School
1995	Palliative Medicine study with Dr. Robert Twycross at Sir Michael Sobell House, Oxford, UK
1992	Mini-MBA in Health Care Management, St. Thomas University
1981	Internal Medicine Internship and Residency: University of Minnesota, Minneapolis, MN
1978	M.D. Degree: University of California, San Diego, School of Medicine, La Jolla, California
1974	Bachelor of Arts, Molecular Biochemistry and Biophysics: <i>summa cum laude</i> , Yale University, New Haven, Connecticut

Certification

2003	Certification in Hospice and Palliative Medicine
1990	Certification in Geriatric Medicine
1983	New Hampshire Medical License #6722
1981	Diplomate, American Board of Internal Medicine
1979	Minnesota Medical License #24938
1979	Diplomate, National Board of Medical Examiners
1979	DEA # AA9188752

Professional Experience

1989-present	Medical Director of Hospice and then Palliative Care, Allina Home and Community Services
2001-present	Teaching Faculty, Center for Spirituality and Healing, University of Minnesota School of Medicine
2001	Invited lecturer, Jiangsu University, China, and Hokkaido University, Japan
1992 - 2000	Allina Medical Group, Minneapolis, Minnesota, Minneapolis Medical Arts Clinic (site: Edina Medical Clinic)
1985 - 1992	Aspen Medical Group, P.A., St. Paul, Minnesota, Chief of Internal Medicine 1989-1991
1987 - 1991	Clinic Chief, East Lake Street Clinic
1983 - 1985	Associates in Medicine, Claremont, New Hampshire
1984 - 1985	Charter Board Member, Sullivan County Hospice
1981 - 1983	Chief, Primary Care Section, Department of Medicine, Veterans Administration Medical Center, Minneapolis, Minnesota

Other Professional Activities

Activities

- Past Board member, Hospice Minnesota
- Past President, Physicians for Palliative Care, Minnesota Hospice Organization
- Member, American Academy of Hospice and Palliative Medicine

Research Interests

- Implementing a quality of life tool to assess multiple dimensions of suffering in hospice patients
- Creating and teaching a new multidisciplinary rotation in palliative care at the University of Minnesota
- Understanding the experience of hospice patients undergoing radiation therapy
- New models for delivering palliative care in the community

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PROFESSIONAL EXPERIENCE

Senior Research Scientist, Research Consulting Unit, Center for Healthcare Innovation, Allina Hospitals & Clinics. August 2009 – present.

Member of Research Consulting Unit that works to support increased investigator initiated research across all clinical service lines at Allina Hospitals & Clinics. Work varies from collaborations with Research Directors on NIH grant proposals to developing a research project with providers who have never conducted research before. Activities include design and submission of local and national grant applications; writing, editing and submission of peer-reviewed publications; performance of statistical analyses; and coordination and liaison of research activities. Recent projects include:

- Member of team writing R01 NIH grant proposal which received funding to examine complementary and alternative medicine therapies in an inpatient setting for improving pain reduction in addition to usual care to address residual pain.
- Completed evaluation of pilot project testing the implementation of Disease Specific Advance Care Planning for congestive heart failure patients throughout a large health system. Findings presented at a conference and article currently accepted for publication.
- Current projects include research and evaluation related to Heart of New Ulm, a 10 year demonstration project to reduce myocardial infarctions with community and health care based prevention interventions and a study of the effects of palliative care for heart failure patients.

Epidemiologist, Minneapolis Department of Health and Family Support. November 1997 –August 2009.

- Member of research team conducting a variety of primary research, assessment and evaluation projects. Responsibilities include all phases of research ranging from study design, grant writing, human subjects applications, survey and other data collection design; project, contract, and budget management; data collection oversight, database development, data analysis and results publications for a wide variety of audiences. Analysis and programming work includes extensive data manipulation, management, descriptive epidemiology, predictive and outcomes modeling. Recent projects include:
- Evaluation of Twin Cities Healthy Start – worked on the development of a psychosocial risk screening instrument, case management protocol and development of a web-based screening and case management system used by 5 community clinics for screening and providing case management services to pregnant women. Using risk information to conduct research on a variety of risks during pregnancy, and examine the outcomes of case management activities on birth outcomes.
- Co-PI for validation study of screening tool used by Twin Cities Healthy Start clinics. Project includes oversight of complex study protocol at community clinics, staff oversight, contract, data and budget management.

- Evaluation of a street outreach STD testing project aimed at increasing male use of reproductive health services, increase testing for STDs, and decrease sexual risk behaviors among men at highest risk for STDs.
- Evaluation of direct dispensing of contraceptives in high school clinics, descriptive research on emergency contraception use by adolescents in school based clinics.

Research Assistant, University of Minnesota, School of Public Health, Division of Epidemiology.

- Tobacco Enforcement Study, March 1996 – November 1997. Management of data collection and analysis for study of local ordinances related to youth access to tobacco.
- Behavioral Epidemiology Studies, January 1996 – June 1996. Assisted social psychologist on two studies: 1) validation study of eating disorder behaviors among high school students. Administered survey in health classrooms; 2) pricing strategy study to promote healthy eating habits among high school students. Trained school workers, supervised implementation process at school level, collected and analyzed data.
- Genetic Breast Cancer Study, September 1995 – March 1996. Conducted data collection for genetic breast cancer cohort study of 10,000 women.

Intern, Minnesota Department of Health, Cancer Control Section. June 1996 – July 1997.

- Completed a variety of evaluation projects, including descriptive epidemiology of cancer cases diagnosed through the program, compiled survey results regarding colposcopy use, compared screening rates among program clinics, conducted descriptive study of women who were classified as “lost to follow-up”.

Client Services Representative, Community Health Centers of King County, Seattle, WA. October 1994 – August 1995.

- Work resulted in increased managed care enrollment at agency clinics. Advocated for clients entering and enrolled in the Medicaid system. Conducted outreach and liaison work with community organizations. Helped to establish system of tracking managed Medicaid clients. Educated clinic staff on company, health plan, and state policies.

VISTA Volunteer, Center for Human Services, Development Department, Seattle, WA. August 1993 – August 1994.

- Grant writing to support program funding and fundraising for capital campaign.

VOLUNTEER EXPERIENCE

- Corcoran Neighborhood Safety and Livability Committee. March 2000 – May 2002.
- Minnesota Advocates for Human Rights, Minneapolis, MN. September 1996 – March 1997.
- Results (a citizens lobbying group working on hunger and poverty issues), Seattle, WA. September 1993 – August 1995.

EDUCATION

University of Minnesota MPH in Epidemiology, December 1997. Coursework in program evaluation, policy, biostatistics, and epidemiologic methods. Coursework and exams towards doctoral degree in behavioral epidemiology completed.

Kenyon College, BA May 1993. Combined Major of Anthropology and Sociology. Graduated cum laude.

School for International Training, Zimbabwe. Fall Semester 1991.

GRANTS AND STUDIES

- | | |
|-------------|---|
| 2006 – 2010 | Co-Investigator, Pregnancy Psychosocial Risk Screening Validation Study, HRSA / Bureau of Maternal and Child Health. Grant No. R40MC07840-01-00. Minneapolis Department of Health and Family Support. |
| 2005-2009 | Evaluator, Twin Cities Healthy Start, HRSA/Bureau of Maternal and Child Health. Grant No: 2 H49MC00073-05-00. Minneapolis Department of Health and Family Support. |
| 2004-2005 | Evaluator, Maternity Case Management Excellence at NorthPoint, Medica Foundation, Medica Grant ID: SPP-60-2004, Minneapolis Department of Health and Family Support. |
| 2004- 2009 | Local Evaluation Team, Steps to a Healthier Minnesota, Centers for Disease Control and Prevention, Grant No: U58/CCU524466-01, Minneapolis Department of Health and Family Support. |
| 2003-2008 | Evaluator, Male Reproductive Health Research, Department of Health and Human Services, Office of Public Health and Science, Office of Population Affairs, Grant No. 1 FPRPA006009-01-00, Minneapolis Department of Health and Family Support. |
| 2001- 2005 | Evaluator, Twin Cities Healthy Start, HRSA/ Bureau of Maternal and Child Health. Grant No: 5 H49 MC 00073-02. Minneapolis Department of Health and Family Support. |
| 1999 – 2001 | Evaluator, Twin Cities Healthy Start, HRSA/ Bureau of Maternal and Child Health. Grant No: 6 H49 MC 00002-01. Minneapolis Department of Health and Family Support. |
| 1997-1998 | Epidemiologist, Project LID (Lower Infant Deaths), Minnesota Department of Health Grant to Minneapolis Department of Health and Family Support and Saint Paul-Ramsey County Department of Public Health. |

PUBLICATIONS

Peer Reviewed Publications

S Schellinger, **AC Sidebottom**, LA Briggs. (In Press) Disease Specific Advance Care Planning for Heart Failure Patients: Implementation in a large health system. *Journal of Palliative Medicine*.

PA Harrison, A Godecker, **AC Sidebottom**. (In Press) Psychosocial Risk Screening during Pregnancy: Additional Risks Identified during a Second Interview. *Journal of Health Care for the Poor and Underserved*.

D Johnson, P Harrison, **A Sidebottom**. [epub ahead of print, August 25, 2009]. Providing Sexually Transmitted Disease Education and Risk Assessment to Disengaged Young Men Through Community Outreach. *American Journal of Men's Health*.

PA Harrison, **A Sidebottom**. (2009) Alcohol and Drug Use Before and During Pregnancy: An Examination of Use Patterns and Predictors of Cessation. *Maternal and Child Health Journal*, 13:386-394.

PA Harrison, **A Sidebottom**. (2008). Systematic Prenatal Screening for Psychosocial Risks. *Journal of Health Care for the Poor and Underserved*, 19(1):258-276.

A Sidebottom, PA Harrison, D Amidon, K Finnegan. (2008). The Varied Circumstances Prompting Requests for Emergency Contraception at School-based Clinics. *Journal of School Health*, 78(5):258-263.

A Sidebottom, AS Birnbaum, SN Stoddard. (2003). Decreasing barriers for teens – Evaluation of a new teen pregnancy prevention strategy in school-based clinics. *American Journal of Public Health*, 93:1890-1892.

A Sidebottom, JE Brown, DR Jacobs Jr. (2001). Pregnancy Related Changes in Body Fat. *European Journal of Obstetrics & Gynecology and Reproductive Biology*, 94: 216 - 223.

SA French, M Story, RW Jeffrey, P Snyder, M Eisenberg, **A Sidebottom**, D Murray. (1997). Pricing Strategy to Promote Fruit and Vegetable Purchase in High School Cafeterias. *Journal of the American Dietetic Association*, 97(9): 1008 – 1010.

Non-Peer Reviewed Publications

S Schellinger, **A Sidebottom**, L Briggs. (2010). Disease-specific advance care planning: Conversations emphasize patient preferences and provide clarity. *Oncology Nurse Advisor*, October 2010.

C Fogarty, **A Sidebottom**, N Holtan, V Lupo. (2000). Project LID (Lower Infant Deaths): Lessons Learned from a Local Infant Mortality Review Project. *Minnesota Medicine*, 83:43-49.

Reports and Research Briefs (selected)

Abbey Sidebottom, Megan Ellingson. *Risks of being overweight for women of reproductive age*. Minneapolis Department of Health and Family Support. January 2008.

David Rak, **Abbey Sidebottom**. *Teenage Pregnancy in Minneapolis*. Minneapolis Department of Health and Family Support. March 2003.

Abbey Sidebottom. *Infant Mortality in the Twin Cities 1990-1998: an examination using the Perinatal Periods of Risk methodology*. Minneapolis Department of Health and Family Support.

Abbey Sidebottom, Megan Betz. *Binge Drinking in Minneapolis: Understanding the Problem and Possible Solutions*. Minneapolis Department of Health and Family Support. May 2000.

Abbey Sidebottom, Megan Betz. *Summary and Update of the Initiatives on Youth Access to Alcohol in Minneapolis*. Minneapolis Department of Health and Family Support. January 1999.

Cheryl Fogarty, **Abbey Sidebottom**. *Lowering Infant Deaths: Promoting Change to Save Lives*. Minneapolis Department of Health and Family Support and the Saint Paul – Ramsey County Department of Health and Family Support. August 1998.

Abbey Sidebottom, Gayle Geber, Patty Bowler, Pam Nelms. *A Report on the Availability of Alcohol to Underage Youth in the City of Minneapolis: Results of Compliance Checks*. Minneapolis Department of Health and Family Support. February 1998.

Presentations and Poster Sessions (selected)

Schellinger, S, **Sidebottom A**. Evaluation of a Disease Specific Advance Care Planning Pilot Project for Heart Failure Patients. Minnesota Health Services Research Conference. St. Paul, MN March, 2010.

Harrison P, **Sidebottom A**. Alcohol and drug use before and during pregnancy: an examination of use patterns and predictors of cessation. Minnesota Health Services Research Conference. St. Paul, MN. March 2008.

Everett-O'neal D, **Sidebottom A**, Maternal Case Management Excellence. National Maternal Nutrition Intensive Course. Minneapolis, MN. July 2007.

Sidebottom A, Montgomery T, Everett-O'neal D. Systematic Prenatal Screening for Psychosocial Development and Implementation of the Prenatal Risk Overview Screening Interview. 2007 Healthy Start Grantee Meeting. Arlington, VA. August 2007.

Sidebottom A, Amidon D, Anderson K. *Emergency Contraception and Teens: Using Plan B to Reach a Better Plan A*. Presentation. Minnesota Organization on Adolescent Pregnancy, Prevention and Parenting 16th Annual Conference. Minneapolis, MN May 2007.

J Peralez, P White, **A Sidebottom**, M Ellingson. *Prenatal care coordination in an urban community clinic: model to serve clients who are medically and socially at high risk*. Presentation session. Annual American Public Health Association Conference. Philadelphia, PA. December 2005.

A Sidebottom. *Perinatal Periods of Risk Model: An Examination of Infant Mortality Disparities in the Twin Cities*. Presentation. 7th Annual Maternal and Child Health Summer Institute – Strategies for Addressing Health Disparities. University of Minnesota. St. Paul, MN. June 2003.

A Sidebottom, AS Birnbaum, SN Stoddard, David Johnson. *Decreasing barriers for teens – Evaluation of a new teen pregnancy prevention strategy in school-based clinics*. Poster session. Annual American Public Health Association Conference. Philadelphia, PA. November 2002.

A Sidebottom, M Betz, P Bowler, C Kallstrom, J Martinez, J Schuster. *Initiatives to Reduce Youth Access to Alcohol in Minneapolis*. Poster session. Annual American Public Health Association National Conference. Chicago, IL. November 1999.

M Betz, C Fogarty, **A Sidebottom**, P Bowler. *Lowering Infant Deaths in an Urban Community: A Core Functions Model*. Poster session. Annual American Public Health Association National Conference. Chicago, IL. November 1999.

C Fogarty and **A Sidebottom**. *Project LID: What Can Infant Mortality Teach Us About Teen Pregnancy and Parenting?* Presentation. Minnesota Organization on Adolescent Pregnancy, Prevention and Parenting Annual Conference. Minneapolis, MN. April 1999.

M Wolfson, J Forster, **A Sidebottom**, P Hannan, D Steward, L Brodsky. *Local Ordinances Regulating Youth Access to Tobacco: Results of a National Survey*. Presentation. American Public Health Association Conference. Indianapolis, IN. November, 1997.

SA French, M Story, RW Jeffrey, MP Snyder, M Eisenberg, **A Sidebottom**, D Murray. *Pricing Strategy to Promote Fruit and Vegetable Purchase in High School Cafeterias*. Poster session. Society of Behavioral Medicine. April 1997.

C. References

1. American Hospital Association, *Health for Life - Highest Quality Care*. 2007: Washington, DC.
2. Robert Wood Johnson Foundation, *Means to a Better End: A Report on Dying in America Today*. 2002.
3. Lubitz, J.D. and G.F. Riley, *Trends in Medicare payments in the last year of life*. N Engl J Med, 1993. **328**(15): p. 1092-6.
4. Finestone, A.J. and G. Inderwies, *Death and dying in the US: the barriers to the benefits of palliative and hospice care*. Clin Interv Aging, 2008. **3**(3): p. 595-9.
5. Pham, H.H., et al., *Primary care physicians' links to other physicians through Medicare patients: the scope of care coordination*. Ann Intern Med, 2009. **150**(4): p. 236-42.
6. Institute of Medicine, *Health Literacy: A Prescription to End Confusion*. . 2004: Washington, DC.
7. Schoen, C., et al., *U.S. health system performance: a national scorecard*. Health Aff (Millwood), 2006. **25**(6): p. w457-75.
8. Wu SY, G.A., *Projection of chronic illness prevalence and cost inflation*. 2000, RAND
9. McCarthy, E.P., et al., *Dying with cancer: patients' function, symptoms, and care preferences as death approaches*. J Am Geriatr Soc, 2000. **48**(5 Suppl): p. S110-21.
10. Ditto, P.H. and N.A. Hawkins, *Advance directives and cancer decision making near the end of life*. Health Psychol, 2005. **24**(4 Suppl): p. S63-70.
11. Kass-Bartelmes, L.B., R. Hughes, and M.K. Rutherford, *Advance Care Planning: Preferences for Care at the End of Life*, in *Research In Action*. 2003, Agency for Healthcare Research and Quality: Rockville, MD.
12. Messenger-Rapport, B.J., E.E. Baum, and M.L. Smith, *Advance care planning: Beyond the living will*. Cleve Clin J Med, 2009. **76**(5): p. 276-85.
13. Lynn, J. and N.E. Goldstein, *Advance care planning for fatal chronic illness: avoiding commonplace errors and unwarranted suffering*. Ann Intern Med, 2003. **138**(10): p. 812-8.
14. Hines, S.C., et al., *Improving advance care planning by accommodating family preferences*. J Palliat Med, 2001. **4**(4): p. 481-9.
15. Uhlmann, R.F., R.A. Pearlman, and K.C. Cain, *Physicians' and spouses' predictions of elderly patients' resuscitation preferences*. J Gerontol, 1988. **43**(5): p. M115-21.
16. Silveira, M.J., S.Y. Kim, and K.M. Langa, *Advance directives and outcomes of surrogate decision making before death*. N Engl J Med, 2010. **362**(13): p. 1211-8.
17. Larson, D.G. and D.R. Tobin, *End-of-life conversations: evolving practice and theory*. JAMA, 2000. **284**(12): p. 1573-8.
18. Weissman, D.E., et al., *A survey of competencies and concerns in end-of-life care for physician trainees*. J Pain Symptom Manage, 1998. **15**(2): p. 82-90.
19. Wright, A.A., et al., *Associations between end-of-life discussions, patient mental health, medical care near death, and caregiver bereavement adjustment*. JAMA, 2008. **300**(14): p. 1665-73.
20. Briggs, L.A., et al., *Patient-centered advance care planning in special patient populations: a pilot study*. J Prof Nurs, 2004. **20**(1): p. 47-58.
21. Kirchhoff, K.T., et al., *Effect of a disease-specific planning intervention on surrogate understanding of patient goals for future medical treatment*. J Am Geriatr Soc, 2010. **58**(7): p. 1233-40.
22. Lyon, M.E., et al., *Who will speak for me? Improving end-of-life decision-making for adolescents with HIV and their families*. Pediatrics, 2009. **123**(2): p. e199-206.
23. Song, M.K., et al., *A randomized, controlled trial to improve advance care planning among patients undergoing cardiac surgery*. Med Care, 2005. **43**(10): p. 1049-53.

24. Hammes, B.J., *A Comparative, Retrospective, Observational Study of the Prevalence, Availability, and Specificity of Advance Care Plans in a County that Implemented an Advance Care Planning Microsystem*. J Am Geriatr Soc, 2010. (In Press).
25. Kirchhoff, K.T., et al., *Impact of a Disease-Specific Planning Intervention on Surrogate Understanding of Patient Goals*. Journal of the American Geriatrics Society, In Press.
26. Detering, K.M., et al., *The impact of advance care planning on end of life care in elderly patients: randomised controlled trial*. BMJ, 2010. **340**: p. c1345.
27. Schellinger, S., A. Sidebottom, and L. Briggs, *Disease Specific Advance Care Planning for Heart Failure Patients: Implementation in a large health system*. Journal of Palliative Medicine, In Press.
28. Yohannes, A.M., *Palliative care provision for patients with chronic obstructive pulmonary disease*. Health Qual Life Outcomes, 2007. **5**: p. 17.
29. Young, S., *Rethinking and integrating nephrology palliative care: a nephrology nursing perspective*. CANNT J, 2009. **19**(1): p. 36-44.
30. Poppel, D.M., L.M. Cohen, and M.J. Germain, *The Renal Palliative Care Initiative*. J Palliat Med, 2003. **6**(2): p. 321-6.
31. Smith, E.R., *Heart failure--are we making progress?* Can J Cardiol, 2002. **18**(10): p. 1124-5.
32. Jovicic, A., J.M. Holroyd-Leduc, and S.E. Straus, *Effects of self-management intervention on health outcomes of patients with heart failure: a systematic review of randomized controlled trials*. BMC Cardiovasc Disord, 2006. **6**: p. 43.
33. Wilson, E., *Congestive heart failure: A national priority*. Can J Cardiol, 2001. **17**(12): p. 1243-4.
34. Wolinsky, F.D., et al., *The risk of hospitalization for congestive heart failure among older adults*. Med Care, 1997. **35**(10): p. 1031-43.
35. Roger, V.L., et al., *Trends in heart failure incidence and survival in a community-based population*. JAMA, 2004. **292**(3): p. 344-50.
36. Stuart, B., *Palliative care and hospice in advanced heart failure*. J Palliat Med, 2007. **10**(1): p. 210-28.
37. Stewart, S., et al., *More 'malignant' than cancer? Five-year survival following a first admission for heart failure*. Eur J Heart Fail, 2001. **3**(3): p. 315-22.
38. Isaac, M. and J.R. Curtis, *Improving quality of life for patients with terminal respiratory disease*. Expert Rev Respir Med, 2009. **3**(6): p. 597-605.
39. Tan, T.S. and A. Jatoi, *An update on advance directives in the medical record: findings from 1186 consecutive patients with unresectable exocrine pancreas cancer*. J Gastrointest Cancer, 2008. **39**(1-4): p. 100-3.
40. Dow, L.A., et al., *Paradoxes in advance care planning: the complex relationship of oncology patients, their physicians, and advance medical directives*. J Clin Oncol, 2010. **28**(2): p. 299-304.
41. Kish, S.K., C.G. Martin, and K.J. Price, *Advance directives in critically ill cancer patients*. Crit Care Nurs Clin North Am, 2000. **12**(3): p. 373-83.
42. Teno, J., et al., *Advance directives for seriously ill hospitalized patients: effectiveness with the patient self-determination act and the SUPPORT intervention*. SUPPORT Investigators. Study to Understand Prognoses and Preferences for Outcomes and Risks of Treatment. J Am Geriatr Soc, 1997. **45**(4): p. 500-7.
43. Bakitas, M., et al., *Proxy perspectives regarding end-of-life care for persons with cancer*. Cancer, 2008. **112**(8): p. 1854-61.
44. Walling, A., et al., *Evidence-based recommendations for information and care planning in cancer care*. J Clin Oncol, 2008. **26**(23): p. 3896-902.
45. Pearlman, R.A., et al., *Preferences for life-sustaining treatments in advance care planning and surrogate decision making*. J Palliat Med, 2000. **3**(1): p. 37-48.

46. Carmel, S., *Life-sustaining treatments: what doctors do, what they want for themselves and what elderly persons want*. Soc Sci Med, 1999. **49**(10): p. 1401-8.
47. Murthy, S. and H.I. Lipman, *Management of end-stage heart failure*. Prim Care, 2011. **38**(2): p. 265-76.
48. Holley, J.L., et al., *Factors influencing dialysis patients' completion of advance directives*. Am J Kidney Dis, 1997. **30**(3): p. 356-60.
49. Setoguchi, S., et al., *Hospice, opiates, and acute care service use among the elderly before death from heart failure or cancer*. Am Heart J, 2010. **160**(1): p. 139-44.
50. Murtagh, F.E., et al., *Symptoms in advanced renal disease: a cross-sectional survey of symptom prevalence in stage 5 chronic kidney disease managed without dialysis*. J Palliat Med, 2007. **10**(6): p. 1266-76.
51. Werb, R., *Palliative care in the treatment of end-stage renal failure*. Prim Care, 2011. **38**(2): p. 299-309.
52. Saini, T., et al., *Comparative pilot study of symptoms and quality of life in cancer patients and patients with end stage renal disease*. Palliat Med, 2006. **20**(6): p. 631-6.
53. Enguidanos, S.M., D. Cherin, and R. Brumley, *Home-based palliative care study: site of death, and costs of medical care for patients with congestive heart failure, chronic obstructive pulmonary disease, and cancer*. J Soc Work End Life Palliat Care, 2005. **1**(3): p. 37-56.
54. Rabow, M.W., et al., *The comprehensive care team: a controlled trial of outpatient palliative medicine consultation*. Arch Intern Med, 2004. **164**(1): p. 83-91.
55. Connor, S.R., et al., *Geographic variation in hospice use in the United States in 2002*. J Pain Symptom Manage, 2007. **34**(3): p. 277-85.
56. Huskamp, H.A., et al., *Discussions with physicians about hospice among patients with metastatic lung cancer*. Arch Intern Med, 2009. **169**(10): p. 954-62.
57. *Clinical Practice Guidelines for Quality Palliative Care - Second Edition*. 2009.
58. *Health Care Guideline: Palliative Care Third Edition*. November 2009, Institute for Clinical Systems Improvement.
59. Lankarani-Fard, A., et al., *Feasibility of discussing end-of-life care goals with inpatients using a structured, conversational approach: the go wish card game*. J Pain Symptom Manage, 2010. **39**(4): p. 637-43.

Biography

Dr. Diane E. Meier is Director of the Center to Advance Palliative Care (CAPC), a national organization devoted to increasing the number and quality of palliative care programs in the United States. Under her leadership the number of palliative care programs in U.S. hospitals has more than doubled in the last 5 years. She is also Director of the Lilian and Benjamin Hertzberg Palliative Care Institute; Professor of Geriatrics and Internal Medicine; and Catherine Gaisman Professor of Medical Ethics at Mount Sinai School of Medicine in New York City.

Dr. Meier is the recipient of numerous awards, including a 2008 MacArthur Fellowship, the National Institute on Aging Academic Career Leadership Award, the Open Society Institute Faculty Scholar's Award of the Project on Death in America, the Founders Award of the National Hospice and Palliative Care Organization, and the Alexander Richman Commemorative Award for Humanism in Medicine. She is the Principal Investigator of an NCI-funded five-year multisite study on the outcomes of hospital palliative care services in cancer patients.

In March 2009 Dr. Meier received the Clinical Excellence Award at the fourth annual Castle Connolly Medical Ltd. National Physician of the Year Awards. Learn more about the honor she received in [Inside Mount Sinai](#).

Dr. Meier has published extensively in all major peer-reviewed medical journals, including the New England Journal of Medicine and the Journal of the American Medical Association. She edited the first textbook on geriatric palliative care, as well as four editions of Geriatric Medicine, and has contributed to more than 20 books on the subject of geriatrics and palliative care. As one of the leading figures in the field of palliative medicine, Dr. Meier has appeared numerous times on television and in print, including ABC World News Tonight, Open Mind with Richard Hefner, the New York Times, the Los Angeles Times, USA Today, the New York Daily News, Newsday, the New Yorker, and Newsweek. She figured prominently in the Bill Moyers series On Our Own Terms: Dying in America, a four-part documentary aired on PBS.

Dr. Meier is the author of "Palliative Care: Transforming the Care of Serious Illness," which is the first book to provide a comprehensive understanding of the new field that is transforming the way Americans deal with serious illness. Dr. Meier examines the roots of palliative care, explores the key legal and ethical issues, discusses the development of palliative care, and presents ideas on policies that can improve access to palliative care. The book is available at Amazon.com <http://tinyurl.com/4tukjw6>.

Diane E. Meier received her BA from Oberlin College and her MD from Northwestern University Medical School. She completed her residency and fellowship training at Oregon Health Sciences University in Portland. She has been on the faculty of the Department of Geriatrics and Adult Development and Department of Medicine at Mount Sinai since 1983.

In the News

Dr. Meier and her work providing palliative care for both the young and elderly were recently profiled in The Daily News feature The Daily Check Up



PROFESSOR Geriatrics and Palliative Medicine
Geriatric Medicine - Internal Medicine
Certifications

- Hospice & Palliative Medicine
- American Board of Internal Medicine
Clinical Focus

Education

- MD, Northwestern Univ Medical School
 - Residency, Internal Medicine
Oregon Health Sciences University
 - Fellowship, Geriatric Medicine
Veterans Affairs Medical Center

Robina Foundation

Review of grant proposal: *Systems Approach to Late Life Supportive Care*

July 28, 2011

Diane E. Meier, MD

diane.meier@mssm.edu

1. **Importance of the project and issues:** Development of a systems approach to care for persons with serious illness is among the highest priorities facing our health care system, and our nation as a whole, from a moral, quality, and a cost perspective. There's been a great deal of theoretical talk in the health services and policy literature about the importance and primacy of a systems' approach such as that proposed here, but very little work on real world demonstration and application of these theories. The highly specified and sophisticated systems approach reflected in this application is exactly what is needed to take the discussion into the real world, allowing proof of concept and just-in-time iterations of the models necessary to meet the needs of patients and families. I think the project is of highest importance and the Twin Cities medical and payer community is one of very few in the U.S. that could feasibly serve as a test-site.
2. **Precedence/similar projects:** I am not aware of other communities launching a similar system-wide effort.
3. **Likelihood of yielding significant new information:** The careful and detailed specification of the approach, the coordination of relationships of the multiple interacting parts of the approach, the rigorous (and feasible) measurement schedule, and the participation of experienced consulting expertise in workflow mapping, communication, and 'adaptive practices' leading to an iterative performance improvement approach make it likely that this initiative will produce a trove of granular and front-line guidance on implementation- this is (obviously) of critical importance to the diffusion of this innovative approach. It might be helpful to add a medical (or medical anthropology) science/health services/systems change expert writer whose job it is to make sure that the successes and challenges encountered in this complex undertaking are recorded and synthesized and published so that others do not need to re-invent this wheel.
4. **Major strengths of the project:**
Systems approach- A rich array of coordinated components aim to change the glide path of usual care for the sickest and most vulnerable patients and their families, including: *targeting and early identification of appropriate and eligible patients* using a combination of predictive modeling, patient specific information on the electronic health record, and communication with the primary provider; *comprehensive multidimensional assessment* of patient and family needs, goals, and values; *development of explicit care plan* based on the above assessment in partnership of interdisciplinary team, patient, family using a demonstrably effective shared decision-making model; regular and triggered *re-assessment and revision of the care plan*; engagement of the *full continuum of healthcare system and community support resources* and

inclusion of these partners in regular communication and information about the patient's current needs;

Utilization of a *single care coordinator*- the Late Life Supportive Care Manager or LLSCM for each patient who is an RN trained in palliative care, hospice and disease-specific advance care planning and who is expected to develop a longitudinal human relationship with the patient and family and becomes their consistent point of contact;

State of the art *utilization of electronic health records*- for timely and accessible communication;

Use of proven *shared decision-making models* for care planning;

Community-wide deployment of disease-specific advance care planning based on the proven Respecting Choices model;

Parsimonious, achievable, and relevant choice of outcome *measures* including attention to process measures aimed at determination of the fidelity of implementation to the intended model;

Highly specified step-by-step approach so that all participants are working from the same map;

Clarity of roles and responsibilities among the many and complex system participants;

Experienced organizational partners with successful prior track record in this arena (Allina Health System, committed payers including BCBS Minnesota, UCare, and Health Partners, organizational leadership performance metrics aligned with the aims of the project, community engagement, system-wide advance care planning infrastructure since 2007, supportive EHR vendor, strong palliative, hospice and transitional care resources);

Experienced expert U Minn consultants with track record in Dep't of Health Policy and Management;

Staffing infrastructure adequate to the complex system-wide nature of this undertaking;

Budget appropriate to the complex system-wide nature of this undertaking;

Engagement of *cross disciplinary support resources* in workflow mapping, communication strategies, motivational interviewing techniques, shared decision-making expertise, and adaptive practice improvement.

5. **Shortcomings:** Primary concern is that none of the key personnel seem to have the role or experience necessary to track, record, analyze, synthesize, and report on the process and outcomes of this project. If it isn't someone's explicit job to do this, it will not get done, and we will fail to make the learnings available to the rest of the country. Implementation research (which is what this is) needs as much attention to reporting- making the results understandable and available to others- as any other kind of research. I would add a person or persons with those explicit responsibilities to the key personnel.
6. **Financial considerations:** The budget is appropriate to the nature of the work proposed. No red flags.
7. **Feasibility:** Based on the prior work, experience, and strong existing partnerships reflected in the proposal, I am optimistic about its feasibility.

8. **Advice to applicant:** see #5 above.
9. **Advice to Foundation:** This is an important, paradigm-breaking project. This kind of work is crucial to repairing our health care system and the government has been unwilling (NIH and AHRQ and VA) and unable (CMS) to fund this kind of systems-wide, iterative work. The private sector's (Robina) willingness to take this on is prerequisite to the conduct of this kind of research- examples of the impact of the private sector in introducing and diffusing (and sustaining) key innovation include the existence of the palliative care field in the U.S. and the efforts reduce tobacco use. Robina has a great opportunity to make the same sort of contribution to the biggest public health problem facing our nation right now.



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Eric Coleman, MD, MPH, is a Professor of Medicine within the Divisions of Health Care Policy and Research and Geriatric Medicine at the University of Colorado Denver. Dr. Coleman is the Director of the Care Transitions Program, aimed at improving quality and safety during times of care "hand-offs". He is also the Executive Director of the Practice Change Fellows Program, designed to build leadership capacity among health care professionals who are responsible for geriatric programs and service lines. As a board-certified geriatrician, Dr. Coleman maintains direct patient care responsibility for older adults in ambulatory, acute, and subacute care settings.

Dr. Coleman's research focuses on: (1) enhancing the role of patients and caregivers in improving the quality of their care transitions across acute and post-acute settings; (2) measuring quality of care transitions from the perspective of patients and caregivers; and (3) implementing system-level quality improvement interventions and (4) using health information technology to promote safe and effective care transitions.

For more information, Please go to www.caretransitions.org or www.practicechangefellows.org

Briefly comment on the importance of the project and issue(s) it seeks to address.

Share your knowledge of precedence with regard to other institutions that have completed or are currently conducting similarly focused projects. How does this project compare to others?

The timing for this endeavor addressing late life supportive care could not be better. Over the past decade advance care planning, palliative care, and hospice care have “arrived” and have earned the attention and respect of health care policy makers, payers, and delivery system leaders. Yet critical questions remain including what are the elements of the ideal model, what is the business case for this paradigm shift, and how can these services be made available on a population level. Prior research studies that incorporated many similar elements to the model being proposed herein have demonstrated promising results with respect to likelihood for death to occur in the home (versus an institution), satisfaction, and cost savings. Research in shared decision making has provided important insights to professionals who are about to embark on these sensitive yet critical discussions. Related studies that promote patient and family caregiver activation and skills to assert one’s care needs complement the goals of late life supportive care. A number of states have instituted broad based campaigns to encourage residents to complete advance care planning documentation.

What is the likelihood that the project, as proposed, will yield significant new or additional information that will lead to the larger systemic change that is sought?

Although, there has been considerable attention to this area of focus and related areas, by no means would the current state of the science be considered complete. This project represents a potential sentinel contribution to the field and would address the critical questions posed above regarding the right elements of the model, the dose or intensity of intervention, the business case, and perhaps most importantly, how to take a model such as this to scale beyond a single setting.

To characterize the “reach” of this project simply in terms of identifying and honoring end of life preferences would significantly underestimate its potential impact on the broader field of health care delivery. This project extends into many other timely and important areas including promoting true person centered care, reducing readmissions, improving care coordination and transitions, efforts of the HHS Office of the National Coordinator to identify how HIT could enhance quality and safety during transitions (including meaningful use), and organizational preparation for accountable care organizations. The investigative team conveys a commitment to sharing their findings and lessons in the public domain.

What are the major strengths of the project?

The clinical and operational expertise and experience of the investigative team engenders confidence. The proposed project is potentially transformative of the health care workforce. The proposal builds on prior published research as well as successful pilot work completed by the investigative team by:

- Extending the approach to a wider community of individuals approaching late life
- Focusing more explicitly on the needs of family caregivers
- Expanding the breadth of available interdisciplinary expertise
- Adjusting the care plan in response to the dynamic and unique needs of the individual and family
- Conducting the project in an integrated delivery system with an ability to comprehensively capture utilization and cost data
- Reaching out to the broader community through the media to encourage greater discussion, engagement, and potentially generating demand for the model of care among eligible individuals

What are the most significant shortcomings of the project? How could they best be addressed?

The proposal identifies a number of mechanisms by which patients seen in different care settings might be referred to participate. The investigative team needs to develop a clear and unambiguous operational definition of eligible patients with life limiting illness. This definition will serve to drive the process, outcomes, and cost analyses and will be critical to support subsequent replication activities. The proposal references a validated tool that might be applicable to heart failure but acknowledges that similar tools do not exist for the other target conditions.

The proposal would be strengthened considerably by providing greater specificity of the intervention elements and how these will address the gaps in care for this population. As written, the proposal leaves a great deal of room for assumption and interpretation (see page 17 paragraph 3) when what is needed is a replicable protocol. The diagram on page 7 was unclear and doesn't illustrate the aims of the project. The diagram on page 21 is far too generic. This reviewer would recommend a logic model that details:

- Basic assumptions on what are the gaps in care and how this protocol will address the gaps

- The key drivers and inputs of the protocol and how these will influence the proposed process and outcome measures

- A clear delineation of roles and accountability

- The anticipated workflow and caseloads

- The proposed interface with the electronic health record

- The specific actions the LLCSM can take in response to patient self-identified needs

Without such clarification, it will be difficult to understand how the intervention works and under what conditions it works. Subsequent adopters will find such a logic model invaluable to guide their efforts and to map the intervention to their existing care processes.

Most successful innovations that have been widely disseminated did not complete the clinical study and then after the fact, consider or "retrofit" the business case. Rather, a preliminary business case was developed before a single patient was enrolled and then continuously refined over the duration of the trial. Ideally the evolving business model should be concurrently influencing the clinical model and vice versa.

The discussion of the business case in this proposal is underdeveloped. The investigative team is encouraged to describe 2-3 scenarios for how payment may be achieved under current financial realities and potential future opportunities (via ACOs, or others). The team might also speak to how the intervention has the potential to encompass a broader view of the advantages of the intervention than simply projected cost savings. This intervention may have the potential to enhance community image for the health system among consumer and among independent providers who may wish to partner in efforts such as accountable care organizations, promote staff retention, prepare the health system for eventual penalties for excessive hospital readmissions, and realizing the potential of the health system's investment in health information technology and more. Having said this, the analysis could also take into account cost savings from reducing duplicative or undesired services and stopping medications designed to treat or cure chronic illness that are no longer compatible with a patient's wishes

Lastly, the proposal appears to make two key assumptions: (1) that there will be a high level of receptivity from the patient population and (2) that patients will generally prefer less intensive and therefore less expensive care. However it is conceivable that reaching out to a wider potential referral source may result in recruiting a somewhat different patient mix in terms of goals and expectations for care than has been studied previously. If these assumptions were intended, they should be more clearly stated.

**Are there specific financial considerations that stand out in your review of the proposal budget?
Any “red flags?”**

The proposal seems to convey a confidence that the intervention will produce cost savings. However when compared to the Advanced Illness Model (for which a randomized controlled trial did demonstrate cost savings), the intervention proposed herein offers more services, and covers a wider array of health professional's time which may reduce or eliminate potential cost savings. This possible finding is by no measure a deal breaker--better care may indeed cost more.

The generosity of the Robina Foundation is clearly an enormous benefit to enhancing care in late life. However, this generosity could have unintended or untoward effects if it facilitates the design of such an intense and comprehensive model of care that may in fact not be sustainable in the absence of philanthropic funding.

These two observations not only further argue for designing the business case up front, but also identify a unique opportunity to explore the requisite “dose” of this intervention relative to process, outcome and cost measures. What is the minimum level of staffing needed? Do primary care physicians really need an FTE offset to participate in what many would consider a core expectation within the context of a medical home or other financial arrangement? Perhaps a tiered approach to delivering the intervention may be instructive in understanding the minimal intensity of intervention need to produce positive outcomes.

Comment on the overall feasibility of the project.

Given the tremendous clinical burden of illness faced by the target population and family caregivers, this reviewer is concerned that the burden of assessment of process and outcome metrics may be too great and there may be a need for parsimony. All other metrics would appear to pale in comparison to the patient and family's self-identified goal achievement.

The proposal indirectly addresses the need for “mass customization” in this project which will undoubtedly challenge execution and subsequent dissemination. The lessons they will learn will have much broader application and ideally should be captured.

With the exciting plans for community wide engagement via media and other strategies, at what point is there a role for direct to consumer advertising? Why does the referral necessarily have to be initiated by a professional referral? Could a patient or family member self-refer?

How will treatment preferences be shared across care settings that do not have access to the EMR?

The proposal appropriately emphasizes honoring participants' preference to die in the home. However for the many persons with late life serious illness, this may not be feasible. This then raises questions about the capacity of local inpatient hospices and nursing homes. Would a successful model result in new constraints on the availability of these options? What type of preparation will nursing home staff need to accommodate growing numbers of admissions? There is some literature that patients in nursing homes receiving hospice often receive less attentive care as the nursing home staff often thinks the hospice staff are doing more than they are. We also know that the comfort level of nursing home staff often influences transfer to hospital.

Is it conceivable that the LLCSCM may indirectly bias the patient's articulated goal or evaluation of the goal? How will goal assessment be handled given that we cannot ascertain the patient's input after death?

What advice would you give the applicant?

Consider tiered approach to better understand added value of the range and intensity of elements

Articulate a go/no-go criteria for the decision as to whether to spread the intervention across the enterprise at the onset of the project. Under what circumstances and/or project outcomes would such spread be justified? I suspect this decision will involve more consideration beyond increasing the number of days receiving hospice services.

What advice would you give the Foundation?

Primary advice centers on beginning to position for potential dissemination before the project start date. As stated previously, the generosity of the award may actually work at cross purposes for sustainability and a tiered intervention approach may help to better understand the minimum effective dose needed to achieve desirable outcomes.

From: "Coleman, Eric" <Eric.Coleman@ucdenver.edu>
Subject: RE: Robina Foundaiton
Date: July 29, 2011 8:53:43 AM CDT
To: penny <phunt@robinafoundation.org>

Hi Penny

I have one additional suggestion for you and the investigative team that I have been researching and learned it is not quite ready but may be of value in the coming months.

Healthwise (industry leader in providing consumer health information <http://www.healthwise.org/>) has developed several interactive patient decision aids (a 6 step process) to support patients and their families around late life care. For example: Do I prolong treatment? Deciding about continuing cancer care? Do I opt for artificial hydration/nutrition? Should I stop dialysis? Hospice? Palliative Care? Advance Directives? The list goes on. And, the Healthwise Knowledgebase has several comprehensive topics on end of life matters.

I have invited Healthwise to present in September to a national leadership program that I direct (the Practice Change Fellows program www.practicechangefellows.org) and will forward key learnings then.

Do you have a sense of when a decision will be made with respect to the proposed project under review?

Kind regards
Eric

From: penny [mailto:phunt@robinafoundation.org]
Sent: Thursday, July 28, 2011 11:49 AM
To: Coleman, Eric
Subject: Robina Foundaiton

Dear Dr. Coleman,

I am tardy in touching base with you to assure that you have what you need to review the University of Minnesota's grant proposal for the Robina Foundation. Even though the deadline is approaching, please feel free to get in touch with me if you have questions or concerns.

Thank you again for your willingness to assist the Robina Foundation. We are eager to receive your review and know that it will be very helpful to the members of the Robina Board of Directors.

Warm regards,
Penny Hunt

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CFR REVIEW & RESPONSE

Review:

How to increase impact:

- Reach out beyond the multilateral institutions/global governance community to a broader audience that would engage on specific sectoral or functional issues. Work that IIGG has done on the G20 and UNSC reform is quite separate from the work that IIGG participants have done in specific issue areas with the result that the communities of policy experts that focus on global governance per se still have relatively little interaction with sectoral policy experts who have their views on the optimal governance arrangements for their issue areas.
- Suggestion: have cross-sectoral groups that examine specific case studies pertaining to the broader theme.
- Reach more to CFR's national membership
- Need higher media profile – copy some of features of Foreign Policy's website
- Further sharpen focus / increase research capacity
- Develop work plan that includes (a) drilling down into selected issue areas and (b) devising activities that respond directly to policymaker needs and achieve a degree of operational collaboration with other actors. (c) convene working groups of experts and policy people to think through answers to complex institutional challenges that cut across multiple international bodies.
- Clarify outputs from IIGG on the CFR website.
- Do a better job of promoting GGM
- CFR could mainstream IIGG's profile and capacity (may be some ambivalence about how much scope and standing to give to the IIGG initiatives.
- Increase SP's staff.

Future Research Agenda:

- Integrate work that crosses over between the Global commons, Rising Powers, and Regional and Ad Hoc arrangements: develop larger, intellectually creative visions of a transformed governance system based on a set of overarching principles.
- Choose a blend of high and lower profile, cross-cutting targets – anchored in a unifying conceptual framework and a consistent methodology.
- Follow up in more depth on previous work where program investments have been made.
- 2 additional ongoing projects with promise: IAEA reform and plan B on climate issues.

New projects:

Increased focus on regional governance – incl. regional security architecture.

Challenge of running and funding the global humanitarian architecture.

Other suggestions:

- How incorporate private institutions, corps, networks of people and civil society into global gov structures?
- How does tech affect global gov and how can best harness
- Urbanization of humanity – how address this better across orgs? How might intl inst help manage trans-border effects of national policies on housing and urban affairs?

Response:

- IIGG is a top priority for CFR.
- IIGG has ample staff resources: draws on the talents of many of the roughly 80 fellows in the Studies Program + IIGG often hires scholars, experts and support staff to conduct projects.
- Agree that need to look for ways to further promote IIGG work. Constantly evaluate outreach efforts and have begun doing some new things.
- Don't have enough money to emulate Foreignpolicy.com
- Working hard to put advice into practice. – blog, pship with CNN.com
- Agree that need to focus on a narrower set of issues.

IIGG will focus on several of the themes that Review Committee suggested: 1) improving existing international institutions and identifying new ones 2) exploring the role of regional institutions and arrangements 3) examining the potential for improving global cooperation in specific issue areas 4) developing a transnational network to champion solutions to global problems.

REVIEW OF THE INTERNATIONAL INSTITUTIONS AND GLOBAL GOVERNANCE PROGRAM AT THE
COUNCIL ON FOREIGN RELATIONS

CHESTER CROCKER AND ANNE-MARIE SLAUGHTER
MAY 13, 2011

I. Introduction:

The IIGG program was created in May 2008 with three core objectives: identifying glaring gaps in the architecture of multilateral cooperation; proposing concrete steps to reform old institutions or create new ones; and promoting these recommendations strategically at home and abroad. We have been charged with evaluating IIGG's actual record over three years in meeting these goals and suggesting changes to improve its performance in influencing U.S. and international policy debates. In particular, we were asked to address the following questions.

- *Organizing Questions: Research Focus:* Is IIGG choosing the right topics for research and policy engagement? How should IIGG balance its focus on urgent matters versus longer-term, but important questions?
- *Product Lines:* Is IIGG choosing the right mix of activities and published products? What mixture (and format) of publications, multimedia, and meetings will provide the biggest impact?
- *Targeting and Tracking:* Is IIGG targeting the right constituencies and in a strategic way that maximizes its impact? What more can it do to follow-up on initiatives, track implementation, and trace attribution?

In conducting our assessment, we have reviewed a range of written materials and conducted 35-40 interviews with current and former government officials, policy experts from think tanks and foundations, scholars, and journalists. In these interviews we focused particularly on the question of impact, which is frequently difficult to define and measure. We begin this review with a closer examination of how to think impact.

II. Defining and Measuring Impact

In our view, the metrics for assessing impact should include access to policymakers, policymaker participation in programs, media notices, impact on terminology and concepts used in discussing issues in the field, influence in the elite debates, accessibility and use of IIGG materials by educators/students/members. The CFR operates in an elite universe where debates are framed (or reframed) in meetings, op-eds, the blogosphere, Congressional testimony and other kinds of linkages and networks. The Program's multiplier effect comes from its very existence, its convening ability, and its varied products which serve to "shape the conversation" about institutions and governance in diverse sectors. It is also amplified by the ability to co-fund conferences and initiatives with other institutions.

A full assessment of IIGG's impact, however, must take account of the wide variation in the inherent salience of the issues and institutions that IIGG works on. Inevitably, a working group monograph on UN Security Council reform will have a wider readership inside and certainly outside government than a fine-grained study of the operations of the FAO or the IAEA. The Security

Council report was widely cited among respondents, and received positive feedback from several current and former officials, not all of whom agreed with it. However, the possibility for achieving meaningful reform of functional and specialized bodies may actually be greater, provided state-of-the-art work is done in close coordination with US and foreign officials and briefed to interested elites so that in-house efforts receive necessary amplification. IIGG work (like CFR itself) is not 'glitzy' in the mass media sense, relying on movie stars to bring Sudan into living rooms across the land. Being asked by relevant officials to help them think about the emerging governance issue of Outer Space policy is perhaps the best indicator of effectiveness and potential.

The gold standard for demonstrating impact of a policy program such as this one is tracking influence on specific government decisions. Yet most experienced respondents stressed how difficult it is to attribute decisions or policies to specific inputs. Within this context, one of the best measures of policy impact is simply the reaction of government officials themselves to the work of the program. The demands of government service are such, and the number of think tank programs so many, that even being aware of the output of a specific program is a very good sign.

A prime measure of IIGG impact is the uniformly high regard for Program Director Patrick among peer professionals who are familiar with his own work on multilateralism and engaging emerging powers. Many of our respondents described him as one of the smartest and most creative thinkers working in the area of global governance. He is viewed as an effective networker whose relationship and management skills are strong. His own considerable work output is also enthusiastically endorsed.

More generally, there is widespread respect for the work of the Program. Program output is described in terms such as 'balanced, open, honest, objective, smart, analytical, and conceptual'. Many respondents comment on IIGG's convening capacity and attribute that to the Program itself as well as the Council. As Steve Feldstein of the Senate Foreign Relations Committee staff put it: "IIGG has been very helpful in bringing together a series of important policy dialogues on the evolving role of international organizations, especially in light of the Obama Administration's new emphasis on multilateralism. This includes a number of in-depth discussions on UN security council reform, as well as how to reshape and reform UN peacekeeping operations."

Direct Impact on Government

IIGG gets high marks among government officials for impact on actual policy. The assessments of IIGG's contributions from sources at the White House, the State Department, the National Intelligence Council, and the Senate are quite remarkable. Officials like Samantha Power, Senior Director for Multilateral Affairs and Human Rights at the National Security Council, Esther Brimmer, Assistant Secretary for International Organization Affairs at the Department of State, and Matthew Burrows, Counselor at the National Intelligence Council, all emphasize the direct and practical focus of IIGG. Power says, "While I don't get to read a lot of outside work in this job, [Stewart Patrick's] report on Security Council reform encapsulated the factors we were incorporating into our internal process, and shed light on what additional steps we might consider going forward." Burrows notes that Director Patrick's "analysis of what is new and what isn't with new innovations like the reborn G-20 has had a powerful effect on [the thinking of the Intelligence Community], especially when we were pulling together our work on global governance over the next 15-20 years."

Equally important, all the government officials we interviewed stressed the value of IIGG in convening events that allowed them to interact efficiently and productively with a range of outside scholars. Esther Brimmer and two of her Deputy Assistant Secretaries in the Bureau for International Organization Affairs says that IIGG offers "our Bureau a venue for the exchange of views and an opportunity to communicate about our work and our achievements," citing a number of specific roundtables as well as some smaller off-the-record brainstorming sessions with policy experts and senior State Department staff members. Reuben Brigety, Deputy Assistant Secretary of State in the Bureau of Population, Refugees and Migration, says: "IIGG has brought together practitioners and scholars to elucidate [challenges of failed states and humanitarian responses] in a way that I simply do not have time to do in government, and in my judgment has done so better than just about any other think tank program in this field. It has helped me to craft and push through the bureaucracy innovative approaches to protection challenges in East and West Africa." These observations bolster Anne-Marie's own sense of the value of IIGG based on experience with IIGG as Director of Policy Planning at the Department of State from 2009-2011. She met with Stewart Patrick several times, particularly with regard to U.N. Security Council Reform, and attended 2 or 3 valuable round-tables on global governance issues at CFR.

Shaping the Conversation

As a fellow toiler in the multilateral vineyards put it, "having CFR take on Global Governance opened up useful political space to tackle the issues in a Washington debate that is otherwise rather inward looking on these topics." This point is critical. The simple existence of IIGG at an institution as influential as CFR elevates the salience and prestige of global governance issues. Representatives from other think tanks and advocacy networks in the policy community concur strongly on this point. It is noteworthy that this effect exists independently of the impact of specific papers addressing individual issues in global governance. The Council is also a cross-fertilizer, so individuals working within the U.N. system, for instance, report that IIGG events help them get perspectives beyond the New York UN bubble; scholars similarly report that IIGG creates a valuable channel of discussion with policymakers from Washington and, crucially, from emerging powers. We were not able to pursue conversations with individuals in Beijing, Rio de Janeiro, New Delhi, or other rising powers, but it is clear that IIGG has helped amplify many of those voices in Washington policy circles.

IIGG has also helped fill a crucial space with regard to the foreign policy dimensions of the G-20. To take only one example, Jeffrey Frieden's paper on macroeconomic imbalances was accessible to a non-economic audience interested in following the G-20's work. In a quite different policy area, Gareth Evans reports that IIGG's "work on weak/failing states has been particularly important and useful - not least because it forces some rethinking of a lot of common assumptions."

Public/Member/Educational Outreach

Respondents enthusiastically volunteer their high regard for the Global Governance Monitor (GGM). Its timelines, maps, resource guides, matrices, and quality video footage represent significant tools of public and formal education value. As one think tank president commented, "this kind of work is to be celebrated ... Stewart and the Council are to be commended for having the skill and good fortune to be able to pull this off." Such material helps to promote the role of institutions and governance challenges in the awareness of members and participants at Council meetings. A scholar located in Chicago concurred, describing GGM as "a one-stop shopping portal

for a wide range of information that is useful in the academic context.” In the view of one respondent, the CFR website could be somewhat clearer in attributing outputs to the IIGG Program and identifying Fellows who have worked on IIGG-led activities with the Program. The Program’s homepage might benefit from some further clarification of roles, outputs, and attributions in reference to the main headings of Program activity. Several academics, while praising the actual product, thought that CFR could do a better job of promoting GGM to colleges and universities. Another public resource that received high marks is the collection of global polling data gathered by the Program jointly with the University of Maryland. These polls are cited by several senior USG officials as providing an extremely accessible and useful resource.

A Multiplier Effect

A wide variety of respondents commented on the value of IIGG in matching and multiplying the impact of other funding for multilateral governance. Several commented on the value of the annual Princeton meeting on Global Governance (held in 2010 and 2011 and co-sponsored with the Center for International Governance Innovation and the Stanley Foundation.” This conference has helped build a network of scholars and policy experts working on a wide variety of related subjects under the general umbrella of global governance. Mathew Burrows also noted that IIGG supported the rollout of the NIC/EUISS project on global governance at the CFR in New York. And Professor John Ikenberry commented on the value of having IIGG funds available to support a book project like the one that Charles Kupchan is completing, which will spark a lively debate on emerging powers and global governance – a sentiment that Professor Kupchan heartily endorsed. This multiplier effect could be increased to the extent that IIGG focuses less on funding CFR fellows and more on developing external partnerships; however, that would diminish the impact of IIGG within the Council, discussed below.

Impact inside CFR

One basis for identifying the impact of the Robina grant in support of the IIGG program is its impact within the Council. As has been fully reported to Robina, a considerable number of CFR fellows participate in IIGG initiatives. IIGG funding supports (in significant part) the work of some 10 Fellows each year, engaging them as drafters of reports and working papers, op-ed writers, project team leaders, contributors to the Global Governance Monitor, workshop organizers and participants in overseas events and domestic meetings programs. This process of inclusion and outreach within the Council clearly rubs off on colleagues and raises the profile of institutional and governance concerns across a wide range of issue areas. More broadly, one CFR fellow said that IIGG had fostered the most exchange among fellows of any program within his sixteen years with the Council, largely as a result of multiple trips among the same group of fellows to the capitals of emerging powers.

Although Program Director Patrick provides as much leadership, vision and tangible support as he can in the effort to mobilize others to engage in the IIGG agenda, we believe there is further room and potential opportunity within the broader CFR universe to develop cross-cutting channels or a mechanism for systematic thinking about the interface of issues and institutions that are of particular importance. Several veteran policy respondents stressed the importance of prioritizing issue areas – rather than institutions in the abstract sense – and using the Council’s resources to think across issues and disciplines to develop a better sense of ‘how things get linked’, how existing institutions perform and what we wish them to do. This could provide a better sense, it is argued, of how to

work the various institutional levers and channels to advance policy goals. Such an approach makes particular sense in the context of how we engage emerging powers, as well as traditional allies, all of whom are members of the same multiplicity of organizations.

Some active CFR 'consumers' raised a question about the extent to which the Council provides all the support it could to 'mainstreaming' IIGG's profile and capacity to shape Council outputs and influence its research agenda. The Council clearly gives greater attention to institutional and governance issues than it has in the past. But there may be some ambivalence about how much scope and standing to give specifically to the IIGG initiatives. It was noted, for example, the Program Director Patrick has a very lean staff with which to develop his own IIGG research agenda, relying on his own impressive personal output and on his ability to persuade and attract colleagues to share in the IIGG's purposes. *

In a sense, as one respondent remarked, Program Director Patrick operates within CFR rather like the International Organizations bureau functions in the State Department – that is, with limited ability to shape outcomes. Patrick is widely viewed as “hugely creative ... one of the finest minds in the field”, but the impact of a research program structured in the current manner will likely be based on his own writings and the ‘buzz’ his meetings and projects create. Council Fellows and staff risk getting pulled in multiple directions and torn between IIGG and their ‘own’ priorities. Getting ‘buy-in’ from other Fellows requires a lot of internal diplomacy. To have greater impact internally and externally may require the kind of research staffing that can drill down into issues and ‘own’ them. Director Patrick would also require more autonomy to determine how best to integrate other CFR Fellows and external stake-holders and participants into priority projects.

III. How to Increase Impact

Several different observers of and participants in IIGG programming independently recommended that IIGG reach out *beyond* the multilateral institutions/global governance community to a broader audience that would engage on specific sectoral or functional issues. These responses reveal that the work that IIGG has done on the G-20 and UNSC reform is quite separate from the work that IIGG participants have done in specific issue areas like non-proliferation, with the result that the communities of policy experts that focus on global governance *per se* still have relatively little interaction with sectoral policy experts who have their views on the optimal governance arrangements for their issue areas. Suggestions for how to bridge this divide include: cross-sectoral groups that can examine specific case-studies pertaining to the broader theme of UN institutional reform, such as what reforms would allow a UN peacekeeping operation to more effectively perform its mandate in a situation like Cote d'Ivoire. This kind of a topic would also usefully draw in thinkers and policymakers from emerging powers. *

Another interesting suggestion was to reach more to ^{CFR's} ~~CFR's~~ national membership; as one respondent noted: “All of us fall into the trap of thinking that just because a good product is up on the web, everyone is keyed into it. Wrong. It still is worthwhile to “get out there” and present it person-to-audience to strengthen a loyal base of support and use.” Respondents from the State Department's Bureau for International Organization Affairs pointed out the importance of reaching a broader national audience in terms of helping to shape the climate of opinion on Capitol Hill. And several observers argued that IIGG needs a higher media profile, suggesting that they copy some of the features that have made *Foreign Policy's* website widely cited in the media.

The wide span of IIGG Program interests and activities probably made sense during its first phase, enabling it to map the vast fields of endeavor related to global governance. We understand that the Program is now concentrating on a somewhat narrower range of issues. This is essential for the credibility of both the Program and its Director. It is simply not possible to achieve recognition as a programmatic 'jack of all trades' or to generate the necessary gravitas if consumers perceive that IIGG 'is about everything'. This comment is reinforced by the Program's very modest research staff. We believe that Director Patrick could usefully consider still further sharpening of focus on his issue/institution matrix, bearing in mind his own and the Council's comparative advantages. It is especially important to identify clearly where the wider Council has credibility with relevant stakeholders and consumers – and where it really does not unless fresh talent is recruited. One veteran policy and think tank respondent noted that the Program's (and Council's) value added in a field like Space or Non-Proliferation is not on the technical side where there is an 'over-abundance' of expertise. Governance issues in these areas are too often examined by 'techies', whereas what should happen is to apply the Program's political and diplomatic expertise to the governance issues they pose. Major reform and strengthening of the IAEA requires tough, political analysis.

We also believe that impact could be enhanced by a work plan that includes (a) drilling down into selected issue areas and (b) devising activities that respond directly to policymaker needs and achieve a degree of operational collaboration with other actors. Several veteran policy people noted the potential utility of having IIGG work in an integrated way with EU structures, with other research and study groups, and with inter-agency representatives. One US official expressed interest in having IIGG convene working groups of experts and policy people to think through answers to complex institutional challenges that cut across multiple international bodies (e.g., WHO, UNICEF, UNDP). It is argued that the Program's impact could be 'amplified' by such mechanisms both within and outside government. At the same time, such a process would enhance official access to expert judgments and IIGG access to key officials. A parallel form of engagement could be imagined with non-U.S. government partners, both official and non-official.



IV. A Future Research Agenda

Not surprisingly, we found no shortage of suggestions as to where IIGG should focus its efforts going forward, including our own ideas. Program Director Patrick has identified some important areas of future focus, and we find them attractive and appropriate. That said, they remain quite diffuse, and the risk of diluted energy and effort remains. It would be possible, we believe, to integrate work that crosses over between the Global Commons, Rising Powers, and Regional and Ad Hoc arrangements.

One path to such integration would begin with the development of larger, intellectually creative visions of a transformed governance system based on a set of overarching principles. In the words of one respondent, "This sort of work would help Stewart and the CFR generate a "brand" and it would help stimulate debate across policy communities." Fundamental questions still need to be addressed in terms of the relative value of the size of the decision-making body and the like-mindedness of its members versus the enhanced legitimacy of larger, more diverse, and more representative organizations. In the economic arena, for instance, one respondent pointed out: "Just looking at current EU debt crisis and the inability to even convene a small meeting without minute takers, leaks and instant media commentary seems to raise very interesting issues about how multilateral interactions will take place and how effective they will be - even as the need for more such interactions increases....What now for the G-7? The IMF and IMFC? Are representative

boards effective in empowering all nations, or do they limit personal relationship building and stifle discussion beyond pre-approved constituency agreed upon talking points?” When considering IFI head and governance reforms, are we really seeking to migrate from US and EU leaders to global ones so that we can end up with a regional rotation of MD/President along the lines of the UN? Is the UN really a more important/effective place now with the current Secretary General? Do we really want our Bretton Woods institutions to follow this route? Given financial issues at stake - can we afford to govern by consensus, when markets operate on the basis of nano-seconds?”

Respondents differ on where the Program could have the greatest future impact. Some urge focus on ‘pure institutional reform agendas and the bread and butter security mechanisms’, while others see a greater chance of getting bang for the buck in tackling governance where it most needs work and where other research groups are not already in a leading position. We believe a creative blend of high and lower profile, cross-cutting targets – anchored in a unifying conceptual framework and a consistent methodology – may be a good approach to consider.

We also believe there could be value in following up in more depth on previous work where program investments have been made. Virtually all respondents that we spoke to praised the value of the UNSC reform paper, although one observer noted that the CFR took a long time to issue it. We also measured strong support for the emerging powers project. Two additional ongoing projects with particular promise are:

- 1) IAEA reform. The issue here is how to move beyond identifying its capacity constraints and throwing more money at the institution to addressing the political environment in which it operates. Real reform, it is believed, requires grappling with the reasons why it is unable to carry out challenge inspections.
- 2) The potential need for a ‘plan B’ on climate issues. Michael Levi’s work on climate diplomacy has been influential in a surprisingly under-populated field; one scholar noted that his work has little competition in this area from other think tanks. Several regimes cover environmental issues from the UNFCCC to UNEP. Where do organizations overlap? What is left out? Should we foster an improved informal network of organizations or explore a more formal and traditional organization?

With respect to new projects, we find the following suggestions, which we have developed based on our own thinking and in light of the responses of many of the experts we consulted, to be particularly fruitful.

- 1) An increased focus on regional governance, not only existing regional organizations but also regional security architecture. From the White House to the State Department to the NIC to the UN and the Stanley Foundation, participants in global governance debates urged much greater attention to the roles that regional institutions can and must play in addressing regional and global problems.
- 2) The challenge of running and funding the global humanitarian architecture. Five or six different respondents from government and non-governmental institutions emphasized the lack of sustained attention to the global governance of humanitarian issues. From the wars in Libya and Cote d’Ivoire to the earthquakes in Haiti and Japan, it is clear that the issues that confront the global community and that require a humanitarian response are growing and not declining. Yet the funding of these responses remains under strain and the structure of

our response mechanisms need revision. Serious intellectual capital devoted to this purpose is both timely and has the potential to help save lives. One respondent asked about the extent of the Program's interest in refugee and humanitarian assistance issues, and urged that the Program explore what it takes for the US to make multilateral humanitarian agencies work more effectively by using donor leverage to negotiate detailed arrangements with them for priority setting and capacity building.

Still other suggestions include:

- 1) How do we incorporate private institutions, corporations, networks of people, and civil society into global governance structures?
- 2) How does technology, both positive and negative uses (like social media, Wikileaks, and the easy spread of information) affect global governance and how can we best harness these platforms and manage their consequences?
- 3) The urbanization of humanity. For the first time over 50% of the world's population lives in urban areas. UN-Habitat expects the percentage to rise to 70% by 2050. There are profound implications for the environment, economics, security, and political structures. How can we address this issue better across organizations? How might international institutions help manage the trans-border effects of national policies on housing and urban affairs?

V. Conclusion:

We conclude that the IIGG program has made a successful and promising start, achieving many of its initial objectives. The Program's activities are changing the profile of IIGG issues among key constituencies and providing tangible value added to its main consumers. They have also had a direct impact on government officials in critical areas. The Council itself is directly and positively influenced by the emergence of this center of innovation and funding support.

The Program is now in a position to harvest some of the fruits of its first investments and to follow up in key issue areas from initial findings. As we indicate above, the impact of IIGG programs can be expanded and deepened through possible actions on several fronts. These include: (a) enhancing the Program's own research capacity; (b) developing innovative modes of work that could integrate cross-sectoral and multi-institutional ways of thinking; (c) developing an over-arching or unifying set of principles supported by a consistent methodology for evaluating specific sectors and institutions; and (d) where appropriate, plan working groups as joint endeavors with key stakeholders in order further shape the conversation and identify practical reforms.

COUNCIL *on* FOREIGN RELATIONS

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*R: CFR
assessment*

June 10, 2011

Penny Hunt
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Minneapolis, MN 55402

Dear Penny,

We were flattered and pleased with the very positive assessment that the Review Committee gave the International Institutions and Global Governance (IIGG) Program. We hope the Robina Board is pleased as well. We take the Review Committee's report as a strong endorsement of IIGG's mission and accomplishments.

The Council of Foreign Relations (CFR) launched the IIGG Program three years ago based on the conviction that it is essential to help policymakers and the broader public gain a better understanding of the requirements for effective multilateral cooperation in the twenty-first century. We want our ideas to make a difference. It is gratifying, then, to read that the Review Committee has determined that "IIGG gets high marks among government officials for impact on actual policy." It is equally gratifying to read that the people the Review Committee interviewed were enthusiastic in "their high regard for the Global Governance Monitor." We have been convinced from the start that the Monitor is a gem, and we have been delighted to see it receive numerous awards from groups that honor excellence on the Internet. So it is especially nice to have our judgment and awards confirmed by the people who actually use the Monitor. Finally, it is gratifying to read the Review Committee's assessment that IIGG's work is seen as "balanced, open, honest, objective, smart, analytical and conceptual." CFR's goal has always been to provide independent, nonpartisan research that enriches and informs the public debate. We believe that being seen as fair and objective is critical to IIGG's ability to get a hearing for its work from people across the ideological and political spectrums.

Much of the credit for IIGG's success goes to Stewart Patrick and his team. Their commitment to IIGG's mission has made it a success in relatively short order. The many fellows and research associates in the David Rockefeller Studies Program who have led or participated in IIGG projects deserve credit as well. They have embraced the call to generate new ideas and recommendations about how to meet global governance challenges. Given how crowded the public square is today, it truly is "quite remarkable," as the Review Committee puts it, how highly government officials regard their work.

We, of course, are continually looking for ways to make IIGG work more effectively in shaping the debate over global governance. So the most valuable parts of the Review Committee's report for us are the suggestions on how to improve IIGG's performance. I will use the remainder of this letter to share with you our thinking on the few issues that the committee raised. But on the broadest level the report is invaluable for pushing us to ask first-order questions about what IIGG is doing and how it is doing it.

The Review Committee wondered whether "there may be some ambivalence about how much scope and standing to give specifically to the IIGG initiatives." I can assure you and the Robina Board that IIGG is a top priority for CFR. Richard Haass and I both regard the task of making global governance work as crucial to solving almost every pressing substantive challenge in world affairs today, and we believe that CFR has a unique opportunity with the IIGG Program to influence that effort for the better. As a result, Richard and I are both deeply involved in the conceptualization and oversight of individual IIGG projects. I discuss the IIGG program with Richard on a monthly basis, and I meet regularly with Stewart to review IIGG's current projects and to discuss potential future ones. These meetings give Stewart prompt feedback about ongoing work and offer him an opportunity to inject ideas into the broader CFR research agenda.

The Review Committee notes in connection with the issue of institutional commitment that it believes IIGG has a "very lean staff." The committee did not raise the issue of staff size with me when we spoke, so I did not have the opportunity to share my views with them. I would note two things about staff size. One is that IIGG has ample staff resources. IIGG's core staff of Stewart, an assistant director, and two-and-a-half research associates exceeds the core staff of both of our endowed centers, the Maurice R. Greenberg Center for Geoeconomic Studies and the Center for Preventive Action. Beyond that, IIGG draws on the talents of many of the roughly eighty fellows in the Studies Program, their research associates, the staff of the Director of Studies Office, and the staff in other parts of CFR, such as the web development team, the Washington outreach program, and the National Program. The Review Committee worries that fellows might be "torn between IIGG and their 'own' priorities." As the person responsible for making the various work streams within the Studies Program mesh, I have not found this to be the case. The reason is simple: fellows have a deep and abiding interest in global governance issues because these issues are often critical in their areas of expertise. Indeed, my main challenge is not to get fellows to work on IIGG projects but to keep them from trying to launch too many projects at once.

The other point worth noting about staff size is that IIGG often hires scholars, experts, and support staff outside CFR on a temporary basis to conduct projects. During the current fiscal year, ten IIGG publications were written by non-CFR fellows, and IIGG hired four people in a consultant role to handle administrative tasks. CFR pursues this strategy because IIGG's need for substantive and administrative skills varies across different projects. Fellows have limited areas of expertise; someone who is an expert on, say, the International Atomic Energy Agency probably knows little about space policy. Likewise, someone skilled at web production may founder at organizing meetings. So CFR's approach is to decide what project we wish to pursue, which is based on our judgments about its practical importance and the opportunity to influence the debate, and then to look either inside or outside CFR for the right people to carry it out. For example, last fall we decided that it was critical to look at the consequences of the Eurozone crisis. We decided on the product we wished to produce—a collection of essays—and then assembled a group of authors, some of whom were CFR fellows and some who were not. The virtue of the strategy of letting the project determine the talent is not just that it is cost effective; it also provides great flexibility to adapt to changing work streams and events.

Conversely, hiring full-time staff to “drill down into issues” as the Review Committee suggests would actually limit what IIGG can do because hiring commitments are likely to extend beyond the life of a project. This is particularly true when it comes to hiring fellows, who ordinarily expect a multi-year commitment if they are to give up another post.

We embrace the Review Committee’s suggestion that we look for ways to further promote IIGG work to both policymakers and academics. We are constantly evaluating our outreach efforts to both communities. We do a considerable amount of what might be called “retail” marketing of IIGG people, projects, and products. CFR has programs and staff dedicated to reaching out to executive branch officials, members of Congress and their staff, and embassies and international organizations. We do similar retail marketing to the academic community. CFR’s Academic Outreach Program has featured IIGG people in its teleconferences for colleges and universities. This year for the first time, IIGG operated a booth at the annual International Studies Association Convention in Montreal to publicize IIGG’s work, and especially the Global Governance Monitor. And we always try to build promotion into our products by involving government officials, scholars, and other opinion leaders in the events and meetings that generate them. As the Review Committee notes, government officials in particular have “stressed the value of IIGG in convening events that allowed them to interact efficiently and productively with a range of outside scholars.” In the coming year, we will continue to pursue these outreach efforts as well as to look for new opportunities.

It is equally important for us to pursue “wholesale” marketing of IIGG people, projects, and products by attracting attention from major media outlets and exploiting the Internet’s advantages. We have enjoyed considerable success on that front, as we have detailed in past reports to the Board. But we know that with the evolution of technology we cannot rest on our laurels; we need to try new ways to reach our audiences. The Review Committee suggests emulating web-sites like Foreignpolicy.com, which is a for-profit website owned by a Fortune 500 company (the Washington Post). We can never match the resources that Foreignpolicy.com brings to the table, but we take to heart the Review Committee’s point that it is not enough to produce reports and ideas. We need to make it easy for our potential audiences to find our work and to make what they read or see engaging.

We are working hard to put this advice into practice. IIGG materials are featured regularly on CFR’s webpage, CFR.org. CFR’s Communications team promotes IIGG’s work to television, radio, and Internet journalists through press releases, teleconferences, and emails, and to the broader public through social media such as Facebook and Twitter. CFR has recently formed a partnership with CNN.com under which CNN can post CFR materials, including IIGG products, on its foreign affairs sub-site, CNN.com/GPS. This partnership allows us to reach a far larger audience, both here in the United States and abroad. We are investigating possible partnerships with other media outlets that could broaden our reach. We continue to work on mastering the seemingly mundane art of search-engine optimization, which is crucial to ensuring that the major Internet search engines feature IIGG products high on their lists of sites to visit.

We are also launching new vehicles to feature our work. Stewart started his blog, “The Internationalist,” last month. It appears on CFR.org, and it will draw attention to the broader issue of global governance and to specific IIGG projects. My own blog, “The Water’s Edge,” frequently features IIGG people and projects. We are also working on developing a signature product, the Global Governance Scorecard, which is intended to draw more attention to global governance issues and to better brand IIGG. Finally, we have developed a shorter-form publication vehicle, the Policy Innovation Memorandum. These memos, which run a maximum of 1,500 words, aim to provide

policymakers with action-oriented analyses and recommendations to deal with specific global challenges.

The Review Committee endorsed our decision to focus IIGG's work on a narrower set of issues. We agree that "it is simply not possible to achieve recognition as a programmatic 'jack of all trades.'" Our challenge, of course, is one that the Review Committee notes: "we found no shortage of suggestions as to where IIGG should focus its efforts going forward." The committee provided a list of ideas, all of which have good arguments in their favor. Focusing on all of them would overwhelm IIGG's capacity and dilute its impact; pursuing only one of them would focus IIGG too narrowly. IIGG's effort to pick issues is further complicated by the fact that events can generate new problems in short order. Four months ago, cooperation within NATO looked to be a sleepy topic. In the wake of UN Security Council Resolution 1973 and the bombing of Libya, it has become a pressing one.

With these observations in mind, IIGG will focus going forward on several of the themes that the Review Committee suggested: improving existing international institutions and identifying new ones; exploring the role of regional institutions and arrangements; examining the potential for improving global cooperation in specific issue areas such as food safety and climate change; and developing a transnational network to champion solutions to global problems. We have detailed these themes in our recent submission to the Board, so I won't belabor them here. I do want to provide two specific updates, however. First, the Global Drug Safety Initiative that officials in the Food and Drug Administration urged us to pursue is now underway. CFR Senior Fellow Laurie Garrett has assembled a core group of experts from around the world, and the project should generate its recommendations in advance of next year's G-8 meeting, which will be held in the United States. Second, twenty organizations from nineteen countries have agreed to join our Council-of-Council initiatives. We are planning to hold the first meeting of the Council of Councils late next winter.

Thank you again to the Robina Board for pushing us to convene an external review. It was a very helpful process for us to go through. The committee took great care in its assessment, and it has given us things to work on.

As always, I would be delighted to discuss any issues that you or the Board might have with the report or this response.

Best regards,



James M. Lindsay

Senior Vice President, Director of Studies,

and Maurice R. Greenberg Chair

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August 1, 2011

Ms. Penny Hunt
Executive Director
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Dear Penny:

I am pleased to enclose the proposals for Phase II of the International Institutions and Global Governance (IIGG) program and for using online video to increase the impact of the work of IIGG and the Council of Foreign Relations (CFR) more broadly. I am also submitting IIGG's third annual progress report.

Over the last three years the IIGG program has emerged as a leading voice on global governance issues. Through the publication of timely and influential reports and award-winning multimedia features, the program has generated enthusiasm from policymakers and practitioners at home and abroad. The independent program evaluation conducted by Anne-Marie Slaughter of Princeton University and Chester Crocker of Georgetown University attested to IIGG's influential role in elevating "the salience and prestige of global governance issues" and getting "high marks among government officials for impact on actual policy."

Highlights from the past year include an Emerging Powers and International Institutions meeting series, which included meetings in India and Germany; a new workshop series undertaken at the request of the assistant secretary of state for international organization affairs on improving the effectiveness of international institutions; and briefings for U.S. and international officials on UN Security Council reform, cybersecurity, and the agenda for the Group of Twenty summits. The Global Governance Monitor won a number of awards and has been viewed more than 100,000 times since its launch in 2009.

To build on this solid foundation, CFR requests an additional \$10,640,380 for IIGG over the next five years. During Phase II, we will narrow our research and policy focus to three substantive areas where IIGG can have an enduring impact: (1) confronting transnational threats; (2) building a resilient global economy; and (3) managing the global commons. We will examine each of these areas in terms of three critical cross-cutting challenges: (1)

leveraging the contributions of rising powers; (2) exploiting the capabilities of regional organizations and ad hoc frameworks; and (3) striking a new balance between national sovereignty and the requirements of multilateral cooperation.

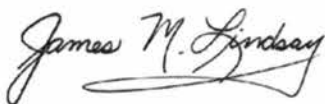
IIGG plans to launch two new initiatives during Phase II that will expand its policy impact. First, IIGG will lead the creation of a Council of Councils, an international network of think tanks. This network will be critical to disseminating IIGG's ideas to the foreign capitals that will be pivotal in meeting global challenges. Second, IIGG will publish a biannual Global Governance Scorecard that grades the international community's performance in responding to major transnational challenges. The Scorecard will be a signature publication for IIGG that attracts public attention to global governance challenges and creates pressure on governments to act.

The robust set of online videos that we propose to produce will be critical to increasing the visibility and impact of both IIGG's work and CFR more broadly. Online videos have become a major source of information and analysis for many people as technological advancements have made it possible to view them on mobile devices. If IIGG and CFR fail to exploit the potential of video, we risk missing the opportunity to maximize the impact of our work. CFR requests \$1,380,860 over the next five years to implement its proposed online video project. The funds would cover the salaries of multimedia staff, training consultants, and equipment.

The requests for Phase II of the IIGG program and for online videos are both slightly higher than the numbers in the initial budgets we submitted in April. The increase in the IIGG Phase II request responds to the suggestion by Ambassador Crocker and Professor Slaughter in their independent review that IIGG develop additional internal research capacity. To this end we are proposing to bring in one visiting fellow each year to address a specific global governance issue that IIGG wishes to focus on but that no CFR fellow has the expertise to address. Each visiting fellow will be on staff for one year. This will enable us to "drill down" on a rotating set of research questions as Ambassador Cocker and Professor Slaughter suggest without making long-term hiring commitments. The increase in the online budget reflects costs for graphic design and video archiving that were not included in the original request.

We are grateful for the generous support of the Robina Foundation for the next year, and for its consideration for a second phase. The IIGG program provides a unique contribution to the foreign policy community, which would not be possible without your continued support. Please contact if you have any questions or if you need additional information about this report.

Sincerely,



James M. Lindsay
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and Maurice R. Greenberg Chair
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COUNCIL ON FOREIGN RELATIONS
PROPOSAL TO THE ROBINA FOUNDATION TO SUPPORT PHASE II OF
THE INTERNATIONAL INSTITUTIONS AND GLOBAL GOVERNANCE (IIGG) PROGRAM

EXECUTIVE SUMMARY

Thanks to a generous grant from the Robina Foundation in 2008, the Council on Foreign Relations (CFR) launched a groundbreaking initiative on the requirements for effective multilateral cooperation in the twenty-first century. In the ensuing three-plus years, the International Institutions and Global Governance (IIGG) program has mapped the global institutional landscape, produced cutting-edge reports on priorities for institutional reform, and provided policymakers with concrete recommendations for more effective management of some of the world's most pressing problems. Through its meetings, reports, consultations, and multimedia products, the IIGG program has become a critical source of expertise for senior officials in the United States and abroad. It has also educated domestic and foreign publics about U.S. stakes in robust multilateral cooperation. Finally, it has helped transform the institutional culture of the CFR itself, in stimulating multidisciplinary collaboration among fellows and enriching the programming available to members.

During Phase II, envisioned to last five years, IIGG will focus its research and policy agenda on three substantive areas where CFR has the greatest potential to leave an enduring policy impact: (1) confronting transnational threats; (2) building a resilient global economy; and (3) managing the global commons. In each case, IIGG will look at how prospects for multilateral cooperation intersect with three big cross-cutting challenges: (1) leveraging the contributions of rising powers; (2) exploiting the capacities of regional organizations and ad hoc frameworks; and (3) adapting national sovereignty to an age of interdependence. This research agenda reflects internal CFR deliberations, feedback from the Robina Board, and the conclusions of an independent, external assessment of IIGG's performance, conducted by Chester Crocker and Anne-Marie Slaughter. To enhance its internal research capacity, IIGG will create a year-long visiting fellow position, open on a competitive basis to university professors on sabbatical.

To augment the policy impact of its efforts, not only in the United States but also abroad, IIGG plans to launch two major initiatives in FY12 that will carry over into Phase II. The first is the Council of Councils (CoC), an international network of policy institutes in twenty-some countries, roughly tracking the membership of the Group of Twenty (G20). The CoC is designed to forge common understanding on critical global problems among influential opinion leaders from the world's leading established and emerging countries. The second is a biannual Global Governance Scorecard, which will grade the performance of the international community in the previous calendar year in responding to major transnational challenges, ranging from global financial instability to climate change. These new initiatives will complement IIGG's ongoing array of meetings, consultations, and publications, as well as new installments of its award-winning Global Governance Monitor. In response to feedback from the Robina Board and the external assessors, IIGG will also redouble its dissemination and outreach efforts, including through expanded uses of social media, institutional partnerships, and targeting of prominent officials and other critical constituencies.

CFR requests \$10,640,381 over the next five years to implement this research and policy agenda.

PROPOSAL

A. ORIGINS AND ACHIEVEMENTS TO DATE

CFR established the IIGG program because it recognized that emerging frameworks for multilateral cooperation were failing to keep pace with seismic transformations in world politics. New centers of world power are rising, particularly in the developing world. New global challenges that cross national borders are emerging. The influence of nonstate actors both benign and malevolent is growing. Meanwhile, deepening levels of economic, security, and ecological interdependence are straining existing mechanisms of international cooperation and testing traditional concepts of national sovereignty. Many universal organizations, such as the United Nations (UN), court obsolescence. In response, the United States and other nations are experimenting with regional organizations and ad hoc frameworks of cooperation as complements—and sometimes competitors to—more encompassing institutions.

From its outset, the IIGG program embraced a three-fold mandate: (i) to *identify* the strengths and weaknesses of existing frameworks of multilateral cooperation; (ii) to *propose* new institutional arrangements or reforms to existing mechanisms that are tailored to current circumstances; and (iii) to *promote* the dissemination and implementation of reform proposals within the United States and abroad. IIGG set out an ambitious research and policy agenda, identifying five major thematic clusters for investigation: countering transnational threats; protecting the environment and promoting energy security; managing the global economy; preventing and responding to violent conflict; and promoting democracy, human rights, and the rule of law. In parallel, we proposed to evaluate major existing international institutions, both formal and informal, ranging from the UN to the G20.

During its first three years, the pioneering IIGG program analyzed a diverse array of transnational challenges from global warming to nuclear proliferation to infectious disease to cyber conflict. It has also examined the strengths and shortcomings of some of the world's leading organizations and institutions. These include the UN Security Council (UNSC), North Atlantic Treaty Organization (NATO), International Criminal Court (ICC), and the Nuclear Nonproliferation Treaty (NPT). Our rigorous research and engagement with policymakers clarified priorities for global institutional reform and identified bottlenecks to—and strategies for promoting—multilateral cooperation.

IIGG's roundtable meetings, written analyses, multimedia products, and personalized briefings have enriched the public debate on global governance. They have established IIGG in the United States and abroad as a leading source of expertise and policy advice for officials seeking to promote effective international cooperation. In parallel, IIGG has transformed the culture of CFR itself, broadening the vision and agenda of the David Rockefeller Studies Program, promoting unprecedented collaboration among CFR scholars, and enriching the programmatic offerings and publications available to the CFR's membership and the wider foreign policy community.

Having mapped the terrain of global governance and built extensive ties with U.S. and foreign policymakers, IIGG is now in a position to focus on a narrower set of transnational challenges and

institutions where cooperation is most urgently needed, and where targeted U.S. leadership can make a difference.

B. PHASE II AGENDA

During phase II, IIGG will focus its research and policy engagement on three major categories of global challenges: (1) confronting transnational threats; (2) building a resilient global economy; and (3) managing the global commons. In each of these issue clusters, we will also explore how prospects for multilateral cooperation are affected by three broad challenges: (1) enlisting rising powers in global governance; (2) leveraging regional organizations and ad hoc frameworks; and (3) protecting and advancing U.S. sovereignty.

The IIGG program will launch two new initiatives to help further this research and policy agenda. First, IIGG will produce an entirely new publication, the Global Governance Scorecard. It will provide an annual assessment of the international community's performance over the previous calendar year in advancing cooperation on critical global issues, from climate change to terrorism. Second, IIGG will launch and lead CFR's new Council of Councils initiative, building an international network of policy institutions dedicated to forging global consensus on common approaches to pressing transnational problems and leveraging the contributions of today's rising powers. These new work streams will complement IIGG's ongoing product lines, including our award-winning Global Governance Monitor.

Scorecard
Annual
or
biannual?

1) Thematic Clusters

Based on the recent external assessment of IIGG's performance, as well as our own internal review, we believe IIGG can have the most impact by focusing on the following three clusters of issues during Phase II:

Confronting Transnational Threats

A hallmark of the twenty-first century is the rise of problems that transcend national frontiers and cannot be resolved by the actions of any one state, no matter how powerful. Collective action is a necessity, not a choice. Unfortunately, as Phase I of the IIGG program documented in great detail, many of our inherited multilateral institutions continue to struggle to address global threats, from terrorism to nuclear proliferation to infectious disease. Having mapped the global institutional landscape, IIGG during Phase II will focus on a few critical institutions and challenges. In the field of counterterrorism, we will propose ways to strengthen the UN's Counter-Terrorism Committee and its Counter-Terrorism Executive Directorate. In the realm of nuclear nonproliferation, we will examine ways to increase the political authority and technical capability of the International Atomic Energy Agency. In the global health arena, finally, we will propose reforms to permit the World Health Organization (WHO) to fulfill its potential in coordinating the global response to infectious disease, including through strengthening WHO's groundbreaking International Health Regulations.

Building a Resilient Global Economy

The world is unevenly recovering from recession. Europe's sovereign debt crisis continues. Volatility of commodity prices persists. Multilateral trade negotiations remain blocked. All these hurdles portend continued turbulence in the global economy. The IIGG program will first continue to track the performance of the G20 nations, providing policy recommendations to strengthen its role as the premier steering group for global economic coordination.

The program will also deepen its analysis of the international financial system. In collaboration with Sebastian Mallaby and his colleagues at CFR's Center for Geoeconomic Studies, we will consider pressing issues such as: the future of the dollar as the world's major reserve currency; the case for new global financial standards; and prospects for an international investment regime. IIGG will also collaborate with Michael Levi, David M. Rubinstein Senior Fellow for Energy and the Environment, to examine the prospects for a new World Energy Organization encompassing all major oil consuming (and perhaps producing) countries.

Managing the Global Commons

In the twenty-first century, security, prosperity, and environmental sustainability on Earth will increasingly depend on effective multilateral arrangements to govern the "global commons." This term refers to those unique domains—atmospheric, maritime, outer space, or cyberspace—upon which all nations depend, but which are outside the control of any single country or group of countries. IIGG will continue its work on climate change, which stands as the most complex and daunting international cooperation problem that humanity faces. We will explore potential political, technological, and financial breakthroughs that could mitigate the impact of global warming. Given the limitations of universal approaches like the UN Framework Convention on Climate Change (UNFCCC), IIGG will also consider promising "mini-lateral" efforts by leading emitters to address particular pieces of the puzzle. Building on our pioneering work on maritime governance, IIGG will also assess the devastating impact that climate change may have on the world's oceans.

In parallel with these efforts, IIGG will continue its collaboration with U.S. and international officials on the contours of a new global regime to govern outer space, a domain that in the words of the U.S. deputy secretary of defense has become increasingly "contested, congested, and competitive." Finally, the program will deepen its consultations with the U.S. government and other major powers on a new framework for Internet governance, building on the influential IIGG-sponsored report, *Internet Governance in an Age of Cyber Insecurity*. IIGG will carry out its work on the global commons in close coordination with Paul Stares, Director of CFR's Center for Preventive Action (CPA).

2) Cross-Cutting Themes

As we conduct the issue area analyses described above, the IIGG program will pay particular attention to three cross-cutting challenges that will shape prospects for forging effective multilateral cooperation. These challenges include: (1) leveraging the contributions of rising powers in providing

global public goods; (2) exploiting the capacities and opportunities provided by regional organizations and ad hoc frameworks of collective action; and (3) striking a new balance between national sovereignty and the requirements of multilateral cooperation.

Enlisting Rising Powers

Dramatic shifts in global power are testing the capacity, credibility, and legitimacy of existing international institutions. Forging compromise between established and emerging powers on new global rules and on reforms to current multilateral organizations will be a defining task of statesmanship in the twenty-first century. Beyond renegotiating voting weights and influence within international institutions, established and emerging players must reach new understandings on burden-sharing and the provision of global public goods. Working with CFR country experts and within the CoC, IIGG will seek to reach common ground with counterparts in rising nations on the obligations of power. This effort will build on IIGG's recently completed international workshop series on emerging powers and international institutions. This allowed CFR fellows to better understand the world order visions and global reform priorities of China, India, and Brazil—and to assess prospects for transatlantic cooperation in making the transition to a post-Western dominated world. Phase II of this research and policy agenda will include outreach to additional rising powers, including Turkey, South Africa, Mexico, and Indonesia. IIGG will employ the new CoC initiative (discussed below) to deepen mutual understanding between the world's most important established and emerging powers on specific governance challenges, from climate change to nonproliferation.

Leveraging Regional Organizations and Ad Hoc Frameworks

Formal international organizations, like the United Nations, increasingly share space with standing regional bodies and informal coalitions that coalesce to address specific global issues. As we conduct our issue area investigations, IIGG will explore strategies to ensure complementarity between universal and more limited frameworks of multilateral cooperation. Our decision to deepen analysis of regional organizations responds directly to the external assessment of IIGG by Chester Crocker and Anne-Marie Slaughter. As they point out, regional organizations such as the African Union (AU), the Organization of American States (OAS), and the Association of Southeast Asian Nations (ASEAN)—as well as the venerable European Union (EU)—are growing in importance as providers of public goods and frameworks for addressing transnational problems. At the same time, the capacity and legitimacy of such entities—and their relationship with more encompassing institutions like the UN or the World Bank—varies enormously. During Phase II, IIGG will work with relevant CFR regional experts to explore how to increase and exploit the capabilities of regional organizations in Europe, Asia, Latin America, Africa, and the Middle East. This work will build on our FY12 research and policy agenda, including the release of an IIGG sponsored working paper by George Washington University Professor Paul Williams on the emerging peace and security role of the AU.

In parallel with these efforts, IIGG will continue to explore the trade-offs between different forms of multilateral cooperation. What are the benefits of continued reliance on formal international organizations (whether universal and regional), versus greater use of informal, ad hoc collective

groupings? IIGG will consider promising strategies to combine the most effective approaches across various issue areas (from climate to nonproliferation to global health).

Protecting and Advancing U.S. Sovereignty

Multilateral cooperation will often be essential to accomplish U.S. foreign policy objectives in a world of growing interdependence. Advancing and protecting U.S. sovereign goals, in other words, will often require the United States to “go it with others.” At the same time, the United States has a vested interest in minimizing onerous or unreasonable constraints on its external freedom of action or internal policy autonomy, in preserving the supremacy of its hallowed Constitution, and in ensuring that international organizations do not encroach upon its democratic sovereignty. The IIGG program will investigate the trade-offs for U.S. sovereignty posed by particular forms of multilateral cooperation, including within specific institutions like the ICC, World Trade Organization, and UN Human Rights Council. The initiative will also assess whether trends in international law, including the growing tendency to cite foreign legal precedent, are compatible with U.S. constitutional sovereignty. Finally, the program will consider whether certain safeguards might be employed to permit U.S. participation in international organizations, institutions, and treaties while protecting sovereign U.S. prerogatives. This initiative will inform the writing and publication of Stewart Patrick’s forthcoming book on the future of U.S. sovereignty.

While focusing on these central sectors and issues, IIGG will deepen its efforts to educate publics in the United States and abroad about the requirements for and stakes in effective multilateral cooperation. It will produce new installments of its award-winning Global Governance Monitor on Human Rights and Transnational Crime.

3) New Initiatives

The Global Governance Scorecard

Reforming international institutions requires spurring busy officials to take action. From the launch of IIGG, we have envisioned releasing an annual audit of global governance that could be communicated to policymakers in a simple and digestible way. The Global Governance Scorecard, which we intend to release in spring 2012, will measure the performance of the international community in resolving six major global problems: nuclear nonproliferation, financial instability, climate change, global health, armed conflict, and terrorism. (We will also include a separate evaluation of the U.S. role in each issue area). The Scorecard will build directly on the extensive knowledge base that IIGG has accumulated over the past three years, particularly in compiling and updating the Global Governance Monitor. To attract media and official attention, each scorecard assessment will take the form of a letter grade, as on a school report card, accompanied by a brief narrative. (The Partnership for a Secure America, among other organizations, has used the letter grade approach to garner significant attention).

Each issue area will receive an overall grade, accompanied by a short, 300-400 word explanation of the score. The overall grade will be a composite reflecting 5-6 underlying scores on different aspects of the

global challenge. (For instance, the composite grade on nuclear nonproliferation would reflect performance on sub-categories like success in protecting fissile material; progress toward nuclear disarmament; and achievements in counterproliferation, etc.). Each sub-category will receive its own grade, accompanied by a page of analysis.

Our decision to launch the Global Governance Scorecard reflects a basic intuition: to maximize IIGG's impact, we need a signature product of broad appeal that is easily understood by policymakers. IIGG will work with CFR's communications department to give the Scorecard a distinctive appearance likely to attract attention from media outlets. The Scorecard will be available both in hard copy and in multimedia/online form (the latter, to take advantage of potential interactivity). Where appropriate, IIGG will create online linkages between the biannual Scorecard and the Monitor. We will also work with CFR publications staff to create a one-sheet handout summarizing the main scores across the six main categories—and the U.S. performance in each.

The Council of Councils

Ultimately, the success of the IIGG Program depends on its ability to promote effective multilateral responses not only in the United States but globally. To advance this agenda, IIGG will launch, steer, and serve as the institutional home for ~~new~~ CFR's new Council of Councils (CoC) initiative, an international network of policy institutions dedicated to forging global consensus on common approaches to pressing transnational problems and leveraging the contributions of today's rising powers. The decision to create the CoC reflects a major cross-cutting challenge IIGG has identified: the need to persuade other leading countries to contribute to practical solutions to pressing global problems.

The defining foreign policy challenges of the twenty-first century are global in nature. As such, the CoC will draw CFR into closer relationships with other global think tanks. The network will be composed, at least initially, of some twenty major policy institutes, one apiece from the world's most influential countries (roughly tracking the G20 membership). The CoC will be designed to facilitate candid, off-the-record dialogue and consensus-building among influential opinion leaders from both established and emerging nations, with the ultimate purpose of injecting the conclusions of these deliberations into high level foreign policy circles within each country. As part of this work, CFR and CoC participants will need to invest in new technology, including videoconferencing, wikis, and other instruments to facilitate many of the network's activities. This technology will enable the CoC network to leverage CFR's unique convening power and reputation, while expanding its global reach. Furthermore, the CoC could have a transformational impact on other societies by helping them develop the think tank model of policy analysis.

The CoC's marquee event will be an annual conference in the United States hosted by CFR, featuring two or three senior representatives from each institution. This event will focus on a narrow set of serious global issues and reform opportunities. CFR will produce working papers for distribution prior to the meeting to serve as a draft set of principles for global agreement. Products will include the release of a summary report with policy recommendations, and the formation of regional or topically driven working groups. Beyond the annual conference, the CoC will hold issue-driven regional

meetings in rotating locations. These meetings will serve as the foundation for multicountry platforms that enable policy consultations, research collaboration, and exchange of fellows in particular issue areas. Investments in internet technology by both CFR and CoC participants will be critical to this work.

The CoC will hold its first two-day meeting in Washington, DC, on March 11-12, 2012. That gathering will include sessions explicitly tied to IIGG's three main focus areas (transnational threats, the world economy, and the global commons) and its three major themes (the responsibilities of rising powers, role of regional organizations, and the future of sovereignty). To help frame discussion, each session will begin with presentations by featured speakers, including noted experts, former senior officials and, in some cases, members of the network.

C. PROGRAM ACTIVITIES

To maximize its policy impact, IIGG will produce a rich array of meetings, briefings, publications, and multimedia features.

1) Meetings

In Phase II, the IIGG program will host a variety of meetings on global challenges and the institutions managing them. Each meeting series has a unique format and aspires to reach a distinct audience, ranging from policymakers to foreign officials, issue experts, the CFR membership, and the general public.

Roundtables

Roundtables are informal discussion groups, composed of specially invited CFR members and external experts, run by a CFR fellow for the purpose of exploring a subject or issue of interest. The fellow serves as the presider and typically invites an official or expert with specialized knowledge of a particular transnational challenge or global institution to discuss the issue. Roundtables meet every four to six weeks over the 10-month program year and include a maximum of forty meeting participants. In Phase II, the IIGG program will continue its flagship U.S. and the Future of Global Governance roundtable series and the U.S.-UN relations roundtable series.

Workshops and advisory groups

Workshops are working level meetings that engage a small group of policymakers and practitioners to analyze critical global governance challenges, the strengths and weaknesses of existing institutions, and propose reforms tailored to new international circumstances. Workshops generally produce a meeting report that outlines the most salient recommendations stemming from the discussions. Advisory groups ask select policymakers and experts to provide feedback or review drafts of CFR reports or books. Workshops and advisory groups invite both CFR members and external participants and are convened on an ad hoc basis. In Phase II, the IIGG program will continue its workshop series on Making Multilateralism Work.

Annual symposium on global governance

A CFR symposium is a large event approved by the president and consisting of three sessions that include some policy prescriptive focus. It is open to all CFR members as well as larger audiences, including journalists. IIGG's annual symposium on global governance will be a half-day conference focusing on major issues on the IIGG research agenda for that year. It will bring leading experts together to examine the causes and consequences of foreign policy challenges, and policy responses to them.

General meetings of the CFR membership

Held in New York and Washington, DC, general meetings provide an opportunity for a prominent speaker or panel of speakers to discuss an IIGG related topic. This meeting series is open to the broad CFR membership and staff.

Meetings for the CFR national membership

Held in major cities across the country, these events are run through CFR's National Program. They provide a forum for diverse voices outside of the New York-Washington, DC corridor to contribute to IIGG's discussion on how to nurture U.S. public support for proposed courses of action.

Briefings for Congress and the executive branch

The briefings are run in cooperation with CFR's Washington Program and are designed to familiarize legislators and administration officials with a particular issue area or topic of global governance. The meetings are undertaken on a purely bipartisan basis.

Briefings for foreign constituencies (including governments, experts, and public)

The briefings will solicit input and build support for proposed reforms. Such meetings occur both in the United States and abroad. The IIGG program director and IIGG affiliated fellows hold such briefings for the Washington-based embassy community and permanent missions of the UN in New York, and/or at international locations (in the latter case typically with a local partner institution).

Council of Council meetings

The CoC meeting series (discussed in greater detail above) will draw CFR into closer relationships with other global think tanks. Meetings will be held in regional hubs and in Washington, DC, and New York. The network will be composed of some twenty major policy institutes from the world's most influential countries (roughly mirroring the G20 membership). The CoC will be designed to facilitate candid, off-the-record dialogue and consensus-building among influential opinion leaders from both established and emerging nations. The ultimate purpose will be to inject the conclusions of these deliberations into high-level foreign policy circles within each country.

2) Publications

IIGG publications include several categories of research papers, online articles and reports, and multimedia products that target different constituents and aim to stimulate discussions of policy options among policymakers and the interested public.

Policy Innovation Memoranda

Policy Innovation Memoranda are targeted to decision-makers and opinion leaders, offering them concrete and actionable policy alternatives to enhance multilateral action in the twenty-first century. The series consists of short, 1,500 word papers that propose creative ideas for establishing new arrangements and renovating existing institutions to strengthen cooperation on critical global challenges.

Council Special Reports

Council Special Reports (CSRs) are concise policy briefs produced to provide a rapid response to a developing crisis or to contribute to current policy debates. CSRs are commissioned when events make a particular situation or conflict ripe for useful intervention and the window of opportunity for action is likely to close quickly. The target audience includes a cross-section of policymakers, journalists, academics, and other practitioners, as well as the interested public.

Working Papers

Working papers are online reports that provide a sober, academic-quality analysis of major global governance issues. They are commissioned to CFR fellows and external experts and are generally 10,000 words.

Global Governance Scorecard

As described in greater detail above, IIGG will produce a biannual scorecard on global governance that assesses the international community's performance in addressing and resolving serious global and transnational challenges. These assessments will also include an evaluation of the U.S. role in contributing to the effective management of the particular issue. Assessments will come in the form of a letter grade evaluating performance.

Global Governance Monitor Annual Updates

Updates will include annual revisions to the existing Global Governance Monitor components. The updates track and assess the international community's performance on major global issues. These include: nuclear nonproliferation, global finance, climate change, oceans, public health, armed conflict, terrorism, human rights, and transnational crime.

CFR.org Articles: First Takes, Expert Briefs, Expert Roundups

The IIGG program will work closely with CFR.org to produce online content for CFR's website, including: *first takes*—concise, timely analysis by CFR experts on breaking international news; *expert briefs*—CFR scholars' expert analysis on international news; and *expert roundups*—a consolidation of CFR fellows' and outside experts' perspectives on a foreign policy topic in the news.

Blog Posts: "The Internationalist"

"The Internationalist," a blog by IIGG program director Stewart Patrick, will focus on three major themes: emerging powers, national sovereignty, and multilateral institutions. The blog will aim to publish three weekly posts on these issues in relation to breaking stories and international events.

Articles in Foreign Affairs, other leading journals, and newspapers

The program will publish articles in CFR's flagship publication *Foreign Affairs*, widely recognized as America's most influential publication in international affairs and foreign policy, as well as in other leading journals and publications. The IIGG program will also work with CFR's communications and marketing team to place op-eds in national, regional, and foreign newspapers, and web-based media outlets.

Single Author Book

Over the next three years, Stewart Patrick will write a book examining U.S. sovereignty in the twenty-first century. Written for an informed public interested in world affairs and the U.S. international role, it will examine the ramifications of growing global interdependence for U.S. freedom of action, domestic autonomy, and constitutional traditions. The goal will be to shed more light than heat on an increasingly controversial (and often partisan) topic—and to chart a course for the United States that enables it to lead and participate in multilateral cooperation without sacrificing fundamental interests and national values.

D. DISSEMINATION AND PUBLIC OUTREACH

In Phase II the IIGG program will increase the policy impact of its activities by focusing on a streamlined set of global governance questions and by improving its outreach strategies. It will use CFR's singular convening authority to attract influential decision-makers to its numerous events and disseminate new and innovative solutions to global governance challenges through its many publications and multimedia initiatives. Specifically, IIGG will:

Target policymakers and decision-makers

To successfully engage policymakers, IIGG will sharpen its research agenda and drill down on topics to respond directly to the needs of the policymaking community. At the onset of every project, IIGG authors, the CFR executive office, and the studies department will devise a list of up to twenty prominent policymakers to receive a hard copy of IIGG printed publications, including the Policy Innovations

Memoranda and the IIGG Working Papers. Authors will aim to follow up with U.S. and foreign officials and brief interested elites so that policy recommendations receive the necessary attention.

Leverage a “multiplier effect”

The recent external assessment of the IIGG program argued that IIGG could enhance its multiplier effect by developing more external partnerships. To that end, IIGG will explore ways to co-fund conferences and initiatives with other institutions on a more regular basis. At the same time, IIGG will continue, with the guidance of the director of studies, to support a limited number of CFR fellows whose work directly advances and contributes to the IIGG mandate and specific IIGG initiatives.

Enhance the use of social media

IIGG will devote particular efforts to determining how to improve its use of various types of social media (e.g., Facebook, Twitter, blogs, etc.). Social media allows IIGG to reach a viewership that would be difficult to reach through traditional media. In addition, it permits IIGG to have live interaction with its audience, and allows for immediate reaction to breaking news stories. Currently, the IIGG program sponsors a blog and a Facebook page for program director Stewart Patrick’s newest book, *Weak Links*. In Phase II, we will develop Twitter feeds and Facebook pages for IIGG multimedia features. The program will continue to expand its social media engagement as new tools come to the market (e.g. Google+.)

Promote IIGG

IIGG will run promotional campaigns and bulletins to inform and expand its audience. To that end, the program will disseminate quarterly and promotional newsletters, update promotional material (including IIGG banners and trifold), launch advertising campaigns through Facebook and Google, and showcase IIGG initiatives at high-traffic events. For instance, the program will continue to run a booth in the exhibition hall of the annual convention of the International Studies Association (ISA)—the most well attended academic conference in the world devoted to the study of international relations—and showcase Global Governance Monitor (GGM) videos on a widescreen television. At such events, IIGG will also display a large GGM banner to attract walk-in traffic.

Council of Councils

IIGG will broaden its international outreach by expanding the Council of Councils initiative, composed of leading policy institutes in over twenty countries. Through the CoC, IIGG will leverage the work that the Robina Foundation is already supporting and use it to galvanize support for IIGG proposals in the United States and abroad.

E. EVALUATION PLAN

The IIGG program will undertake a systematic monitoring and evaluation of its activities in Phase II. The program will aim to ensure that activities reach targeted audiences and produce meaningful

impact. To ensure that we are on track, IIGG will commission a comprehensive evaluation after the first two years of Phase II to measure the program's performance against enumerated objectives. The second year evaluation will allow IIGG to make any necessary midcourse corrections.

Metrics for assessing IIGG's performance will include tracking and monitoring in two dimensions—outputs and impact. CFR will gauge the program's results according to the following indicators:

1) Outputs

- Completion of up to thirty Policy Innovation Memoranda (six per year);
- Completion of up to ten Council Special Reports (two per year);
- Completion of up to fifteen working papers on specific global challenges and bedrock institutions of global governance with proposals for reform (three per year);
- Completion of a biannual Scorecard on global governance;
- Completion of annual Global Governance Monitor updates;
- Completion of a book by the director of the IIGG program on U.S. sovereignty in the twenty-first century;
- Completion of two roundtable series of several meetings per year addressing current and needed arrangements of multilateral cooperation in specific issue areas;
- Journal articles, op-eds, and other publications;
- Events of different types, including general meetings, advisory groups, and workshops; and
- Other presentations, briefings, and addresses by the program director and other IIGG staff.

2) Impact

- Access to policymakers and their participation in program activities;
- Reaction of officials to IIGG sponsored policy recommendations;
- Influence in elite debates, including impact on terminology and concepts used in discussing issues in the field;
- Policy initiatives or changes by the United States and other governments that can be attributed to IIGG, at least in part;
- Accessibility and use of IIGG materials by educators/students/CFR membership;
- Media notices and press appearances;
- Requests by relevant agencies and organizations for follow-up activities;
- Quality of publications (awards etc.); and
- Web traffic to IIGG products and publications.

F. STAFFING AND OVERSIGHT

1) IIGG Program Staff

Stewart Patrick will continue as director of the IIGG program. Much of IIGG's research and writing will be conducted by fellows and senior fellows in CFR's David Rockefeller Studies Program. As was the case

during Phase I, IIGG will also engage the services of outside scholars and experts as needed to carry out research activities.

To further augment IIGG's internal research capacity while preserving its flexibility to address new topics, IIGG intends to solicit applications on an annual basis for a one-year visiting fellowship. The position will be awarded on a competitive basis to academics eligible for sabbatical who have a research and policy interest that is consistent with—and promises to advance—the mandate of the IIGG program. The visiting fellow will bring fresh thinking into the IIGG program, without saddling it with long term financial commitments. (We anticipate that candidates will continue to draw partial salary from their home institution while on sabbatical). The funds devoted to this position will also include support for a research associate.

Dr. Patrick will be assisted in overseeing and managing IIGG's research and publishing agenda by Farah Thaler, IIGG's assistant director. Three research associates, two based in Washington and another in New York, will provide research, administrative, and clerical support for the program.

2) CFR Participating Departments

CFR promotes better understanding of international affairs by maintaining a diverse membership; convening meetings at its headquarters in New York and in Washington, DC, and other cities around the country; supporting a studies program that fosters independent research; providing up-to-date information and analysis about world events and American foreign policy on its award-winning website, CFR.org; and publishing *Foreign Affairs*.

David Rockefeller Studies Program

The David Rockefeller Studies Program is CFR's "think tank." Its work is integral to achieving CFR's goal of contributing to the foreign policy debate. The Studies Program is home to more than eighty-five scholars, called fellows. Taken together, their expertise covers nearly every issue related to international relations.

Meetings Program

One of CFR's main functions is to provide a nonpartisan forum for informed foreign policy debate. The Meetings Program organizes panel discussions, interviews, lectures, book clubs, and film screenings that gather CFR members with senior government officials, world leaders, academic experts, and prominent thinkers to discuss major foreign policy issues.

Washington Program

CFR's Washington Program is a place where policymakers turn for guidance, to test new ideas, and to engage with experts as they seek to develop policy initiatives. Within the Washington Program, CFR's Congress and U.S. Foreign Policy Program engages members of the U.S. House of Representatives, the Senate, and their staff in study and dialogue on a wide array of international issues.

Task Force Program

CFR publishes independent Task Force reports that examine current, critical issues of importance to U.S. foreign policy. The program convenes a group with diverse backgrounds and perspectives to reach a meaningful consensus on a policy through private and nonpartisan deliberations.

Publishing

The Publishing department helps further CFR's mission of promoting constructive discussion and providing expert analysis on world issues by publishing Council Special Reports, Independent Task Force reports, Working Papers, and other publications in both print and electronic formats.

CFR.org

The CFR's website provides ideas and an objective source of information and analysis on important international issues for the interested public. CFR's online editorial team produces timely analysis and multimedia resources to help audiences make sense of the latest foreign policy news.

Communications and Marketing

The Communications and Marketing Department interacts with the media and CFR scholars by promoting and disseminating all CFR content, including *Foreign Affairs* articles, fellows' op-eds and articles, Task Force reports, CFR Special Reports, other CFR publications, books, and papers, and original content from the CFR.org editorial team. In addition, the team coordinates cross-departmental marketing efforts to ensure all content is getting maximum exposure to CFR audiences—Congress, the administration, CFR members, the corporate community, and the diplomatic community—and other outreach constituencies—including educators, religious leaders, and state and local officials.

National Program and Outreach

The National Program seeks to energize foreign policy discussions nationwide and encourage a broader debate on international affairs and U.S. foreign policy through several initiatives, including meetings, conference calls, and a flagship national conference. CFR's Outreach Program is dedicated to connecting with, and serving as a resource for, interested citizens whose voices are increasingly important to the national foreign policy debate. These constituencies include educators and students, religious and congregational leaders, and state and local officials.

Membership

With about 4,500 members, CFR's ranks include top government officials, renowned scholars, business leaders, acclaimed journalists, prominent attorneys, and a host of distinguished nonprofit professionals. CFR's Membership Affairs is responsible for the administrative side of the

membership experience. This includes updating members' contact information in our database; tracking down members we know have changed jobs; billing members for their annual dues; and updates to the Member Services section of CFR.org, www.cfr.org/member.

Corporate Program

CFR's Corporate Program is widely seen as the premier venue to address issues at the nexus of business and foreign policy. With the guidance of James W. Owens, chief executive officer and chairman emeritus (2004–2011) of Caterpillar Inc., and current chair of the Committee on Corporate Affairs, CFR's Corporate Program serves an international membership of nearly two hundred global firms in a variety of sectors, from manufacturing and industrials to technology and energy to media and financial services. In addition to connecting the business community to CFR's work and resources, the Corporate Program offers distinct and diverse resources for corporate members and regularly hosts roundtables featuring high-profile speakers from around the world.

International

CFR's International Department is a new department that focuses on building CFR's global presence through a new Global Board of Advisers, strategic partnerships, and help from the Corporate Program and CFR members. The Global Board of Advisers is chaired by David Rubenstein, co-founder of The Carlyle Group, and will help strengthen CFR's understanding of other countries' perspectives. Simultaneously, it will enhance the dialogue between U.S. leaders in global affairs and similar leaders from other countries.

Foreign Affairs

CFR publishes *Foreign Affairs*, which is regarded as America's most influential publication on international affairs and foreign policy. *Foreign Affairs* is the international forum of choice for the most important new ideas, analysis, and debate on the most significant issues in the world.

3) Oversight and Management

James M. Lindsay, CFR senior vice president, director of studies, and Maurice R. Greenberg Chair directly oversees IIGG's work. CFR president Richard N. Haass has ultimate oversight responsibility for the program.

G. BUDGET

The annual operating budget for the IIGG program will be approximately \$2.13 million per year over five years (see attached budget). The majority of these funds will cover the salaries of core IIGG staff and IIGG programmatic activities, including the CoC meetings, events in the United States and abroad, travel by IIGG program staff, multimedia and publications expenses, communications needs, and overhead costs.

Council on Foreign Relations

International Institutions and Global Governance Program Budget

	Total	Year 1	Year 2	Year 3	Year 4	Year 5
Program Management						
Program Management Salaries and Benefits						
Core Program Staff	\$ 2,479,725	\$ 476,500	\$ 486,030	\$ 495,751	\$ 505,666	\$ 515,779
Affiliated CFR Fellows and Staff	\$ 2,378,246	\$ 457,000	\$ 466,140	\$ 475,463	\$ 484,972	\$ 494,671
Research Support and Materials	\$ 61,772	\$ 11,870	\$ 12,107	\$ 12,350	\$ 12,597	\$ 12,848
Travel	\$ 377,707	\$ 72,580	\$ 74,031	\$ 75,512	\$ 77,022	\$ 78,562
Database and Equipment Fees	\$ 42,217	\$ 8,230	\$ 8,335	\$ 8,441	\$ 8,550	\$ 8,661
Sub-total Program Management	\$ 5,339,667	\$ 1,026,180	\$ 1,046,643	\$ 1,067,516	\$ 1,088,806	\$ 1,110,522
Multimedia/Digital						
Global Governance Monitors, Scorecards, regionalism maps, and other interactive projects	\$ 626,671	\$ 120,420	\$ 122,828	\$ 125,285	\$ 127,791	\$ 130,346
Sub-total Multimedia/Digital	\$ 626,671	\$ 120,420	\$ 122,828	\$ 125,285	\$ 127,791	\$ 130,346
Council of Councils Program						
Program Management Salaries and Benefits	\$ 536,406	\$ 103,075	\$ 105,137	\$ 107,239	\$ 109,384	\$ 111,572
Pre-Conference Working Papers (6 papers)	\$ 326,049	\$ 62,751	\$ 63,956	\$ 65,185	\$ 66,439	\$ 67,718
Annual Conference Costs	\$ 217,008	\$ 41,700	\$ 42,534	\$ 43,385	\$ 44,252	\$ 45,137
Travel (25 participants)	\$ 451,450	\$ 86,750	\$ 88,485	\$ 90,255	\$ 92,060	\$ 93,901
Editorial Review (6 publications per year)	\$ 48,918	\$ 9,400	\$ 9,588	\$ 9,780	\$ 9,975	\$ 10,175
Rapporteur Reports	\$ 77,224	\$ 15,000	\$ 15,220	\$ 15,442	\$ 15,667	\$ 15,895
CFR Domestic Outreach	\$ 34,607	\$ 6,650	\$ 6,783	\$ 6,919	\$ 7,057	\$ 7,198
Sub-total Council of Councils	\$ 1,691,663	\$ 325,326	\$ 331,703	\$ 338,205	\$ 344,835	\$ 351,595
Events						
International Meeting (1 per year)	\$ 440,990	\$ 84,740	\$ 86,435	\$ 88,163	\$ 89,927	\$ 91,725
Annual Symposium	\$ 235,837	\$ 45,318	\$ 46,224	\$ 47,149	\$ 48,092	\$ 49,054
Making Multilateralism Work Workshop Series (5 meetings per year)	\$ 47,992	\$ 9,222	\$ 9,406	\$ 9,595	\$ 9,786	\$ 9,982
IIGG Roundtables: U.S.-United Nations, and U.S. and Future of Global Governance (8 meetings per year)	\$ 47,357	\$ 9,100	\$ 9,282	\$ 9,468	\$ 9,657	\$ 9,850
Sub-total Events	\$ 772,175	\$ 148,380	\$ 151,348	\$ 154,375	\$ 157,462	\$ 160,611
Publications						
Policy Innovation Memoranda (6 per year)	\$ 122,540	\$ 23,900	\$ 24,198	\$ 24,502	\$ 24,812	\$ 25,128
Council Special Report (2 per year)	\$ 168,673	\$ 33,000	\$ 33,360	\$ 33,727	\$ 34,102	\$ 34,484
Working Papers (3 per year)	\$ 47,602	\$ 9,500	\$ 9,510	\$ 9,520	\$ 9,531	\$ 9,541
Editorial Review (11 publications per year)	\$ 84,566	\$ 16,250	\$ 16,575	\$ 16,907	\$ 17,245	\$ 17,590
Sub-total Publications	\$ 423,381	\$ 82,650	\$ 83,643	\$ 84,656	\$ 85,689	\$ 86,743
Outreach and Communications Activities						
Media Outreach and Marketing	\$ 31,224	\$ 6,000	\$ 6,120	\$ 6,242	\$ 6,367	\$ 6,495
CFR Meetings and Outreach Programs	\$ 367,724	\$ 70,720	\$ 72,104	\$ 73,516	\$ 74,957	\$ 76,426
Sub-total Outreach and Communications	\$ 398,948	\$ 76,720	\$ 78,224	\$ 79,759	\$ 81,324	\$ 82,921
TOTAL DIRECT COSTS	\$ 9,252,505	\$ 1,779,676	\$ 1,814,389	\$ 1,849,795	\$ 1,885,907	\$ 1,922,739
Indirect Costs @15%	\$ 1,387,876	\$ 266,951	\$ 272,158	\$ 277,469	\$ 282,886	\$ 288,411
TOTAL PROGRAM COSTS	\$ 10,640,381	\$ 2,046,627	\$ 2,086,547	\$ 2,127,264	\$ 2,168,793	\$ 2,211,150

COUNCIL ON FOREIGN RELATIONS
PROPOSAL TO THE ROBINA FOUNDATION TO SUPPORT THE USE OF ONLINE VIDEO TO
INCREASE THE IMPACT OF THE IIGG PROGRAM AND CFR

EXECUTIVE SUMMARY

Dramatic advances in technology are revolutionizing the way people consume information. Audiences are increasingly getting their news and analysis online not just by reading but by watching video. High-traffic news portals, which have replaced broadcast television news as the primary source of news coverage for many people, increasingly rely on video. Bloggers routinely embed video in their blogs. Individuals share videos on social media platforms such as Facebook and Twitter. Overall, online viewing of videos is growing at a compounded annual rate of 117 percent. This growth parallels the rapid growth in the number of high-bandwidth mobile devices—smartphones and tablets—that are increasingly popular for multimedia viewing.

The revolution in how people consume information poses new challenges for the International Institutions and Global Governance (IIGG) Program and the Council on Foreign Relations (CFR) more broadly. IIGG and CFR aggressively seek to generate and disseminate ideas and analysis that can shape and influence public discussion and debate. The rise of online video has intensified the already fierce competition for reaching both elite and mass audiences. If IIGG and CFR fail to use video as an additional means of communication we risk missing out on the chance to maximize the impact of our work. If, however, IIGG and CFR exploit the potential of online video, we have an exciting opportunity to increase our ability to enrich and shape the public debate both in the United States and beyond its shores on how to tackle pressing global challenges.

CFR tested the potential of using video to disseminate ideas with a pilot program in early 2011. CFR.org produced several dozen experimental videos with IIGG fellows and other scholars and policymakers. Early results have been positive—even before launching a full-scale marketing effort to publicize CFR videos, average monthly viewership rose 400 percent. Several pilot videos attracted larger audiences than equivalent text offerings typically had attracted. Moreover, several high-traffic news portals have committed to distributing future CFR videos to their own substantial audiences.

The Robina Foundation's support would make it possible to develop IIGG's and CFR's capacity to conceive, produce, and market professional-quality, short-form videos. IIGG's and CFR's experts would be trained in the best practices for structuring and conducting video interviews and briefings, and new interview and expert briefing series would be developed.

This project promises to substantially increase the impact of IIGG and the rest of CFR by transforming how they communicate and engage with their target audiences.

CFR requests \$1,380,860 over the next five years to implement its online video project.

PROPOSAL

A. RATIONALE AND CONTEXT

The explosion in online video has revolutionized the way audiences consume and interact with news, ideas, and commentary on public policy issues. Increasingly video has become the medium of choice on high-traffic news sites and blogs. The same is true for Facebook, Twitter, YouTube, and other social media. These networking and sharing sites are capturing a larger and larger portion of total time spent online—they now account for more than twice the time of any other activity online.

The national audience researcher comScore reports that U.S. online video viewership rose 50 percent in the last year. The number of viewing sessions is growing by about 10 percent, as is the length of time each viewer spends watching video. The surge in online video use tracks with the growth in the use of mobile devices, which is growing at a compound annual rate of 120 percent. This has led to a forty-fold increase in video use in just five years.

Some universities and non-profit organizations have recognized the potential that online video has for educating and informing. A good example is Khan Academy, whose mission is to provide a free world-class education to anyone anywhere. Its website, khanacademy.org, offers more than 2,400 videos covering topics ranging from arithmetic to physics to finance to history. The videos run up to ten minutes in length, and they are designed to enable people to pursue self-paced learning whether inside or outside the classroom. Khan Academy's videos have been viewed nearly sixty-eight million times.

Another compelling example of how online videos can educate and inform is the phenomenal growth of TED.com, whose motto is "Riveting talks by remarkable people, free to the world." TED.com's more than 900 video presentations (TED Talks) cover topics ranging from the origins of pleasure to the surprising math of cities and corporations, to caring for engineered tissue. TED Talks reach a massive audience around the world. Some of its videos have been viewed more than ten million times.

Other think tanks have also begun to experiment with short video formats. The Brookings Institution currently produces a video podcast titled "@ Brookings Podcast"—a weekly look at the issues behind the news. The Center for Strategic and International Studies (CSIS) publishes a video series titled "Small Screen Sessions" on an approximately weekly basis. The CATO Institute produces a video series titled "Cato Weekly Video." The Asia Society produces a variety of video segments.

The rise of online video intensifies the already fierce competition for the attention of both elite and mass audiences. This makes it all the more urgent for the International Institutions and Global Governance Program (IIGG) and the Council on Foreign Relations (CFR) to develop their own robust online video effort. Failure to do so will risk losing their share of an important audience despite having a superior intellectual product. But if we successfully exploit the potential of this new communications channel, we have an exciting opportunity to increase the impact of our work.

In spring 2011, CFR undertook a limited pilot program to produce short videos with IIGG fellows and others in formats that ranged from single-expert testimonies to host/guest interviews to one

host/two guest interviews. The pilots covered topics as diverse as the earthquake in Japan, the death of Osama bin Laden, and the U.S. debt ceiling crisis. The experiment taught us several lessons. One is the need to experiment with different formats to find the ones that work best for our subject matter and audience. A second is the importance of having the right hardware to produce compelling video. Most important here is having a two-camera set-up as opposed to the one-camera set-up we used. A third lesson is that “on-air” skills are critical. Not everyone is a born interviewer, interviewee, or briefer. The skills needed to create an engaging presentation can be learned, however. Finally, the pilot project confirmed that IIGG and CFR fellows are eager to make the move to video and they are committed to developing their on-air skills. They recognize the power that video has to move their ideas into the national discourse.

The pilot project’s early results revealed a substantial demand among IIGG’s and CFR’s audience for short-form videos. Even before launching a full-fledged marketing and promotion effort to build awareness of CFR videos within our constituencies, the average monthly viewership rose 400 percent. Significantly, some individual pilot videos quickly generated substantially more views than equivalent offerings in text format would typically have attracted.

Examples of such top-performers included a video briefing on the differences between Egypt’s and Iran’s revolutions, an interview on the state of U.S.-Japanese relations, an expert briefing in the wake of the Japan earthquake and tsunami, and an expert briefing on the consequences of the killing of bin Laden. In several instances CFR’s videos have sparked robust online debates on CFR’s YouTube channel, CFR’s Facebook and Twitter channels, and on external blogs.

Finally, we have received additional external confirmation of the large demand for CFR videos—several high-traffic news portals have already committed to distributing future CFR videos to their own substantial audiences. These news portals need content, and IIGG and CFR represent a thus far under-utilized source of analysis and information.

The results of the online video pilot project make us confident that with Robina’s support, the development of this new dissemination channel would transform the scale and impact of the intellectual work that IIGG and CFR undertake. In short, online video is a tremendous force multiplier when it comes to promoting analysis of and solutions to pressing global challenges.

B. GOAL AND STRATEGY

The online video project seeks to maximize the impact of the work of IIGG (and CFR more broadly) by recognizing and serving the growing appetite in the United States and elsewhere for online video.

We will accomplish our goal by:

- *Equipping CFR fellows with the skills and tools to use video effectively.* Working with an outside consultant, we will train fellows to master the art of video communication, whether as an interviewee, an interviewer, a blogger, or a briefer—or even a series producer. They will learn best practices for structuring and conducting video interviews and briefings, skills that will

make them more effective interviewees in other settings as well. Working with the consultant, we will also provide professional training to CFR's multimedia production staff, with the goal of teaching them how to train fellows and other staff going forward.

- *Producing a robust set of online video offerings.* We will experiment to find the best approach to theme, periodicity, consistency of host and format. Some video series may be ongoing weekly discussions of current events, others could offer a fixed number of episodes on a specific topic or theme. We will test different formats, including interviews with multiple interviewees, single-expert briefings, and topic overview videos. We will also capitalize on the impressive roster of U.S. and foreign government officials, CEOs, scholars, and newsmakers that come through the doors of CFR every day to highlight the themes and challenges that IIGG is addressing in its work.
- *Ensuring that CFR's online videos are of the highest professional quality.* To attract users, it is critical to deliver a satisfying visual experience. We aim to produce videos that will rival the TED talks or the *New York Times* video sections in quality. We will do this by purchasing the appropriate cameras and other production and storage equipment.
- *Aggressively marketing our online videos to major news portals.* We will pursue an ambitious and systematic marketing effort that will stress building partnerships with media outlets that are already reaching our target audiences. To this end, we will build on CFR's existing partnerships with CNN's GPS blog, Huffington Post, and WashingtonPost.com. We are currently working to forge new alliances with others major online news portals such as CNN video, Reuters's blog, Reuters's video, and PBS Digital Learning Library.
- *Accelerating IIGG's and CFR's already extensive use of social media.* IIGG and CFR have worked hard to connect with their target audiences via YouTube, Facebook, iTunes, Twitter, and other social media that are becoming the venue of choice for discussion of public affairs. This year CFR generated a record 56,561 media mentions, double the number just two years ago. The number of "fans" of CFR on Facebook grew 157 percent in just one year, and the number of CFR Twitter "followers" was up 264 percent over the last year. CFR has more than twice the number of Facebook fans and Twitter followers when compared to virtually every other U.S. think tank.
- *Exploiting CFR's extensive existing ties with colleges and universities.* CFR's outstanding academic outreach initiative has connected the work of its fellows to campuses around the country. We will develop and extend these relationships. Professors are increasingly integrating videos into their course syllabi, in part because of student demand but also because for many topics and concepts video provides a superior learning experience.

C. EVALUATION

CFR senior management will systematically track and evaluate the success of the online video project. The qualitative measures of success we will monitor include: the degree to which the videos produced

by IIGG and CFR meet or exceed established criteria for production values; the clarity with which the videos present new ideas and arguments; and IIGG's and CFR's success in making use of different formats and set-ups to present the content in a compelling way. The quantitative measures will include: the total number of views the videos generate on CFR.org as well as other portals (such as YouTube); the number of video viewers who convert to being regular consumers of CFR videos and other IIGG and CFR web content; and the performance of each video as measured by the percentage of viewers who watch an entire video (i.e. continue to watch the video beyond the first sixty seconds).

We will initiate a systematic external review of the online video project at the end of year two. The review will assess the various qualitative and quantitative measures noted above and recommend steps for refining and improving our video production. We will also tap the expertise of CFR members throughout the course of the project for their advice and recommendations on how best to use online video to disseminate ideas and analysis. CFR's distinguished roster of more than 4,500 members includes many people who stand at the top of the media, marketing, and policymaking worlds. Their insights will be critical in developing and refining our video productions.

D. SUSTAINABILITY

After five years, CFR will have developed sufficient skills across the research staff (both fellows and their research associates) that continued training and development will have become an integral part of the organizational culture. There would be some level of ongoing need for coverage of the production and engineering roles, which CFR would seek to cover by leveraging the Robina Foundation's initial investment to seek additional grants from other sources, and be partially funded by CFR's ongoing unrestricted operating budget.

E. STAFFING AND OVERSIGHT

David Kellogg, CFR's Chief Information Officer and Publisher, will oversee the video project. He and his editorial and multimedia team will work closely with James M. Lindsay, Stewart Patrick, and IIGG (and other CFR) fellows. CFR president Richard Haass has ultimate oversight responsibility for the project.

F. BUDGET

The total budget for the video project is \$1,380,860 over the next five years. These funds will cover the salaries of multimedia staff, training consultants, and equipment.

**Council on Foreign Relations
Video Production Budget**

	Total	Year 1	Year 2	Year 3	Year 4	Year 5
Program Management						
i Staff salaries and benefits	\$ 962,747	\$ 185,000	\$ 188,700	\$ 192,474	\$ 196,323	\$ 200,250
<i>Multimedia Production and Engineering Staff Salaries and Benefits</i>	\$ 962,747	\$ 185,000	\$ 188,700	\$ 192,474	\$ 196,323	\$ 200,250
i Outside consultant stipends	\$ 100,000	\$ 50,000	\$ 50,000	\$ -	\$ -	\$ -
<i>Professional Video Training (Outside Consultants)</i>	\$ 100,000	\$ 50,000	\$ 50,000	\$ -	\$ -	\$ -
2 Communications						
f Other (Motion graphics design for onscreen titles & CFR branded intros -- outside design agency)	\$ 30,000	\$ 30,000	\$ -	\$ -	\$ -	\$ -
Total	\$ 30,000	\$ 30,000	\$ -	\$ -	\$ -	\$ -
<i>Sub-total Program Management</i>	\$ 1,092,747	\$ 265,000	\$ 238,700	\$ 192,474	\$ 196,323	\$ 200,250
Equipment						
<i>Cameras and other equipment</i>						
Sony HD Video Cams for Studio including Tripod mount, tripod, controller and wire harness (2)	\$ 60,000	\$ 60,000	\$ -	\$ -	\$ -	\$ -
Switchers (2)	\$ 20,000	\$ 20,000	\$ -	\$ -	\$ -	\$ -
HD Video Storage and Archiving	\$ 28,000	\$ 20,000	\$ 2,000	\$ 2,000	\$ 2,000	\$ 2,000
<i>Sub-total Equipment</i>	\$ 108,000	\$ 100,000	\$ 2,000	\$ 2,000	\$ 2,000	\$ 2,000
TOTAL DIRECT COSTS	\$ 1,200,747	\$ 365,000	\$ 240,700	\$ 194,474	\$ 198,323	\$ 202,250
Indirect Costs @ 15%	\$ 180,112	\$ 54,750	\$ 36,105	\$ 29,171	\$ 29,749	\$ 30,337
TOTAL PROGRAM COSTS	\$ 1,380,860	\$ 419,750	\$ 276,805	\$ 223,645	\$ 228,072	\$ 232,587

August 11, 2011

COUNCIL ON FOREIGN RELATIONS
PROPOSAL TO THE ROBINA FOUNDATION FOR A SCAN OF OPPORTUNITIES TO
INCREASE THE DIVERSITY OF THE FOREIGN POLICY FIELD

Approved

The Council on Foreign Relations (CFR) is proposing to conduct a scan of organizations that could be potential partners for CFR in an effort to increase the diversity of young people entering the fields of foreign policy and international relations. The proposal reflects CFR's ongoing discussions with the Robina Foundation about the fact that the foreign policy and international relations community in the United States does not yet reflect the racial and ethnic diversity of American society. As the nation's leading foreign policy membership organization and think tank, CFR has played and will continue to play a crucial role in attracting new voices into the foreign policy arena.

The proposed diversity scan would focus on two categories of possible partners. The first category would be existing organizations that currently have programs underway to encourage a more diverse group of people to consider careers in foreign policy and international relations. The second category would be organizations with a track record of promoting diversity but that have not specifically targeted the foreign policy field. In both cases, the scan would target initiatives directed at college students and recent college graduates. CFR already has successful partnership with Global Kids to encourage high school students from underserved and underrepresented groups to consider foreign policy and international affairs as a career. CFR's Term Member Program likewise aggressively recruits high achieving individuals in their late twenties and early thirties from underserved and underrepresented groups. The scan would outline how CFR might collaborate with the organizations it identifies and provide a preliminary indication of the kinds of resources needed to make the collaboration effective.

CFR is proposing to have Kimberly McClure conduct the diversity scan. Ms. McClure's CV is attached. She is a career foreign service officer, having first joined the U.S. State Department in 2003. She has been on leave from the State Department for the past year to pursue a CFR International Affairs Fellowship (IAF). Ms. McClure has used her time as an IAF to set up the Global Gateways Program. It seeks to introduce underserved youth to careers in international affairs and takes them abroad for their first international experience. She also co-chairs the Global Access Pipeline, which is a consortium of organizations (including CFR) that is working to increase the diversity of individuals in the international arena.

Ms. McClure will deliver her report to CFR no later than the second week in September. Her leave from the State Department ends in mid-September. She will be heading off to China to head up President Obama's 100,000 Strong Initiative, which seeks to increase the number and diversify the composition of American students studying in China. So she has an incentive to complete the report on time. CFR will share a copy of the report with the Robina Foundation.

The proposed budget for the diversity scan is \$15,000.

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Washington, DC 20020

KIMBERLY M. MCCLURE

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EDUCATION

M.A. Public Policy, HARVARD UNIVERSITY

John F. Kennedy School of Government

2001 - 2002

B.A. International Relations, STANFORD UNIVERSITY

1997 - 2001

EXPERIENCE

Foreign Service Officer, U.S. DEPARTMENT OF STATE

2003 - present

- Political Officer, Specific Assignments Outlined Below

Co-Chair, GLOBAL ACCESS PIPELINE (GAP)

2011 - present

- Develop organizational structure for a consortium of organizations working at various levels to increase the quality and diversity of professionals working in the international arena across the government, non-profit, international organization, and private sectors
- Work with partner organizations to develop and roll out K-12 programming around the country that "develops model global citizens" and prepares American youth to compete globally through increased foreign language learning, study abroad, and global engagement opportunities
- Create membership fee structure to ensure longevity and financial stability for GAP

Founder/Lead Fundraiser, GLOBAL GATEWAYS SUMMER INSTITUTE 2010-2011

- Develop pilot program in Washington, DC that introduces underserved youth to international careers, foreign policy issues, and takes them abroad for the first time
- Raised \$350,000 for a range of initiatives that will increase the number of youth from underserved or minority communities exposed to global issues

International Affairs Fellow, COUNCIL ON FOREIGN RELATIONS 2010-2011

- Develop Global Gateways program and conceptualize a model/business plan to replicate it nationally over the next 5 years
- Serve as an observer for the Council on Foreign Relations Education Task Force
- Write articles on how to increase the participation of minorities in international affairs

**Special Assistant, U.S. SPECIAL REPRESENTATIVE FOR AFGHANISTAN & PAKISTAN
U.S. DEPARTMENT OF STATE, WASHINGTON DC**

2009 - 2010

- Advise Special Representative on Afghanistan and Pakistan issues
- Oversee substantive and logistical aspects of the Special Representative's foreign travel and meetings
- Work with USG offices to implement the Special Representative's priorities

Watch Officer, U.S. STATE DEPARTMENT OPERATIONS CENTER 2007 - 2008

- Drafted daily written briefs for the Secretary of State
- Briefed senior leaders at the Department of State on breaking world news

Political Officer, U.S. EMBASSY, KABUL, AFGHANISTAN

2006 - 2007

- Served as primary USG liaison to the Korean diplomatic team during the 2007 Korean Hostage Crisis in Ghazni, Afghanistan
- Planned and executed visits to Afghanistan for congressional and senior USG officials
- Reported on human rights violations and made recommendations for USG intervention
- Coordinated strategies for addressing human rights controversies in Afghanistan with other diplomatic missions and activists in Afghanistan's human rights community

Consular Officer, U.S. CONSULATE GENERAL, MUMBAI, INDIA 2003 - 2005

- Assisted American citizens traveling throughout Western India with consular needs
 - Interviewed and determined eligibility of Indian citizens seeking visas to the U.S.
 - Investigated egregious cases of possible visa fraud in Western India
-

LANGUAGES

Afghan Farsi (Dari) - proficient

Portuguese – proficient

Spanish – proficient

AWARDS/MEMBERSHIPS

Council on Foreign Relations, Term Member

U.S. State Department Meritorious/Superior Honor Awards (2007, 2005, 2004)

U.S. Department of State Franklin Award for Language Excellence (2006)

U.S. Department of State Thomas R. Pickering Foreign Affairs Fellowship (1999)

UNIVERSITY OF MINNESOTA – Reviewers' Comments & U of M Response

Fagan:

Overall design suggests that the potential for a significant yield of new knowledge that otherwise would not be produced is high: sound institutional design

Change? Should make more explicit how the project anticipates the markets for criminal justice policy and what drives those markets (besides politics).

Design anticipates methods to bring about systemic changes, but externalities have a way of spoiling plans. Systemic changes probably won't be evident until just beyond the horizon of the initial investment.

Strengths:

- Design + corrective involvement of local practitioners and visiting scholars
- Program takes a long view
- Brilliant and productive group of scholars and visitors.
- Architecture of the institute – attention to the need to train a new generation of scholars and leaders

Shortcomings:

More topical concerns than concerns about the design or work plan.

- Should focus more on states: focus on the legislative process would be interesting and important. Political scientist in the mix would contribute.
- Pay attention to political economy (dev in incarceration and other punishments required political process to move resources from one group to another.
- Need focus on statute – statute process
- Add an "ad law" scholar so have perspective re: sentencing guidelines and commissions, how prosecutors use formulae for plea bargaining.
- Add empirical work. Should this be more central to the Institute?
- Add themes of drug policy or race.
- Little weight given to constitutional criminal procedure: criminal procedure will be the driving force in the mechanics of criminal justice, rather than the law itself.

Budget: May need cost increases each year.

Goals: discuss both near-term and long-term.

Ross:

Not aware of any academic-based institution that is focused on the study, design and development of rational and innovative criminal justice policies. Opportunity to help governments design policies which enable budget savings while enhancing fairness.

Strengths:

- People involved.
- Ability to involve experts from other academic institutions, top practitioners and experienced policy makers.
- Conferences provide opp to bring national attention and focus to criminal justice policy issues.

Shortcomings:

- Ambitious goals and agenda: timeline. Institute needs to become a well-known and established entity as quickly as possible. Significant administrative and entity-building activities that may require modification of the timelines set forth in the proposal. Need institution-building and communications plan that will place the org on solid footing and get word out.
- Should include practitioners and policy makers from other jurisdictions

Budget: sufficient funds to support an effective advisory board and for conferences?

Suggestion: develop benchmarks that will help both the U and RF determine the success of the grant. Need to id ways to measure institute's involvement in bringing about change.

Murphy:

Program has the potential for transformative effect.

Strong likelihood that will yield significant new or additional info.

Hard to determine if will lead to larger systemic change.

Strengths:

- People in institute + plan to involve others
- New Model Penal Code

Shortcomings:

- Outreach to outsiders skewed to current contacts – Hispanics
- Existing bias for shortening all criminal sentences
- Overriding role Congress has played in the federalization of crime and the lengthening of sentences should not be overlooked and must be considered for effective change
- Budget appears to be loosely constructed. Budgets need to be tied to the result sought for each part of the proposal.
- Could tighten the proposal: clarify the focus of the proposal, especially the extent the Institute may want to contribute to criminal law in other countries. Make priorities clearer. Should take full advantage of the data collected by the US Sentencing Commission

May want to set certain reporting periods as the Institute's planning progresses and specific programs are being implemented.

Meares:

Strengths:

- Personnel
- Three streams are appropriate areas of inquiry: appropriate, but may not be "right" if goal is to impact and reform our broken criminal justice system.
- Criminal justice policy drives the system, so attention must be paid to it. Not clear that there is a clean line between it and sentencing as the proposal suggests. Criminal law theory is a separate inquiry, but not clear that deep examination of criminal law theory will lead to concrete reform strategies.

Weakness:

- Somewhat **amorphous** relationship proposal articulates between the structure of the Institute and the goal of transforming American criminal justice. The sentencing stream seems to be structured to have the greatest potential to achieve systemic impact.
- Not hopeful about the potential impact of a nationwide blue ribbon commission report on criminal justice reform. Broad-scale national attempts at reform aimed at broad problems are doomed. Need work directed to longstanding problems.
- Criminal justice ~~policy~~ ^{theory} stream: not scaled as broadly as the criminal justice policy stream (which is good?). Problem is lack of engagement with policy and practice. Each issue (drug offenses, strict liability, etc.) would be better pursued in concert with the policy stream. Need collaborators who are not simply academicians – glaring weakness!
- Weakness could be addressed by a strong clinical component.
- Not sure the structure, in particular the relationship between the researchers and policymakers and practitioners on the ground has been completely thought through.
- Criminal justice policy work should be more targeted and should identify particular issues as opposed to grand systemic reform: e.g. how to lower the incarceration rate of AA men, role of policing, relationship between prison and mortality.

Wippman Reponse:

U of M aims to assist in addressing both policy problems and structural conditions that have led to them. Notwithstanding Murphy's comment, do believe that the severity of punishment policies and the numbers of people in confinement are among the problems to be addressed.

Ross' comment about start-up time: given a great deal of consideration to these issues and intend to hit the ground running. October brainstorming conference to

fine-tune criminal law theory agenda and strategy. Public inaugural conference in Nov. First annual conference – April 2012.

Benchmarks:

- Unrealistic to identify changes in policy and practice hope to influence in specific ways by specific dates.
- Don't want to only report processes and outputs – bean counting.
- Institute will need to have objectives and planned program activities, but it will also need to respond to opps and probs. That's why the budget sets out broad spending categories rather than detailed sub- and sub-sub budget lines.
- **Suggests: Foundation ask U by year's end to prepare short reports setting out milestones – primarily outputs and processes – for the first 24 months in some detail for the three program areas (theory, practice, policy) and, in lesser detail, setting out more substantive aspirational goals for the following three years.**

Emphasis on issues of ethnicity, race and gender, ad law, and legislation are integral components of current plans.

Empirical research is unrealistic – very expensive, not in sweet spot of faculty.

David Wippman

Dean of the Law School and William S. Pattee Professor of Law



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Professor David Wippman is a recognized authority in international law. He has taught public international law, international criminal law, international human rights, and ethnic conflict. He received his B.A., summa cum laude, from Princeton University in 1976, his M.A. through a fellowship in the Graduate Program in English Literature at Yale University in 1978, and his J.D. from Yale Law School in 1982. While at Yale, he was the editor-in-chief of the *Yale Law Journal*. He clerked for The Honorable Wilfred Feinberg, Chief Judge of the U.S. Court of Appeals for the Second Circuit.

Professor Wippman became Dean of the University of Minnesota Law School on July 1, 2008.

Previously, he was a professor and Associate Dean at Cornell Law School and served as Vice Provost for International Relations at Cornell University.

In 1998-99, he had taken a year away from Cornell to serve as a director in the National Security Council's Office of Multilateral and Humanitarian Affairs, where he worked on war crimes issues, the International Criminal Court, economic sanctions, and U.N. political issues.

Before joining Cornell, Professor Wippman practiced law for nine years in Washington, D.C., with a focus on international arbitration, political consulting on public and private international law issues, and representation of developing countries in litigation. He has been a visiting scholar at the University of Ulster, Northern Ireland. He has co-authored two recently released books on international law: *International Law, Norms, Actors, Process: A Problem-Oriented Approach* and *Can Might Make Rights? Building the Rule of Law After Military Interventions*.

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Professor Michael Tonry specializes in criminal law. He teaches courses in criminal law, jurisprudence, and comparative law. In 1990, he was named the Marvin J. Sonosky Chair of Law and Public Policy. From 1999 to 2004 he was also Professor of Law and Public Policy and director of The Institute of Criminology at Cambridge University. Since 2001, he has been a visiting professor at the University of Lausanne, Switzerland. He has also been a senior fellow of The Netherlands Institute for the Study of Crime and Law Enforcement, Leiden, since 2003.

Professor Tonry received his A.B. from the University of North Carolina, Chapel Hill, and his LL.B. from Yale. He practiced law with Dechert, Price & Rhoads in Philadelphia and with Sonnenschein, Carlin & Nath in Chicago, specializing in corporate and real estate finance. Before joining the Minnesota faculty in 1990, he held academic posts at the University of Chicago; the University of Birmingham, England; and the University of Maryland.

In 1983, he moved to Maine to practice law, direct the Castine Research Corporation, a non-profit corporation created to receive government and foundation grants to support research and scholarship, and edit *The Castine Patriot*, a weekly rural newspaper. He founded and, from 1987 to 1990, directed the MacArthur Foundation-United States Department of Justice Program on Human Development & Criminal Behavior. During 1994-95, he was a Fellow of All Souls College, Oxford University. He has at various times held visiting posts at the University of Leiden, The Netherlands; the University of Lausanne, Switzerland; and The Max Planck Institute on Comparative and International Criminal Law, Freiburg. He was, from 2000 to 2010, editor of *Criminology in Europe* and edits *Crime and Justice - A Review of Research*, the Oxford University Press series *Studies in Crime and Public Policy*, the Oxford University Press series *Oxford Handbooks on Criminology and Criminal Justice*, and the Oxford University Press series *Studies in Penal Theory and Philosophy* (with Antony Duff).

The Robina Institute of Criminal Law and Justice

Proposal to the Robina Foundation May 5, 2011

1. Executive Summary

2. Full Proposal

Appendix A	Administrative Structure
Appendix B	Research Stream on Criminal Justice Policy
Appendix C	Research Stream on Sentencing Law and Policy
Appendix D	Research Stream on Criminal Law and Criminal Process
Appendix E	Year 1 Activities

3. Potential Reviewers

4. Draft Budget

The Robina Institute of Criminal Law and Justice

Proposal to the Robina Foundation
May 5, 2011

Executive Summary

The creation of the Robina Institute of Criminal Law and Criminal Justice will enable the University of Minnesota Law School to create the preeminent program on criminal law and criminal justice in the United States, and one of the strongest in the world. Everyone will win if that happens. The Law School will be in a position to influence changes in research, doctrine, and policy concerning criminal law and criminal justice in the United States. American criminal law, procedure, and justice are broken. The Institute will play a major role in fixing them. The Institute will strengthen the Law School's faculty and curriculum, create new educational and career opportunities for students, and enrich relations with practicing lawyers and government officials. The visibility and status of the University and its Law School will be enhanced.

Organization. The proposed Institute is the mechanism for making those things happen. It will be built around the Law School's existing senior criminal law faculty, augmented by promising younger faculty, strategic new hires, short-term research fellows who aspire to academic careers, and a regular flow of nationally and internationally prominent visiting scholars and practitioners. The Institute will establish ongoing substantive—not pro forma, but substantive—collaborations with other leading criminal law and criminal justice programs in the United States and elsewhere. There will be collaborations with other University of Minnesota departments (government, philosophy, sociology, political science, history). The work will be organized around three main streams of activity, each led by current faculty members working with an external co-leader: criminal law theory (Antony Duff), sentencing and punishment (Richard Frase and Kevin Reitz), and criminal justice policy (Michael Tonry). Components of work in each of the streams will address selected issues in juvenile justice, international criminal law, and comparative and cross-national studies. The internal and external co-leaders of the three streams, working together, will develop and implement strategic, cumulative programs of research, conferences, law reform proposals, and publications. Annual Robina Conferences will highlight their work. The streams, and their work, will feed into a major reorganization of criminal law teaching and learning in the classroom, the law clinics, and student work opportunities.

→ **Why Minnesota?** No other American law school could realistically propose such a program. Minnesota's senior criminal law faculty is often described as the strongest in the United States and possibly the world. Its breadth and depth of coverage are matched nowhere. In criminal law theory, Antony Duff is universally acknowledged as a scholar of the highest rank. In punishment theory, no other law school can match Antony Duff, Richard Frase, and Michael Tonry as a group. Nor can any law school come close to matching Frase and Reitz on sentencing law and policy, or Reitz and Tonry on criminal justice policy. Barry Feld has few or no equals in juvenile justice. Frase and Tonry have few or no equals in comparative and cross-national studies. The international criminal law group of Oren Gross, Fionnuala Ni Aolain, and David Wippman, is impressively strong.

Why Now? This is a moment when an Institute like that proposed can have transformative effect. The American systems of criminal law and justice are a mess. Forty and fifty years ago, criminal law and procedure were glamorous, dynamic subjects. They attracted the most talented academics and the most idealistic students. The *Model Penal Code* served as a law reform model throughout the English-speaking world, the Supreme Court was celebrated world-wide for integrating human rights concerns and protections into criminal procedure, and the U.S. was admired everywhere as a beacon of progressive, humane criminal justice policies and practices. In 2011, it is different. With its three-strikes, life-without-possibility-of-parole (LWOP), and mandatory sentencing laws; an 800 per 100,000 imprisonment rate—8 times higher than the average of other developed countries; and one-third of black men in their 20s in prison or jail or on probation or parole, the United States is generally viewed elsewhere as an exemplar of what not to do. Substantive criminal law and criminal procedure have atrophied as the Supreme Court weakened and muddled doctrine in response to the exigencies of the War on Drugs. In law schools, most of the glamour and excitement are long gone. BUT, that will all change. American criminal law and procedure, and criminal justice and sentencing policy, must change, and will. Minnesota can help show the way.

External Collaborators. For each stream, there will be an external co-coordinator and at least one continuing collaborating institution. Here are some illustrative possibilities. For criminal law theory, the inside coordinator will be Duff and the outsider might be Douglas Husak (Rutgers) or Nicola Lacey (Oxford); the corresponding institutions might be Rutgers and All Souls College, Oxford. For sentencing law and policy, the inside coordinators will be Frase and Reitz and the outsiders might be Joan Petersilia, Stanford, or Andrew Ashworth, Oxford; the corresponding institutions would be Stanford and Oxford. For criminal justice policy, the inside coordinator will be Tonry and the outsider might be Jeffrey Fagan, Columbia, or Hans-Jörg Albrecht, director, Max Planck Institute for Comparative and International Criminal Law, Freiburg, Germany; corresponding institution: Max Planck Institute.

Teaching and Students. The work of the Institute will feed naturally into broadening the criminal law curriculum, strengthening the criminal law concentration, expanding criminal law clinical programs, establishing new degree programs, providing numerous opportunities for students to work for and participate in strand activities, and creating a variety of new job opportunities. There will be many opportunities for student placements and internships nationally and internationally. Minnesota faculty have the contacts to arrange summer placements, internships, and externships in most of the leading criminal justice reform organizations (examples include Human Rights Watch, the Vera Institute in New York, the Sentencing Project in Washington, the ACLU, the CATO Institute, various Open Society Institute affiliates nationally and internationally, and internationally active NGOs). Over time, those associations will provide rich networks of employment opportunity.

? Research & advocacy for reform

Concrete Products. Each of the three activity streams offers realistic hope of substantially improving American law, policy, and practice. The Model Penal Code was drafted to fit the beliefs and policy preferences of an earlier era; the Institute's criminal law work could lay a foundation for development of a body of substantive criminal law for a new century, grounded in a renewed understanding of the ends that criminal law can be expected to serve -- as in parallel

Kevin Reitz is doing in his work as Reporter for a second edition of the Code's sentencing provisions. The Institute's work on sentencing and punishment, through its technical assistance, its creation of archives and data bases, its scholarly output, and its critical engagements with current sentencing policies and practices, could importantly influence the direction of sentencing policy in the states. The Institute's policy work could show the way forward to create a criminal justice system of which Americans can once again be proud and on which outsiders can look with respect. These are ambitious aims and may be beyond the reach of one institute. Nonetheless, the people now on hand and others who will join them are uniquely placed to have influence out of proportion to their numbers and the amounts of money involved. A more detailed outline of the Institute's work is contained in Appendices B-D.

The Robina Institute of Criminal Law and Justice

Proposal to the Robina Foundation
May 5, 2011

Full Proposal

The University of Minnesota Law School will create the Robina Institute of Criminal Law and Justice, with funding for an initial period of five years; an application for further funding will be made on the basis of the Institute's performance over its first three years. This proposal describes the Institute's structure (§ 1); the context that makes its creation both important and likely to be fruitful (§ 2); its aims (§ 3); how it will be organized to achieve those aims (§ 4); how success will be defined and assessed (§ 5); and how it will continue after its first five years (§ 6). The appendices describe in more detail the Institute's administrative structure (Appendix A) and the three research streams (Appendices B—D).

1. *The Institute*

The Institute will be based in the University of Minnesota Law School.

Personnel will include—

- Two directors (Antony Duff and Michael Tonry): full-time senior tenured faculty who will give intellectual leadership and direction.
- Other existing senior and mid-career criminal law faculty at the University of Minnesota Law School (Susanna Blumenthal, Barry Feld, Richard Frase, Perry Moriearty, Kevin Reitz).
- Two entry-level faculty appointments, in addition to one criminal law clinical appointment to advance experiential learning capacity in the criminal law arena.
- A half-time chief of operations, and an administrative assistant.
- Two research fellows, who will provide essential staff support for major Institute projects and whose roles will include both research and administration.
- Faculty from other departments in the University with relevant interests and expertise in criminal justice (political science, sociology, philosophy) and other local law schools.
- An advisory board composed of local practitioners and policy makers, and eminent scholars from elsewhere in the United States.

The Institute's structure is described in more detail in Appendix A.

The Institute's central aim will be to develop and sustain activities which will influence, improve and enrich criminal justice policies in the United States and elsewhere. To that end, it will—

- initiate, and provide pump-priming support for, coordinated research in a number of streams dealing with different aspects of criminal law and justice;
- develop and strengthen appropriate links between researchers, policy-makers and the public;
- develop and execute a strategy for the dissemination of reports, proposals, publications, and information about Institute activities, to policy makers, practitioners, news media, and the general public;
- help to achieve and maintain a preeminent role for the University of Minnesota Law School in curricular developments and innovation in criminal law and criminal justice;
- develop experiential and external learning opportunities for students interested in criminal law and criminal justice while at the law school;
- provide fellowships for senior scholars, junior scholars, early career researchers, and policy makers and practitioners;
- organize a major annual Robina Conference;
- develop a web site to assist the coordination and dissemination of research and curricular innovation.

These activities are sketched in more detail in § 3 below. A central aim is the development and strengthening of boundary-crossing connections and conversations: between researchers from different disciplinary backgrounds, different jurisdictions, and different traditions of criminal law theory; between scholars and policy makers and practitioners; between researchers and students. The international dimension, especially connecting American and European thought, is crucial.

2. *The Context*

Several features of the local, national and international context make this a very appropriate time and place to create such an institute. Part of that context is the climate of crisis that surrounds criminal law and criminal justice both in the US and elsewhere. The perceived crises include—

- *Overcriminalization*. The scope of the criminal law is constantly expanding, as legislatures reach for criminalization as a first rather than as a last resort. More and more people thus become liable to conviction and punishment for an ever wider range of conduct, conduct that is often remote from the harms with which the criminal law should be concerned. The deeper problem, however, lies not so much in overcriminalization as in an increasingly unprincipled criminal law: criminal justice policies and legislation seem to lack any principled or coherent conception of the proper aims and roles of criminal law in a modern democracy.
- *Policing and Prosecuting*. One effect of an ever-expanding criminal law is that police and prosecutors must exercise an ever-wider discretion in deciding which cases to investigate,

whom to prosecute, and on what charges. Such discretion has obvious dangers: the danger of selective, discriminatory police attention that bears especially harshly on particular (often disadvantaged) groups; the danger that prosecutors will choose charges and plea-bargains on the basis of convenience, of economy of effort, of personal political advantage, or of actual or perceived bias, rather than of justice.

- *Criminal Process.* Fundamental flaws in the American criminal justice system, attributable in part to resource limitations but exacerbated by overcriminalization, have undermined the criminal process. Instead of facing conviction and punishment only after a fair trial in which they can answer the charges that they face, alleged offenders are too often processed through a system of plea bargaining that has little to do with justice or with the truth of the charges, and more to do with the cost-effective control of an expanding criminal population.
- *Criminal Punishment.* The most serious problems of U.S. criminal justice systems include over-punishment (notably in its prison populations, with the U.S. as the world "leader" in incarceration rates) and racial and ethnic disparities in sentenced populations (with a black male incarceration rate nationwide that is 7 times the white male rate). Major pathologies of this kind must be combated through system-wide reforms. Since criminal law is administered primarily by the states, all of which have distinct systems and circumstances, considerable effort is required to advance jurisdiction-by-jurisdiction change.
- *After Punishment.* Punishment effectively continues for many offenders after the completion of their formal criminal sentence. They might notionally have "paid their debt" to society, but they do not gain the readmission to ordinary civic life that the metaphor of debt-paying suggests: they may be subject to further legal restrictions (including disenfranchisement, which is of enormous symbolic importance); they are also likely to face a range of economic and social barriers that make resocialization almost impossible.

American criminal law and justice systems have lost their way, and with that any shared public understanding of their roles has been lost. The result is a collection of systems whose functions have become unclear; whose operations are certainly expensive and harmful, but whose benefits are far from clear; and whose legitimacy is increasingly called into doubt both by those subjected to the law's coercion and by those in whose name the criminal law claims to act.

Criminal law practitioners, policy makers, researchers, and theorists must confront these challenges concerning the role of criminal law in the domestic sphere. But they must at the same time get to grips with the expanding realm of transnational and international criminal law, which presents its own significant challenges. The central questions are what the jurisdiction, remit and aims of international criminal law and criminal tribunals should be, and what the relations (and the divisions of jurisdictional labor) should be between domestic and international criminal law.

A second, more hopeful, aspect of that context is that there is no lack of intellectual resources to address the various crises of criminal justice. In the U.S. a large number of researchers and scholars are engaged, from different disciplinary backgrounds and with different agendas, with aspects of criminal justice, and are producing both incisive diagnoses of our current malaises and innovative ideas for how to tackle them. Some of these researchers, notably some of the

internationally recognized leaders of research in sentencing and penal policy, are already based in the University of Minnesota Law School. Outside the U.S.—especially in Canada, in Britain, and elsewhere in Europe, where problems akin to those facing the U.S. have been tackled in different ways, on the basis of political and moral ideals that should resonate with American thinking—there is also a wealth of creative thinking about the proper purposes and workings of criminal law. *What is missing is an institutional structure (and resources) that enables these researchers and scholars to work together more effectively; to engage effectively with policy makers and practitioners; and to train new generations of students and scholars who can take the work forward.* One thing that makes the need for such a structure particularly acute is that productive research in this area must be genuinely interdisciplinary and inter-jurisdictional: it must mobilize the resources of a range of disciplines, including law, criminology, philosophy, political science, and history; it must involve conversations and explorations between different countries and different legal traditions. What is required is nothing less than a rethinking of criminal law—of its aims, of its place in a contemporary democratic polity, of the principles that should guide and structure its operations. Such a rethinking must be historically situated, empirically grounded, and informed by normative theorizing; it can be achieved only collaboratively, through extensive conversations and explorations reaching across disciplinary and jurisdictional boundaries. But such collaborations are very hard, often impossible, to secure and maintain without appropriate institutional resources.

A third, more local aspect of the context is the existing research strength to be found in the Law School at the University of Minnesota, where scholars have long been engaged in just the kind of empirically grounded, theoretically informed, policy-oriented research that is needed. Scholars such as Barry Feld, Richard Frase, Kevin Reitz, and Michael Tonry have produced seminal work in areas such as sentencing policy, juvenile justice, criminal justice policy, and comparative criminal law and justice. The criminal law faculty has recently been strengthened by the appointment of Antony Duff, who is internationally recognized as a leading theorist of criminal law and punishment, and who brings with him experience of running large interdisciplinary research projects in the UK (on the criminal trial and on criminalization) as well as close connections to European networks of criminal law theorists. Close relations have also been established with two leaders in criminal law and justice scholarship and policy-oriented research in Britain—Andrew Ashworth and Nicola Lacey (both at All Souls College, University of Oxford); they will be regular visitors to Minneapolis. In addition to this core group of senior scholars, the Institute will support the appointment, mentoring and development of the next generation of leading scholars/teachers in the criminal law area among newly hired Minnesota faculty, short-term research fellows, and younger scholars elsewhere who participate in Institute activities; this will enable the Institute to sustain and enhance its intellectual and policy influence nationally and internationally. The Law School also has internationally recognized scholars working in international criminal law and human rights with whom fruitful collaborations will be possible. The Law School's existing reputation as a center for criminal justice research, and the wealth of relevant experience among its faculty, make it an ideal place in which to create a new Institute that will transform research in criminal justice in the U.S.

3. *The Institute's Mission*

The Institute's mission will be to foster the systematic, critical, interdisciplinary, international, and integrated policy-oriented study and teaching of criminal law—

- *policy-oriented*, because an essential aim is to engage productively with policy-makers and practitioners of criminal justice in ways that make a difference to their understanding of what they are doing, of what needs to be done, and of how it can be done.
- *systematic*, because what is needed is an institutional structure that will bring together some of the often disparate kinds of research being done in criminal justice;
- *critical*, because what is needed is not just to understand where we are now, but why we have the problems we do and how we can pursue viable reforms to address those problems;
- *interdisciplinary*, because any serious critical work of this kind will need to draw on a range of disciplines, to understand the operations and underpinnings of our present systems, and to explore plausible directions for reform;
- *international*, because we can gain a clearer understanding of our present situation, and of possible directions for change, by drawing on the thought and experience of other countries, and because the increasing transnational and international dimensions of criminal law make international collaboration and dialogue ever more important;
- *Integrated*, because in addition to applying these dimensions to scholarly and policy arenas we will also train and teach the next generation of leading practitioners, policy-makers and scholars, making Minnesota the leading educational home for thinking about, teaching in, and changing the criminal law.

The Institute will connect theory to policy and practice, and bring together researchers from different disciplinary and national backgrounds to work together fruitfully on common themes, to engage with policy-makers and practitioners about practicable ways of responding to the serious problems that we face, and to equip new generations of students to tackle those problems. This linkage between policy and practice will enhance and revitalize the student experience and students will be the direct beneficiaries of an invigorated and challenging environment, advancing the broader model of arcs to excellence that pervades the Law School's approach to scholarly and teaching distinction.

4. The Institute's Operations

The Institute's main functions will be pursued primarily within three broad, overlapping streams of activity, augmented by work focused on emerging targets of opportunity that cut across these streams, concerning international criminal law, juvenile justice, and comparative and cross-national studies.

Research Streams

The research streams will build on the existing scholarly and policy strengths of the Law School's criminal law faculty, augmented by strategic appointments that will bring greater depth

and diversity to the group of criminal law scholars at the Law School. This generational approach to new appointments will be particularly important in developing a balanced cohort of scholars, where generational leadership and the transfer and development of leadership skills will be a core element. The research streams give capacity for a depth of coverage and expertise at the Law School which will be unrivalled by any university in the United States, and arguably elsewhere. In its scholarly and policy work, the Institute will create and provide initial funding for a range of research streams, dealing with different dimensions of criminal law theory, practice, and policy. The first three streams (described in more detail in Appendices B—D) will be—

- **Criminal Law Theory:** the proper scope of the criminal law, its relation to other modes of legal regulation, the principles of criminal liability; the criminal process, especially the roles of police, prosecutors and judges, and the aims of the criminal trial (*Antony Duff's current (UK-based) project on the principles of criminalization is an example of a project that would fit in this stream, as is Michael Tonry's project on comparative judicial and prosecutorial practice, Barry Feld's research on police interrogation of juveniles, which will expand to cover adult interrogations, and Susanna Blumenthal's new historical project on fraud.*)
- **Sentencing Law and Policy:** system-wide reform efforts aimed at control and reduction of prison populations, elimination of racial and ethnic disparities in punishment, encouragement of principled, proportionate, and evidence-based sentencing practices, and the pursuit of fairness and legitimacy throughout system. (*Kevin Reitz's ongoing work as Reporter for a second edition of the Model Penal Code sentencing provisions, and Richard Frase's work on a principled framework for sentencing, are examples of projects that fall within this stream.*)
- **Criminal Justice Policy:** setting up a distinguished non-partisan commission of practitioners, policy makers, and scholars to report within five years on what an optimal US criminal justice system would look like in 20 years and how that optimal future might be achieved; immediate work would focus on the five most important policy challenges facing the American criminal justice system and how they may most effectively be addressed. (*The projects noted above, and others to be pursued within the other streams, are relevant to the work in this stream, as is much of Michael Tonry's and Kevin Reitz's previous and current work on crime control policy and racial disparities in the American criminal justice system.*)

In each stream the emphasis must be on new thinking—on new ways of conceptualizing criminal law and its roles and new ways of thinking about our responses to crime. It will also be crucial to ensure proper coordination and connections between the activities in the three streams, and to identify cross-cutting themes which impinge on all three streams: three such themes for which the Minnesota Law School already has significant expertise are juvenile justice (Barry Feld, Perry Moriearty) international criminal law (Oren Gross, Fionnuala Ní Aoláin, David Wippman) and comparative and cross-national studies (Francesco Parisi, Richard Frase, Michael Tonry). Two over-arching goals for all these activities are: 1) to influence policy making at both the domestic and international level, and 2) to apply insights from theory to the teaching of a new generation of students whose understanding of the functions, capacities and future of both domestic and international criminal law will have influence far beyond the Law School.

Streams will be led by coordinators whose responsibility will be to stimulate, organize and assist collaborative research projects on topics within the stream, and to identify researchers, both within and outside the U.S., to pursue such projects (see Appendices B-D for the names of some potential collaborators from outside the Law School). In advancing the goal of strengthening and sustaining the influence of the Law School, particular emphasis will be placed on utilizing our existing scholars and giving prominent roles to newly appointed scholars in the leadership of the Institute and its streams. We place particular importance on fostering the new generation of scholars and thinkers in criminal law, developing and honing their leadership skills.

However, given our broader ambitions for the project, and the Law School's ambition to achieve both national and international influence, there will be an important role for researchers from elsewhere within and outside the U.S. Senior researchers from other universities will be invited to act as coordinators or consultants for, or to help lead projects within, the research streams.

Coordination and collaboration between the streams will be crucial to the success of the enterprise: the problems of our criminal justice systems can be effectively tackled only by a properly connected series of projects that can draw on and learn from each other. This will be one task for the Institute's directors, assisted by regular meetings between the coordinators and the management committee, by the advisory board, and by the web site and the annual conference.

Academic Staff

Faculty Appointments: The Institute's mission will be strengthened by the addition of two outstanding early career scholars. With support from the Robina Foundation, the Law School has already appointed an internationally recognized senior scholar (Antony Duff) and is building continuing relationships with two of the leading scholars of criminal law in Europe (Andrew Ashworth and Nicola Lacey). The Robina Foundation has also supported a number of valuable research initiatives in the criminal law. This strategy has augmented our visibility in the scholarly and policy fields and means that with our existing senior scholars (Tonry, Duff, Frase, Reitz, Feld), we have the strongest group of senior scholars in the criminal law in the United States working together in one institution. However, without the presence of a younger cohort of scholars, we may lose the opportunity to build and influence the next generation of scholars and teachers.

Clinical Appointments: In tandem, we view criminal law as a key site for advancing skills based learning, particularly for those students wishing to pursue some form of criminal practice in their careers (e.g. white collar crime, criminal defense, public prosecution). To that end, the Institute will also support an expansion of clinical criminal law offerings by appointing one full time clinical member of the faculty. The clinical appointment will be fully integrated into the research life of the Institute, and the clinical program will offer exciting opportunities to advance and address "real-life" problems encountered in the broader criminal law research streams.

Research Fellows: The Institute's core faculty staffing will be augmented by the presence of a succession of Research Fellows, each appointed for up to three years (with two serving at any one time). Their participation, as well as that of newly-appointed teaching faculty, are necessary preconditions to achieving the institute's aims; many planned activities are labor-intensive and

will require ongoing, substantial, and first-rate substantive work by people other than senior law school faculty. The research fellowships are designed for young scholars embarking on academic careers, who will combine their own research (on topics falling within the Institute's remit) with active administrative, organizational, and substantive participation in the Institute's life and work, and in disseminating the results of its projects. This will provide necessary administrative support for the Institute's activities, while strengthening its research. Equally importantly, it will enable the Institute to shape the development of leading criminal law scholars of coming generations.

Fellowships

The Institute's mission will also be furthered by the funding of various fellowships, to be held at the Institute.

- ***Robina Distinguished Visiting Professors:*** These will be high profile, internationally known researchers in criminal justice, from the U.S. and from overseas. They will spend between one and four weeks in the Law School during which they will work with other Institute members and fellows; pursue their own projects and receive feedback on them; give at least one public lecture; participate in a workshop or conference on a theme connected to their work; and put on or contribute to an intensive seminar course for students at the Law School.
- ***Robina Visiting Professors:*** These will be more junior scholars—some of the rising stars in criminal justice research, from the US and from overseas. They too will spend between one and four weeks in the Law School, during which they will work with other Institute members and fellows, pursue their own projects and receive feedback, participate in a workshop, and put on or contribute to an intensive seminar course for students at the Law School.
- ***Robina Practitioner Fellowships:*** These will be held (full-time for a short period or part-time for a longer period) by leaders in the criminal justice field, especially from Minnesota—for instance, policy makers, legislators, judges, prosecutors, senior police officers, and journalists. The fellowships will enable the Fellows to step back from their daily work and reflect on the criminal justice issues with which the Institute will deal; to engage with other members and fellows of the Institute in conversations that will benefit all parties; and to engage with the Law School's students by offering seminars or contributing to courses.

This set of fellowships will serve a number of important aims. It will advance research and collaboration in criminal justice; it will help young researchers to establish themselves and to develop their skills; it will foster fruitful interaction between practitioners and researchers, and enable practitioners to reflect on their practice; and it will significantly enrich the criminal law curriculum for the Law School's students. It will also help to establish the Institute and the Law School yet more firmly as the center of research on criminal law and justice in the U.S.

Student Enhancement

The Institute will also make an important contribution to supporting students interested in the study and practice of criminal law and criminal justice. It will provide—

- *A capstone course* (once new faculty appointments are in place): this will provide students with a thorough, hands-on, introduction to criminal justice research, and to the task of connecting theory to practice.
- *Special seminar courses* taught by Robina Visiting Professors and Fellows: these will give students a chance to engage with some of the leading people in the field of criminal justice.
- *Research assistantships*: students will be selected to work as part-time and summer research assistants on Institute projects, which will give them invaluable training.

These provisions, together with the chance to attend some of the workshops and other events that the Institute will organize, and take advantage of the vibrant culture of research and engagement that the Institute will foster, will add very significant value to the education of students pursuing criminal law and justice, and enhance the Law School's reputation as a place to study criminal law and justice.

The Robina Conference

The Institute will hold at least one major, international conference each year, to highlight the Institute's activities, to disseminate the results of research projects conducted under its aegis, and to promote the interdisciplinary and international conversations on which productive research depends. The theme of each year's conference will be drawn from one of the research streams, but it will also and crucially aim to strengthen connections between the different streams.

Communications and Web Site

To maximize the Institute's policy impact, it will be necessary to disseminate the Institute's research, reports and policy proposals widely, with a particular emphasis on reaching government officials, legislators, prosecutors, public defenders, scholars, and others in a position to influence the future development of criminal law and criminal justice institutions. To this end, the Institute will seek funding for the wide dissemination of its work. Apart from scholarly monographs and papers arising from its research, it will publish a series of reports aimed at audiences of policy makers and practitioners, as well as at the wider public, and arrange conferences and meetings at which its work will be discussed with these wider groups.

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Another key mechanism will be a dedicated web site, which will be an important resource for members and fellows of the Institute, for those working on projects in the various themes, and for researchers and practitioners more broadly. It will publicize research projects and conferences; disseminate the results of research; maintain useful data bases of information and links to other resources; and enable those working on different projects in different streams to keep in contact.

(A central aim of the Institute's communication efforts will be to build and maintain links between researchers and practitioners—to ensure that researchers are able to talk to practitioners about their concerns, and that practitioners are able and helped to interact with researchers and to benefit from (as well as contributing to) the Institute's research agenda and projects. The Institute will also find ways to engage the wider public in informed debate about criminal justice: since one obvious barrier to the reform of our criminal justice institutions is the strength of

public opinion on the issues, we must find ways both of giving citizens a better and deeper understanding of the issues, and of facilitating more educated public debate about them. (The Community Workshops on the state budget that the Citizens League has been organizing in and around Minneapolis provide one good model of what might be done for criminal justice.)

5. *Measures of Success*

The Institute will have three sets of goals against which the extent of its success will be assessed.

Internal goals: The simplest set of goals consists in the fulfillment of the functions specified in § 4 above.

- **Research streams:** internal coordinators for each stream have already been identified (see Appendix A); external coordinators and consultants will be identified before the Institute begins operation (discussions are already under way with key people). By the end of Year 5 each stream will complete the program of work described in its outline (see Appendices B-D)—a program involving such activities as workshops and conferences, publishing books, articles and reports, and disseminating the results of the research to a wide audience.
- **Fellowships:** The first fellows will visit the Law School during Year 1.
- **Student opportunities** will be developed from the start: research assistantships will begin as soon as suitable research projects have started; the seminars by Robina fellows will begin with their visits; the capstone course will be developed when new faculty take up post.
- **Robina Conferences** will begin in Year 1, as major events to highlight the Institute's work: after Year 1, each will be based on work being done in one of the research streams, but will connect that work with the other streams.
- **The Website** will be designed during Year 1.
- **Policy makers** will be engaged from the beginning, through the advisory board and more informal contacts. Policy makers and practitioners will be key participants in much of the Institute's work, especially that in the Sentencing Law and Policy and Criminal Justice Policy streams. Work on improving public engagement will begin in Year 1, and the first public meetings or workshops will be held during Year 1.

See Appendix E for a more detailed provisional sketch of activities during the first year.

Changing the world: The Institute's primary aims are also those for which success will be hardest to assess.

- **Transforming research in criminal justice:** We can count the number of fellows who are appointed to the Institute, the number of researchers engaged in each stream, the number of conferences held, books and articles published, and the number of citations these publications generate: but these will have been worthwhile only if scholars can talk after a

decade about the way in which criminal justice research has been transformed by the more systematic and interconnected depth that the Institute has made possible.

- **Transforming law and policy:** The ultimate aim is to transform the character of public debates and deliberations about criminal justice theory, practice, and policy among policy makers, practitioners, scholars, and lay citizens. That is a tall order—and probably overly ambitious. Nonetheless that is the aim on the rationale that the Institute's reach should exceed its grasp. ⁽¹⁾ Whether we succeed and how close we come should be observable in a number of ways: ⁽²⁾ the existence of scholarly products that distill ideas and offer concrete reform proposals; ⁽³⁾ innovations in theory, policy, practice, and law that are demonstrably results of the institute's work; ⁽⁴⁾ completion of the tasks and products described in this proposal; ⁽⁵⁾ measurement of institute name recognition on the part of leaders of relevant professional and practice organizations; and measurement of the institute's reputation for influence, creativity, and usefulness among relevant practitioners and policy makers (e.g., state and federal sentencing commissions, senior staff in law reform NGOs). It will take time to be able to point to particular changes that could be attributed to the Institute's work (e.g., adoption of a revised Model Penal Code that reflects Institute research and proposals). Our hope is that, looking back, those involved in criminal justice will be able to say that the Institute made a substantial contribution to deepening and improving the process of debating and formulating penal policy—both directly through the projects that it initiates and the conferences and workshops that it runs, and less directly through the activities and influence of the students, researchers and fellows who pass through it.
- **Transforming student learning:** We can count the number of students who benefit from the Institute's activities, but the success of those activities will lie in the improvement in the quality of the students who graduate from the Law School having specialized in criminal justice, and the difference they then make in their profession.

Progress in all these dimensions will be monitored by the Management Committee: the Directors of the Institute will make annual reports to the Advisory Committee and the Robina Board.

Fund-raising: Another Institute aim will be to raise further external funding for its projects and activities. This is a challenging aim in the current economic climate: it will be pursued (both by the Directors and by the Coordinators of the research streams) partly by exploring other possible sources of funding (foundations and government agencies in the U.S. and elsewhere), and by working with collaborators who may have access either to institutional funds from their own universities or to funding from bodies outside the U.S., especially in Canada and Europe (since international collaborations form a key part of the Institute's mission).

6. The Institute's Future

This proposal seeks funding for an initial five years for the Institute, to give it time to establish its structure and activities and to begin to produce substantial outputs that will make a real impact on penal thinking, policy and practice. If the Foundation allows this, an application for funding for a further four years will be made on the basis of a successful first three years.

19 yrs

Ultimately, however, the Institute will need to become financially self-supporting—and should be able to do so.

- The Law School will eventually take over the costs of the Directors' posts, of the new faculty posts, and of the clinic post.
- Given the funding that is now sought, the Institute will be well enough established, and will have gained a high enough profile and reputation, before that funding ends to be able to raise further funding for its own future work.

7. Conclusion

This is an ambitious proposal, but it is appropriate to the scale and importance of the problems to be addressed. The Institute could transform research in criminal law and justice in the U.S., thus making a substantial impact on important social problems; it could be transformative for students and early career researchers, and thus for the future education and training of people to work in this area; and it could be transformative for policy makers and for a wider public, by deepening and enriching public debate and deliberation about criminal justice. It will enable everyone—researchers, students, policy makers, lay citizens—to understand present predicaments more clearly; and it will facilitate and support research that will explore new ways of dealing with those predicaments.

Robina Institute of Criminal Law and Justice

Appendix A

Administrative Structure

Two Directors

Antony Duff, Michael Tonry

Two (or more) Coordinators for each research stream

The lead coordinator(s) will be Minnesota faculty, but each stream will have at least one collaborator from outside Minnesota.

- *Criminal Law and Process* (Duff + external collaborator)
- *Sentencing Law and Policy* (Frase, Reitz + external collaborator)
- *Criminal Justice Policy* (Tonry + external collaborator)

Each stream's coordinators will decide how best to organize and structure the stream's activities, and will have a budget allocation for that purpose. A key responsibility for the directors and the management committee will be to ensure appropriate coordination and collaboration between the streams, and to allocate funding for activities that cut across the streams.

A Management Committee

The Directors

The Internal Coordinators for each stream

One faculty member dealing with Juvenile Justice

One faculty member dealing with International Criminal Law

Institute Members

Faculty members from inside and outside the Law School whom we wish to involve quite closely in the Institute's activities, including the external co-ordinators or collaborators for each of the research streams, and others who act as consultants for the streams or for the Institute.

Executive Director

If we can identify an appropriate candidate, this should be a 0.5 fte post.

Two Research Fellows

These will be three-year posts, aimed at young researchers aiming to embark on academic careers. The Fellows will have two primary kinds of responsibility—

- To pursue their own research, under the mentorship of Law School faculty, on topics falling within the Institute's remit.
- To play a significant role in the administration and organization of the Institute's activities (both centrally organized activities and those of the research streams), under the guidance of

the Executive Director.

The Research Fellows will also be given the opportunity, but will not be required, to undertake a small amount of teaching (this might be important for Research Fellows who hope to apply for academic jobs).

One Full-Time Administrative Assistant

Working under the supervision of the Executive Director.

Advisory Board

The Advisory Board will meet once a year to receive a report from the Directors on the past year's Institute activities and to discuss planned future activities. Its members will be—

- Eminent criminal justice researchers from outside Minnesota—for instance: Jeffrey Fagan (Columbia), Douglas Husak (Rutgers), Joan Petersilia (Stanford), Carol Steiker (Harvard).
- Local experts in criminal justice practice and policy—for instance: a senior prosecutor; an appellate court judge (serving or retired); a local criminal lawyer; perhaps members of local foundations with interests in criminal justice.

Members of the Advisory Board will also be available for informal consultations during the year.

Robina Institute of Criminal Law and Justice

Appendix B

Criminal Justice Policy Stream

The work of this stream will focus on imagining or designing how American criminal justice systems could or should look in 2030. A five-year plan will aim to culminate in dissemination and promotion of the report of a "blue ribbon commission" of 15 people, including prominent senior, perhaps retired, public officials. The report will describe how it would want the US criminal justice system to be different in 20 years and will identify the five most important policy challenges facing the American criminal justice system and the commission's proposals for addressing them. Precisely which 5 topics is a matter for exploration and negotiation; here are some possibilities:

- * Reducing absolute severity of punishments
- * Achieving radical reductions in prison use
- * Achieving radical reductions in racial and ethnic disparities in the justice system
- * Finding a viable balance between "homeland security" and criminal justice system operations
- * Developing an infrastructure for funding and implementation of social and developmental crime prevention
- * Understanding why crime rates rise and fall, and propose justice system changes premised on that understanding
- * Understanding future interactions among domestic, international, and transnational criminal laws and processes
- * Exploring criminalization and decriminalization.

Time Line

The time line will include 18 month's preparatory work, a 30-month working phase, and a 12-month dissemination and promotion phase. At least some lines of activity in the preparatory phase will continue into and inform the working phase.

Preparatory Work

The aims of the preparatory phase are to lay a foundation for and inform the work of the commission, generate high-quality publishable reports and analyses, and through the meetings and publications begin to generate a public profile for the commission: Major tasks:

1. Identify chair, select commission members, select staff and consultants;
2. Undertake preliminary background work, including workshops, consultants' papers, published articles and books on a number of major topics:

A. Why Have American Crime Rates Been Falling For Twenty Years?

External Collaborators: Philip J. Cook, Duke; Manuel Eisner, Cambridge

Inside Responsibility: Michael Tonry

- B. The Effects on Crime and System Costs of Alternative Policy Approaches for Reducing Racial and Ethnic Disparities;

External Collaborator: Marc Mauer, Sentencing Project

Inside Responsibility: Richard Frase, Perry Moriearty, Michael Tonry

- C. What Can American Policy Makers Learn from Policies and Practices in Other Countries? [Potentially there are multiple topics here—on organization of the justice system; on reconciling criminal justice and security needs; on criminalization/decriminalization and their effects; on prison population control; on social and developmental crime prevention.]

External Collaborator: Hans-Joerg Albrecht, Max-Planck, Freiburg

Inside Responsibility: Richard Frase, Michael Tonry

- D. Issues Agenda for Commission.

External Collaborator: Jeffrey Fagan, Columbia; Michael Smith, Wisconsin

Inside Responsibility: Michael Tonry

3. Hold Robina Crime and Justice Conference in April 2012 on Past and Future of American Criminal Justice.

Commission Work

1. Convene the commission 8-to-10 times over 30 months and smaller working sub-groups as needed;
2. Prepare and commission reports on relevant issues;
3. Prepare successive drafts of eventual final report;
4. Plan communication and dissemination strategy.

Dissemination and Communication

There will be three elements:

1. Through time of report release, devise and execute a strategy, including publication of reports and scholarly spin-offs (and possibly convening of public hearings), for establishing a public profile for the commission and its work.
2. Launch and carry out a major dissemination effort, advised by professional publicists, including a Washington or New York conference to release the report, congressional briefings, op-ed placements, small conferences, and workshops around the country.
3. Facilitate the publication of scholarly articles and books (with sole and joint authors and editors, including a 2013 *Crime and Justice* volume coming out of the 2012 Robina Conference)

Possible Co-coordinators

Crime Rates: Philip J. Cook, Duke, Public Policy and Economics; Manuel Eisner, Cambridge, Sociology and History; Daniel Nagin, Carnegie-Mellon.

Racial Disparities: William Julius Wilson, Harvard, Public Policy; Glenn Loury, Brown, Economics; Marc Mauer, Sentencing Project.

Robina Institute of Criminal Law and Justice

Appendix C

Sentencing Law and Policy Stream

Internal directors: Richard Frase and Kevin Reitz

Possible external coordinators: Joan Petersilia (Stanford), Andrew Ashworth (Oxford), Franklin Zimring (Berkeley)

Activities

The focus of the stream would be to effect large-scale, systemic improvements in sentencing law and policy in jurisdictions within and outside the U.S. There would be two main strategies:

- Provide assistance directly to individual states, nation states, law reform organizations, or international tribunals to explore ways in which their sentencing systems may be advanced. Potential collaborators for carrying out this work include the National Association of Sentencing Commissions, the American Law Institute, the American Bar Association, the Pew Center for the States, the Vera Institute of Justice, and the American NGO Coalition to Support the International Criminal Court. Both faculty and students would participate in individual projects, which could be facilitated by the development of coursework (such as seminars or a law school "capstone" course) devoted to policy issues in specific jurisdictions.
- Produce, encourage, and collect policy-relevant research about the operations and effects of sentencing systems in the U.S. and elsewhere in the world, with prescriptions for positive change, and take steps to disseminate that research to responsible policymakers. The Institute's favored model will be comparative research (analyzing a number of U.S. jurisdictions, or comparing U.S. systems with those of other nations) rather than single-jurisdiction studies. This is an innovative research method that explores the relative advantages of many different approaches. Work of this kind is challenging, and is now rarely performed. It would be produced by faculty and Institute research fellows, with the assistance of law students. Target audiences will include lawmakers, policymakers, practitioners, academics, and students of various criminal-justice related disciplines.

Goals

The substantive goals of the stream would include: (1) Reduction of prison populations and encouragement of deliberation and restraint in the use of all criminal sanctions; (2) Reduction of racial and ethnic disparities in punishment; (3) Encouragement of rational policymaking and application across all sectors of sentencing and corrections; (4) Provision of adequate resources for rehabilitative programs in and outside of prisons; (5) Promotion of better information systems for monitoring the operation of the sentencing system; (6) Greater investments in correctional program evaluations by individual jurisdictions, the U.S. federal government, or consortiums of

jurisdictions; (7) Improvement of the fairness and accuracy of decision-making procedures, including judicial sentencing proceedings, prison release decisions, and sentence revocations.

Immediate Priorities

There would be two initial areas of priority for the work of the Sentencing Law and Policy Stream, with flexibility to develop other areas of activity depending on recruitment of Institute personnel, and the interests of outside governments and other entities:

- The Institute would work directly with U.S. and foreign jurisdictions that have adopted a sentencing commission and guidelines structure for their sentencing systems, or are considering adoption of such a system. These have been by far the most successful among U.S. sentencing structures in advancing the substantive goals noted above, and have won the endorsements of the American Bar Association and American Law Institute—yet they are in use in only a minority of all states (many of which are deficient as a matter of system design). Replication of the best guidelines systems in additional jurisdictions would be a major policy achievement, and there are many opportunities for the improvement of existing guidelines systems.
- The Institute would also target its work toward the so-called “indeterminate” sentencing system (two-thirds of all American jurisdictions), which employ parole-release agencies to set the actual length of prison terms. These are the most numerous of U.S. jurisdictions, and have been the sites of greatest prison growth in the last 30 years, and the largest standing prison populations. Incremental improvements in such systems, especially in the areas of prison population control and procedural fairness, could affect hundreds of thousands of human lives.

Time Line

In the first several years, the Institute would convene two international academic-practitioner conferences, with published proceedings, and would establish a center for synthesis and analysis of research into sentencing system operations:

- A conference on sentencing guidelines systems, in partnership with the National Association of Sentencing Commissions, would be planned during the first year and would occur soon thereafter. This would be both an academic conference and a gathering of policymakers and practitioners from 15 to 20 jurisdictions. It would aim toward the production and publication of policy-relevant research and the establishment of ongoing relationships between the Institute and responsible officials.
- A similar conference on indeterminate sentencing systems would be planned in the first two years, with the goal of hosting official representatives from 25 to 30 jurisdictions within and outside the U.S. Stanford Law School and Vanderbilt University Law School are possible partners. While published research would be one important product of this effort, the primary goal would be to create a community or organization of indeterminate sentencing

jurisdictions that can work together and with the Institute on future reform initiatives.

- The Institute would establish an in-house center for synthesis and analysis of research into sentencing system operations. There is a great deal of such research produced by individual jurisdictions, especially the American sentencing guidelines states, that remains known only to a local audience within each jurisdiction, and is unexploited for purposes of comparative policy analysis. The Institute would make use of faculty, research fellows, and law students to pursue subject-specific research initiatives into subjects that could include: The most successful systems for projection and governance of prison population growth; comparative study of emergency parole release powers for circumstances of prison crowding; the most promising efforts to combat racial and ethnic disparities in sentencing and punishment; and those systems that have encouraged new practices of appellate sentence review and the growth of a relevant body of sentencing jurisprudence through the common law process.

Outside Partners

For sentencing guidelines projects, outside partners could include Joan Petersilia and Robert Weisberg (both of Stanford Law School), Andrew Ashworth and Julian Roberts (both of Oxford University), and Anthony Doob (University of Toronto), Kay Knapp (former Director of the Minnesota Sentencing Commission), Roxanne Lieb (Director of the Washington Institute of Public Policy), Richard Kern (Director of the Virginia Criminal Sentencing Commission), Thomas Ross (former Director of the North Carolina Sentencing Policy and Advisory Commission), and Robert M.A. Johnson (former County Attorney, Anoka County, Minnesota).

For indeterminate sentencing projects, outside partners could include Joan Petersilia (Stanford), Nancy King and Christopher Slobogin (both of Vanderbilt University), Nicola Padfield (Oxford University), Allan Manson (Queens University), Cecilia Klingele (University of Wisconsin), Mark Bergstrom (Director of the Pennsylvania Sentencing Commission), and Jeremy Travis (Urban Institute).

Robina Institute of Criminal Law and Justice

Appendix D

Research Stream in Criminal Law Theory

It is common to talk of our contemporary crisis of overcriminalization, as our apparently ever-expanding criminal law brings more and more people within its grasp, for more and more kinds of conduct that are often increasingly remote from the kinds of harm or mischief with which the criminal law was traditionally thought to be concerned. Classical theorists of criminal law argued that it must be a 'last resort' (*ultima ratio*); contemporary legislatures are prone to use it as a first resort in response to perceived social problems—though a resort whose function is perhaps often symbolic or rhetorical rather than substantive. The deeper problem, however, lies not so much in an ever-expanding criminal law as in an increasingly unprincipled criminal law: criminal policy and legislation lack any principled or coherent conception of the proper aims of criminal law and of the role we should expect it to play in a modern liberal democracy.

The overarching task for this research stream is therefore to retrieve (or to construct anew) an adequate understanding of the aims and role of criminal law—an understanding that is both normatively adequate, in that it rests on political, moral and legal principles that those who are to be bound by the law can be expected to accept; and also empirically adequate, in that it posits for criminal law purposes that we can realistically expect it to fulfil. The outcome of such an inquiry will be a normative theory of criminal law—or, more modestly, a normative theoretical account of criminal law—that will engage criminal law theorists and help to set their future agenda. It will also generate guidance for legislators and others involved in processes of criminalization. It will not provide a blueprint for criminal legislation: but it will produce materials—discussions of the proper aims, principles and functions of criminal law—that will help legislators and policy makers think more rationally and systematically about what they are doing; and it will find ways of engaging legislators and policy makers in this crucial exercise.

The fundamental theoretical question must of course be about the aims of the criminal law. We cannot tackle this question without recourse to political theory, since the question has to be about the role of criminal law in a particular kind of polity. How far are the proper purposes of this distinctive kind of law expressive or declaratory; how far preventive; how far responsive? We will then be better placed to work out what kinds of consideration do, or do not, constitute good reasons for criminalizing particular kinds of conduct; what kinds of constraint we should set on the scope of the criminal law; the terms in which it should address those whom it binds. But the inquiry will have to concern structure as well as scope. How should criminal offenses be understood, defined and classified? What principles should determine criminal liability, and what kinds of defense should the criminal law recognize? Questions such as these can be adequately answered only on the basis of an understanding of the criminal law's proper aims and role.

A further, more ambitious goal would be a reconsideration of the *Model Penal Code*, which is now almost fifty years old, and which reflects a conception of criminal law's role that needs to be subjected to critical re-examination. That is not a project that could be encompassed in five

years, or with the resources currently available; but it is a longer term project to which the work of this stream would certainly contribute, and towards which it would be worth working.

Theorists of criminal law have, of course, tackled both the overarching task of articulating a normative theory of criminal law, and the more specific issues about particular dimensions of the criminal law with which such a theory must deal. Some of the work that needs to be done consists, therefore, in building on existing research, and bringing together the most interesting researchers to work with each other. However, criminal law theorists also too often operate with too narrow a vision of their subject matter, in ways that limit the scope and usefulness of their work: a major task for this research stream will be to overcome those limitations, two of which are noted here.

- Theorists of criminal law often treat substance and process as two separate fields of inquiry: they are taught separately and researched separately—to the real detriment of both kinds of inquiry. We should instead take a more holistic view of criminal law as a set of practices and processes through which criminal wrongdoing is defined and prosecuted, and attend to the various ways in which legislators, police, prosecutors and courts help to determine what is to count as criminal. If we are to understand the substantive criminal law, we must understand how it is applied in, and how it both structures and is structured by, the criminal processes of prosecution and trial. That is why this research stream will cover both substantive criminal law and criminal process.
- Those who identify themselves as theorists of criminal law also often focus only on domestic criminal law, leaving transnational and international criminal law to be studied by others—often others whose main expertise does not lie in criminal law. This is unfortunate, not only because the burgeoning fields of international and transnational criminal law stand in need of normative theorizing that reflects a broader understanding of criminal law, but also because our understanding of domestic criminal law can be deepened by attention to these other types of criminal law. Questions about the legitimacy of the law; about the authority of the courts that apply it; about when we should respond to wrongdoing through the criminal process, or through some other kind of non-criminal, non-punitive procedure; about the aims that trials should serve: all take on new contours in the context of international criminal law, whilst our attempts to answer them can reveal new possibilities for a critical understanding of domestic criminal law. This research stream will therefore deal with central issues in transnational and international criminal law as well as with domestic criminal law—and with the complicated relationships between them.

In designing the more specific projects to be undertaken within this stream (on which see below), we will therefore ensure that they pay due attention to the interconnections between substance and procedure, and between domestic and international criminal law.

Although the overarching task for this research stream is the development of a general account of the proper aims, principles and structure of criminal law, that task will be best pursued through a number of more specific investigations into particular—particularly controversial or troubling—aspects of criminal law. Here are a few possible topics.

- **Drug Offenses:** A very large proportion of those convicted of criminal offenses, and of those serving prison sentences, are either convicted of offenses involving drugs, or commit their offenses because of their addiction to illegal drugs. At the same time, the normative rationale for criminalizing the use, possession and supply of a range of currently criminal drugs is far from clear. Although there has been a considerable amount of both empirical and theoretical work on the grounds for and effects of criminal drug laws, the time is right for a systematic reconsideration, as part of the larger inquiry into the proper aims of criminal law. This is also one of the key areas in which criminal law reaches beyond national borders: it raises difficult issues about the relations between domestic and transnational law, and about the jurisdiction of domestic courts.

External Collaborators: Douglas Husak (Rutgers), Mireille Hildebrandt (Brussels)

- **Strict Liability and the Presumption of Innocence:** One of the ways in which the reach of the criminal law (both in the books and on the streets) has been expanded is through the erosion of the classical principle that criminal liability should depend on proof not only of criminal conduct, but of criminal fault—of intention, recklessness (or negligence) as to the criminal conduct. Increasingly, law makers have defined offenses ‘strictly’, in ways that do not make liability depend on fault; or they have shifted onto the defendant the burden of proving lack of fault, rather than requiring the prosecution to prove fault. We need a principled inquiry into the role (if any) that strict liability can properly play in criminal law. This topic very clearly implicates both substance and procedure: it concerns not just the way that offenses are defined, but the distinction between offenses and defenses, the ways in which probative burdens are allocated in the trial, and the meaning of the presumption of innocence.

External Collaborators: Ken Simons (Boston); Andrew Simester (Singapore)

- **Preventive Justice:** Another significant recent trend is the growth of ‘preventive justice’: of measures whose primary aim is the prevention of predicted future harm either by very wide offenses covering conduct very remote from the potential harm, or by control measures that by-pass the criminal law and subject people to stringent restrictions without proof of criminal wrongdoing, or by sentencing provisions that subject offenders judged to be dangerous to extended or indefinite detention (legislative provisions concerned with the threat of terrorism exemplify all these kinds of measure). A critical examination of such provisions will help us to get clearer about the aims that the criminal law should serve, and about when and why we should look to the criminal law rather than to non-criminal modes of control. Here again we must look beyond domestic criminal law: at, for instance, the expanding range of terrorist offences created under multi-lateral treaties; at the ways in which, in post-conflict contexts, such preventive procedures as lustration and vetting are used in place of a criminal process.

External Collaborators: Andrew Ashworth (Oxford), Lucia Zedner (Oxford)

- **Regulatory Offenses:** One way to reduce the (apparent) scope of the criminal law is to create a formal regime of non-criminal ‘regulatory’ or ‘administrative’ offenses, into which we can then shift a large number of what were (formally) criminal offenses—thus formalizing the informal distinction that many draw between ‘real’ crimes and ‘quasi-crimes’. We must ask whether this is a rational way of dealing more efficiently with kinds of conduct that need to be regulated, without bringing to bear the unwieldy and expensive apparatus of criminal law;

or a dangerous attempt to extend the state's coercive and de facto punitive control without the kinds of protection that the criminal law offers those subjected to it. Here again, if we are to answer this question, we must think about the proper aims of criminal law, including the criminal process (since a common feature of regimes of regulatory offenses is that they lack the kinds of procedural requirements and protections that criminal trials involve).

External Collaborators: Thomas Weigend (Cologne); Jeremy Horder (London)

- *Prosecutors:* What is the proper role of the prosecutor? What kind and extent of discretion should prosecutors have in deciding which cases and which charges to pursue, which plea bargains to make? Given the centrality of plea bargaining in the functioning of the criminal justice system, set alongside the serious ethical doubts that its operations produce, we need a new, principled examination of the practice. Another important question, which arises most obviously in the context of domestic violence, concerns the role of the victim: what kind of say, if any, should the victim have in the decision about whether to prosecute. The issues at stake here can be addressed in part by a more thorough inquiry into the responsibilities and roles of different criminal justice officials, attending again both to domestic criminal law and to international criminal law.

External Collaborators: Michelle Dempsey (Villanova); Kimberley Brownlee (Manchester)

- *Domestic and International Criminal Law:* We can throw light on the proper structures of both domestic and international criminal law by comparative study: how far do the principles and doctrines of international criminal law resemble those of any national systems—and how far should they? What particular problems are involved in an attempt to define crimes of the gravity of those dealt with by international tribunals. Another aspect of this topic could be the issue of jurisdiction: is there any principled way of deciding which kinds of crime should be dealt with by which kinds of body?

External Collaborators: Adil Haque (Rutgers); Miriam Gur-Arye (Jerusalem)

We will not be able to pursue all these projects in the first phase of the Institute's life: discussion with potential collaborators, and their availability, will help to determine which four projects will be pursued in the first five years. Further projects for the longer term include—

- *Policing:* There can of course be no simple account of the role of the police in preventing and in detecting crime—nor should we suppose that such prevention and detection exhaust their role in civil society; but a range of important normative issues appear when we ask both just what the aims of police work should be, and what principled constraints should be set on the means that police officers may properly use. Some of these concern discretion: on what kinds of ground should police officers and those who direct them decide where to focus their resources, which kinds of cases to pursue, which prosecutable suspects to indict, and so on? Others concern the means that police officers can properly use, in particular those involving various kinds of coercion, manipulation or deception. Here again the research will need to attend to the realm of international criminal law: how can the traditional policing functions of the state be discharged in that sphere?

External Collaborators: Jeffrey Fagan (Columbia); John Kleinig (John Jay, Canberra)

- *The Criminal Trial*: Given the dearth of actual, contested criminal trials (let alone trials by jury), it might seem that the trial is of little theoretical interest. It is arguable, however, that it should be seen as the lynchpin of a criminal justice system, as a process through which those who are accused of criminal wrongdoing are summoned, and given a chance, to answer to their fellow citizens for their alleged wrongdoing. We need to ask, therefore, just what aims the criminal trial should serve; what kind of truth it should aspire to reveal; what role in the trial the defendant should be expected to play; what kinds of constraint should be set on its procedures, even if they inhibit the search for truth, and why. International criminal trials will be important here, given the rich literature that has grown up about their aims, and about when and why a criminal trial is the appropriate response to past wrongdoing.

External Collaborators: Robert Burns (Northwestern); Lindsay Farmer (Glasgow)

The methodology for these specific investigations is described below: they will not only advance the debate about these particular issues, but will also combine to illuminate the general topic of the proper aims, scope and structure of criminal law.

The activities of the research stream will be guided and co-ordinated by two co-directors, and by an advisory board consisting of the external collaborators on each project and a small group of consultants (who will also take part in specific projects)—

Potential Co-ordinators: Antony Duff (Minnesota); Nicola Lacey (Oxford);

Potential Consultants: Andrew Ashworth (Oxford); Michelle Demspey (Villanova);

Stuart Green (Rutgers); Alice Ristroph (Seton Hall); Carol Steiker (Harvard)

It will also be important to interact with criminal law theorists outside the US: any real progress in understanding the aims (and limits) of criminal law requires collaboration across both national and disciplinary boundaries. Potential collaborators from outside the US (some of whom will be able to raise further funding) include—

Canada: Malcolm Thorburn (Queen's); Francois Tanguay-Renaud (Osgoode)

Britain: Nicola Lacey (Oxford); Andrew Ashworth (Oxford); Victor Tadros (Warwick)

Ireland: William Schabas (Galway)

Belgium: Mireille Hildebrandt (Brussels)

Germany: Thomas Weigend (Cologne); Tatjana Hörnle (Berlin); Frank Meyer (Bonn)

Italy: Antonio Cassese (Florence)

Denmark: Thomas Brudholm (Copenhagen)

Norway: Vidar Halvorsen (Oslo)

Finland: Kimmo Nuotio (Helsinki)

Sweden: Magnus Ulvang (Uppsala)

Poland: Michal Krolkowski (Warsaw)

Israel: Miriam Gur-Arye (Jerusalem); Alon Harel (Jerusalem); Yuval Shany (Jerusalem)

We will also seek fruitful engagements with policy makers and practitioners in planning each of the projects and in disseminating and discussing the research that results: to that end, we will set up a small advisory group of practitioners and policy makers from the local area.

Each particular project will be conducted by a small group of researchers, who will have regular meetings (face to face or virtual). Other key elements will be—

- Two workshops involving key researchers to discuss issues and draft papers: one to be held in Minneapolis, one elsewhere (possibly outside the US).
- Two student research assistants who will collect relevant material (literature, empirical data) for the researchers, which will also provide valuable training for the students.
- At least one meeting with relevant policy makers and practitioners.

Each project will produce a collection of papers from the workshops (which will also include a substantial introduction and overview), and a report: the collection will be targeted primarily at scholars and theorists, the report at a wider audience, including practitioners and policy makers. We will also organize dissemination events at which the results of the research can be reported to and discussed with that wider audience.

By the end of the first five years of the Institute's life, we should have completed four specific projects, and produced a substantial interim overall report on the issues that have emerged and on the new ways of understanding and tackling the issues that the projects have developed. This will mark the start of a fresh understanding of the proper role and functioning of the criminal law, and point the directions in which both further theoretical work and practical reform of the law and its institutions should proceed.

The Robina Institute of Criminal Law and Justice

Appendix E

Current and Planned Activities for 2011-2012

1. Spring 2011

Four criminal law events, with support from Robina Foundation funds have been or will be held in Spring 2011: they exemplify the kinds of research activity that the Institute will promote.

a) Comparative Prosecution Studies (8-9 April; Michael Tonry)

Comparative studies of prosecution practices in a number of American states (Arizona, North Carolina, Washington) and foreign jurisdictions (Germany, Italy, Japan, Netherlands, Poland, Sweden, Switzerland); participants included scholars and senior prosecutors from 8 American states, Canada, and 7 European countries.

b) Human Dignity and the Criminal Law (15-16 April; Antony Duff, Fionnuala Ní Aoláin)

An international, interdisciplinary symposium on the role that appeals to human dignity can play in both domestic and international criminal law; participants included scholars with backgrounds in law, philosophy, political science, criminology, from the U.S., Australia, Britain, Canada, Denmark, Germany, Ireland, and Israel.

c) Just Sentencing: Principles and Policies for the 21st Century (29-30 April; Richard Frase)

A workshop to discuss a draft of Richard Frase's new book on just sentencing, which offers a contemporary development, refinement and application of the 'limiting retributivism' model, to provide comments that will be useful in making final revisions; participants from other U.S. law schools and from Britain, Canada, and Belgium.

d) Police Interrogation of Juveniles (20-21 May; Barry Feld)

A workshop to discuss a draft of Barry Feld's new book on police interrogation of juveniles, based on extensive field work and empirical data; participants drawn from the University of Minnesota and from other U.S. law schools.

2. Robina Institute Year 1

Robina Distinguished Visiting Professors

Professor Nicola Lacey (All Souls College, Oxford)—Spring 2012

Professor Andrew Ashworth (Vinerian Professor of English Law, Oxford)—Fall 2012

Robina Conference 2012

American Criminal Justice Policy and Research, 1975-2025—April 18-21, 2012

Other Conferences 2011-12

Why are Crime Rates Declining in Most or All Western Countries?

(to be jointly sponsored with Netherlands Institute for the Study of Crime and Law Enforcement, Free University Amsterdam; co-convenor: Philip J. Cook, Departments of Public Policy and Economics, Duke University). December 2011 or January 2012
Cross-national and Comparative Studies of Prosecutorial and Judicial Systems
 Spring 2012

Robina Workshops 2011-12

Sentencing Fragments (Fall 2011, book-in-progress conference, Michael Tonry)

The Most Urgent Tasks for Criminal Law Theory (Fall 2011)

Criminal Responsibility (Spring 2012, with Nicola Lacey)

Preventive Justice (Fall 2012, with Andrew Ashworth)

Indeterminate Sentencing Systems and the Severity of Prison Sanctions (Spring or Fall 2012)

Structured Sentencing Systems: Bringing Research to Bear on Policy (Spring or Fall 2012)

Other visiting professors and fellows for 2011-12 will be appointed during the summer.

Robina Institute of Criminal Law and Justice

Potential Reviewers

Academics within the United States

Professor Jeffrey Fagan (Columbia Law School)
Professor Douglas Husak (Rutgers Law School)
Professor Joan Petersilia (Stanford Law School)
Professor Carol Steiker (Harvard Law School)
Professor Kate Stith (Yale Law School)

Practitioners and Policy Makers within the United States

Robert Johnson (Anoka Co MN DA, trustee of University of Minnesota Foundation)
Honorable Theodore McKee (former chair PA Sentencing Commission; 3rd Cir Fed Ct)
Thomas W Ross (former NC Superior Court judge, NC Sentencing Commission chair, president of Davidson College, executive director of the Z. Smith Reynolds Foundation; now President of University of North Carolina)
Honorable Andrew Sonner (former Prince George MD DA and MD Appeal Court judge, chairman of the Maryland Sentencing Commission)

From outside the United States

Honorable Ybo Buruma (Supreme Court of the Netherlands)
Professor Arie Freiberg (Dean, Law Faculty, Monash)
Professor Roger Hood (Faculty of Law, University of Oxford)
Professor Jeremy Horder (King's College London; former Law Commissioner)
Professor Tapio Lappi-Seppala (Helsinki, head of National Research Institute of Legal Policy)
Honorable Miklos Levay (Constitutional Court of Hungary)
Professor Thomas Weigend (Faculty of Law, University of Cologne; Director, Institute for Foreign and International Law)

Robina Institute of Criminal Law and Justice

	Year 1	Year 2	Year 3	Year 4	Year 5	TOTAL
Research Streams						
Criminal Law Theory	60,000	85,000	85,000	85,000	85,000	400,000
Criminal Process and Procedure	60,000	85,000	85,000	85,000	85,000	400,000
Criminal Justice Policy	60,000	85,000	85,000	85,000	85,000	400,000
						0
Senior Visitors (2 for 1 month)	40,000	40,000	40,000	40,000	40,000	200,000
Junior Visitors (1-2 for 1 month)	15,000	15,000	15,000	15,000	15,000	75,000
Practitioner Visitors (4 one week/year)	7,500	7,500	7,500	7,500	7,500	37,500
Annual Robina Conferences	40,000	40,000	40,000	40,000	40,000	200,000
Target of Opportunity Research Funds	20,000	30,000	30,000	30,000	20,000	130,000
Communications/Program Support	22,500	42,000	42,000	42,000	45,000	193,500
Subtotal Program Activities	325,000	429,500	429,500	429,500	422,500	2,036,000

FACULTY DEVELOPMENT

2 Co-Directors <i>(Overall 1100) Tony 500</i>	311,190	312,000	312,000	312,000	312,000	1,559,190
New Junior Level Faculty (1) <i>Duff 25%</i>		227,424	234,247	236,589	165,612	863,872
New Junior Level Faculty (2) - 1 person			234,247	236,589	165,613	636,449
New Criminal Law Clinical Faculty		213,210	219,606	226,194	232,980	891,991
Subtotal Faculty Development	311,190	752,634	1,000,100	1,011,373	876,205	3,951,503

ADMINISTRATION AND FACILITIES

Advisory Board	1,000	2,000	2,000	2,000	2,000	9,000
Executive Director (0.5 fte) <i>Operations</i>	90,000	95,000	97,850	100,786	103,809	487,445
Research Fellow (1)	75,000	80,000	82,400	84,872	87,418	409,690
Research Fellow (2)		80,000	82,400	84,872	87,418	334,690
Administrative Assistant	45,000	55,000	56,650	58,350	60,100	275,099
Subtotal Administration and Facilities	211,000	312,000	321,300	330,879	340,745	1,515,924

ANNUAL BUDGET	847,190	1,494,134	1,750,900	1,771,752	1,639,451	7,503,427
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BIOGRAPHICAL NOTES

JEFFREY FAGAN is a Professor of Law and Public Health at Columbia University, and Director of the Center for Crime, Community and Law at Columbia Law School. He also is a Senior Scholar at Yale Law School, and, in 2010-11, a Fellow at the Straus Institute for the Advanced Study of Law & Justice at NYU Law School. His research and scholarship focuses on crime, law and social policy. His recent scholarship examines policing, the legitimacy of the criminal law, capital punishment, legal socialization of adolescents, and juvenile crime and punishment. He served on the *Committee on Law and Justice* of the National Academy of Science from 2000-2006, and served as the Committee's Vice Chair for the last two years. From 1996-2006, he was a member of the MacArthur Foundation's *Research Network on Adolescent Development and Juvenile Justice*. He is a founding member of the *National Consortium on Violence Research*, the *Working Group on Legitimacy and the Criminal Law* of the Russell Sage Foundation, and the *Working Group on Incarceration* at Russell Sage. From 2002-2005, he was a Robert Wood Johnson Foundation Health Policy Research Fellow. He was a Soros Senior Justice Fellow for 2005-6. He is past Editor of the *Journal of Research in Crime and Delinquency*, and serves on the editorial boards of several journals on criminology and law. His publications have appeared in leading law reviews, peer-reviewed social science journals, and reports of foundations and government agencies. He received the Bruce Stone Award from the Academy of Criminal Justice Sciences. He is a Fellow of the American Society of Criminology.

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July 29, 2011

Ms. Penny A. Hunt
Executive Director
Robina Foundation
4900 IDS Center
80 South 8th Street
Minneapolis, MN 55402

Dear Ms. Hunt,

Thank you for the invitation to review the proposal from the University of Minnesota Law School to create The Robina Institute of Criminal Law and Justice. UM was charged with creating a "transformative" program, and they have done just that. In the interest of brevity and responsiveness, my comments below are organized around the questions you posed in your letter of 28 June inviting this review.

The Importance of the Project

This is an exciting development in field of criminal law and criminal justice, perhaps the first such new institutional effort in over a half century with an intensive focus on the intersection of criminal law theory, doctrine and criminal justice policy. The fact that it will be built on an intellectual platform of rich theoretical and doctrinal work, with efforts to translate this work into diverse policy enterprises, sets it apart from all other programs in the U.S. It is unique in the U.S., and will – with the strong leadership that is designed into the proposal – quickly rank among the leading institutions in the world on criminal law and criminal justice.

It is a very important institutional development for another reason – the U.S. has undergone a profound transformation over the past half century in its political culture of crime and criminal law. Though not unique to the U.S., this transformation has produced a sustained epoch of mass incarceration in this country that is an outrageous outlier in the industrialized world. There have been other manifestations of this turn, as well, especially a criminal procedure doctrine that has vastly and dangerously expanded police and prosecutorial powers while attenuating the rights and remedies available to criminal defendants. The elastic boundaries of punitiveness across the states, evident in the use of "supermax" prisons, lifetime prison sentences, and the promiscuous and arbitrary use of solitary confinement, are indicia of a punitive statutory regime in many states and in the federal systems that has eclipsed other bases of criminal legal sanctions and punishments.

One reason for this fundamental shift, noted by a variety of scholars including Michael Tonry at Minnesota, is the absence of intellectual and institutional capital to produce a body of work, facts and theories to counter the political dynamics that have sustained punitiveness at the expense of justice concerns or even basic criminal law theories in the political discourse on criminal law and criminal justice. The simple fact of the creation of a serious center of intellectual work on criminal law and justice provides an opportunity to lend institutional heft and coherence to arguments that challenge the prevailing paradigms and offer new ways to think about crime and punishment for future generations. So, as the paradigm of punishment-first is exhausted by the facts of declining crime and diminishing returns from the heavy investments needed to sustain the current regime, the Robina Institute presents nothing less than an opportunity to reshape the intellectual foundations of a new paradigm in criminal law and criminal justice.

Other Institutional Endeavors in Criminal Law and Criminal Justice

Few other American law schools or universities have even sought to address these questions, and none with the scope, intellectual capital, and intensive institutional focus of The Robina Institute. Stanford University has created a center focused less on criminal law or its nexus with criminal justice than with the policy mechanics of criminal justice. It also is, justifiably, intensely focused on the criminal justice laws and institutions in California. NYU has a center that largely evolves around the work of one person, and that work is rooted in policy to the near exclusion of criminal law theory or doctrine. The Criminal Justice Program at the Kennedy School at Harvard focuses on tactical questions by exposing police executives to new technological developments in criminal justice. There is no scholarly or even intellectual foundation to the work at Harvard. Penn's Law School has a strong criminal law faculty, but no coherent focus to their work, nor is the work of their better scholars coordinated within a larger community or internal network. The same could be said about an interesting group in the Moritz School of Law at Ohio State. In fact, with these exceptions, criminal law does not command the resources or institutional attention in American law schools that other areas of law enjoy. This too is one of the comparative advantages of the proposed Robina Institute. Within the U.S., then, the proposed institute will quickly become the leading institution in this field, by virtue of the quality of the scholars, the stellar group of visitors and collaborators, and the coordinated focus of their activities.

In Europe, there are centers at Cambridge, Oxford, at the Max Planck Institute in Freiburg, and at smaller centers at other institutions, all with outstanding scholars. As with the U.S. comparisons, none have an institutional focus and design to leverage the work of their faculties toward a set of shared intellectual activities and goals. None consciously integrate scholarship and new thinking on doctrine, theory and policy.

Potential Impacts and the Prospect of Systemic Change

This question is best answered in two parts. The project as designed will produce significant new information that will inform and expand the discourse on criminal law in the U.S. and possibly abroad. The Institute has a sound institutional design to foster activities where scholars will pool knowledge, or collaborate in working group formats, that will inevitably stimulate new ideas that will be disseminated in a variety of formats and methods. The combined expertise of individuals within specific areas will also be supplemented by a range of visitors whose perspectives and energy will further stir the intellectual pot. Same for the infusion of reality through agency leaders and legislators as a way to test and play with new ideas, and to experiment with new ways to present those ideas. The overall design suggests that the potential for a significant yield of new knowledge that otherwise would not be produced is high.

Will it lead to change? That is harder to say. How does the project anticipate the markets for criminal justice policy, and what drives those markets (besides politics)?

The proposal suggests that there is that awareness, but it could be made more explicit in the prospectus for the Institute. Much of the potential impact will depend on the perspective that the project leaders adopt for that question. Along those lines, the odds of change are enhanced by the efforts to involve practitioners, by focusing on teaching in ways that are new and are likely to produce a cohort of scholars and leaders quite different from their predecessors, and by the interest in massing and pooling information through an analytic framework that combines theory, policy and doctrine. Certainly, the design anticipates methods to bring about systemic changes, but externalities – a drug epidemic, for example - have a way of spoiling those plans. A realistic timetable for change suggests that one look perhaps just beyond the horizon of the initial investment to begin to see when systemic changes will be evident.

Major Strengths

There are several. First, the design is very strong on the process of massing, pooling, refining, and advancing very specific domains of knowledge. Along the way, the "corrective" involvement of local practitioners will help focus on the transformation of knowledge into policy-friendly theories and ideas. The inclusion of visiting scholars also will avoid the convergences that are inevitable in working groups, whether academic or not, and ensure that new ideas are injected into the thinking of the Institute's scholars.

Second, the design and the motivation is sober in taking an historical view, in understanding the trajectory of thought and doctrine, and in seeing how those trajectories can be deflected or changed with new work. The Institute will take a long view, which is necessary, to reconceptualize the doctrinal and theoretical bases of law and criminal legal institutions. This is a far better approach than would be a view that

getting a group of smart scholars under the same roof for a year will change the world. It won't. This is a necessary and better approach, one more likely to induce the types of systemic change that the Institute and the Foundation seeks.

The third strength is obvious – a brilliant and productive group of scholars, supplemented by a brilliant and productive set of visitors. The ideas are focused and topics well thought out, and there is flexibility to move in different directions if necessary.

And fourth, the architecture of the Institute pays close attention to the need to train a new generation of scholars and leaders is a strength in keeping with the systemic change goal. This part of the design is well thought out, and very much needed both to move the field ahead intellectually and to move the institutions toward new ways of conceptualizing the criminal law.

There are other strengths, but I'll set them aside in the interest of brevity. Suffice it to say that the overall thinking is conceptually rich and institutionally intelligent in understanding how to harness the transformative power of theory and doctrine into policy and systemic and institutional logic.

Shortcomings

There are a few shortcomings. These are more topical concerns than concerns about the design or work plan of the Institute. Where possible, I suggested some modest changes or additions that might address each.

The work plans should focus more on states, and understand both how states work in terms of creating criminal law and procedure. States are the markets for criminal justice ideas and approaches, and there is much connectedness among the states and their local markets (their cities). Ideas are the fundamental currency of the Institute, but marketing those ideas to achieve institutional and legal change is a separate question. States are complex markets, with participants ranging from the judiciary to prison guard unions to local clergies and of course, the state Bar. Obviously, the Minnesota group understands states, especially in the domains of sentencing and incarceration, but the policy action in states goes beyond the legislatures. A focus on the legislative process would be interesting and important as part of a larger theory of the dynamics of criminal law and punishment policy. For example, it would be helpful to understand the spatial concentration of harsh punishment in the U.S., as well as changing state practices over the period of this runup in incarceration and the primacy of punitiveness. A political scientist in the mix could contribute substantively to the work of the Institute.

Some attention to political economy would also contribute to the theoretical mix. It would broaden the intellectual core a bit and move it from formal doctrinal matters toward the transitional process of how politics and law bleed into policy. At the simplest, none of the developments in incarceration and other punishments in the past five decades could have taken place without a willingness to use political process to move resources from one group to another. If policy impact is the goal, this will be an important analytic device.

The proposal focuses on theory and doctrine in criminal law, but there is little on statute. It isn't clear if this was intentional, and statutes often can be tedious and ugly. But this is where criminal justice markets process ideas into policies, and a focus on that process would expand and enrich the Institute's work.

The proposal doesn't take on administrative law, yet there is much about criminal law these days that borrows from, if not acts like, administrative law. This entails everything from sentencing guidelines and commissions, to how prosecutors use formulae for plea bargaining and charging. Involving an "ad law" scholar from Minnesota or elsewhere to impart this perspective onto the activities of the Institute would reflect what I see as an important and somewhat disturbing contemporary development.

There is an absence of attention to empirical work. Some empirical work shows up in the "streams" described in the appendices, but it is not a core concern of the Institute. And it is most heavily present, as it should be, in the stream described in Appendix B. Should this be a more central and prominent feature of the Institute? Perhaps. It is tangential to the work of the doctrinal and theoretical enterprises, to be sure. But in the translational work (toward policy) to which the Institute in part aspires, some empirical work would be an interesting complement if not a more central focus. There are resources elsewhere in the University for this, and perhaps a core of "affiliated faculty" should be appointed who can, on a need-basis, be called upon to contribute to specific projects and deliberations. Certainly, some thought might be given to having empirical training in law be part of the training component of the Institute.

There is little said about drug policy or race, two enduring themes in the last several decades in both criminal law and criminal procedure, as well as being drivers of sentencing statutes. Perhaps these will find their way into the Criminal Justice stream, but perhaps these concerns belong elsewhere, as well. There also is little weight given to constitutional criminal procedure, which is surprising. In my law school, we agree that at some point in the future, criminal procedure will be the driving force in the mechanics of criminal justice, rather than the law itself. There also is little mention of the emerging regulatory models that inform sentencing and, in new developments, policing and prosecution.

Ms. Penny A. Hunt
The Robina Foundation
July 29, 2011
Page 6

Budget

A couple of small details stood out. One is the need for cost increases each year. The budgets seem flat over time. Given the volatility of travel costs, it might better help manage costs if travel expenses were budgeted separately from living expenses and other non-personnel costs.

Advice to the Applicant

There is not much more to say apart from what was said in the sections above. I was struck by the ambitiousness of the goals in Appendix C, and would suggest that perhaps goals be discussed that are both near-term and long-term. The transformative work of this Institute involves more than impeccable scholarship and dynamic engagement across disciplines and with system actors. It will unfold over time, and the goals of a transformative process should be structured accordingly.

Advice to the Foundation

This is a remarkable opportunity to create an institution that is desperately needed in this country. The Institute seems poised to anticipate that fundamental changes are unavoidable in the current unsustainable structure of criminal law and criminal justice, and begin a complex and lengthy process to lead the transformation of criminal legal institutions. I would give it my full and enthusiastic support.

I hope these comments are helpful. Please contact me should you need additional information or thoughts on the University of Minnesota proposal.

Yours truly,



Jeffrey Fagan
Professor of Law and Public Health
Director, Center for Crime, Community and Law

President
The University of North Carolina



THOMAS W. ROSS

Thomas W. Ross became President of the 17-campus University of North Carolina on January 1, 2011. Born and raised in Greensboro, N.C., he holds a bachelor's degree in political science from Davidson College (1972) and graduated with honors from the UNC-Chapel Hill School of Law (1975).

After a short stint as an Assistant Professor of Public Law and Government at UNC-Chapel Hill's School of Government, Ross joined the Greensboro law firm of Smith Patterson Follin Curtis James & Harkavy in 1976. He left the firm in 1982 to serve as chief of staff in the Washington, D.C., office of U.S. Congressman Robin Britt. The following year, at the age of 33, Ross was appointed to fill a vacancy on the North Carolina Superior Court. He held the position for the next 17 years.

From his vantage point on the bench, Ross witnessed first-hand a state justice system beleaguered by uneven sentencing and a fast-growing prison population. In 1990, North Carolina's Chief Justice tapped him to lead a new Sentencing and Policy Advisory Committee. Over the next two years, this panel of judges, lawyers, legislators, law enforcement officers, and citizens devised a structured sentencing system that would toughen sentences for violent crimes and repeat offenses, while increasing community-based alternatives to incarceration for non-violent offenses. Adopted by the NC General Assembly in 1993, the new system has become a model for similar programs nationwide.

In 1999, Ross was appointed director of the state's Administrative Office of the Courts. Over the next two years, he led efforts to improve the management of the court system and advocated for additional resources. In 2001, he left the bench to serve as executive director of the Z. Smith Reynolds Foundation, a Winston-Salem-based philanthropic organization devoted to improving the lives of the people of North Carolina. During his seven-year tenure at Z. Smith Reynolds, (2001-2007), the foundation awarded about \$20 million annually to non-profit groups focused on community economic development, democracy and civic engagement, the environment, pre-college education, and social justice. Ross stepped down in 2007 to return to Davidson as its President, serving in that role until he assumed leadership of UNC.

Active in civic and community activities, Ross currently serves on the Board of Governors of the Center for Creative Leadership, advisory boards for the NC Humanities Council and the NC State University Institute for Emerging Issues, and the honorary Board of Directors of the Conservation Trust of North Carolina. A former chairman of the UNC Greensboro Board of Trustees, he has previously served on the Boards of Visitors for UNCG, UNC-Chapel Hill, and Wake Forest University. In addition, he has served on the boards of Davidson College, the North Carolina New Schools Project, the Kenan Institute for the Arts, the Institute of Government Foundation, the UNC-Chapel Hill School of Law Alumni Foundation, the Wake Forest Comprehensive Cancer Center, and the North Carolina Independent Colleges and Universities.

Ross has received numerous awards and accolades for his vast public service and professional achievements. His many contributions to the judicial system have been recognized through the William H. Rehnquist Award for Judicial Excellence (2000), given annually to one state judge in the nation; Governing Magazine's National Public Official of the Year Award (1994); the Foundation for the Improvement of Justice Award (1995); the NC Academy of Trial Lawyers Trial Judge of the Year Award (1996); the American Society of Criminology President's Award for Distinguished Contributions to Justice (2007); the NC Justice Center Defenders of Justice Award (2008); and the NC Bar Association Citizen Lawyer Award (2010). He has been honored with Distinguished Alumni Awards from Davidson (2001) and the UNC-Chapel Hill School of Law (2005) and holds an honorary doctorate from UNCG. In addition, he has received the Boy Scouts of America Silver Beaver Award (1993), the National Boy Scouts of America Distinguished Eagle Scout Award (1999), and the Order of the Long Leaf Pine (1999).

Ross has been married since 1972 to Susan Donaldson Ross, a graduate of the UNC-Chapel Hill School of Education and a former executive director of the Greensboro Bar Association. They have two adult children.



The University of North Carolina

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August 1, 2011

Ms. Penny Hunt
Executive Director
Robina Foundation
4900 IDS Center
80 S. 8th Street
Minneapolis, MN 55402

Dear Ms. Hunt,

Thank you for the opportunity to comment on the proposal dated May 5, 2011 that has been submitted by the University of Minnesota Law School to the Robina Foundation. I have reviewed the proposal and am happy to answer the questions you asked that I address and to share my own thoughts regarding the proposal with you.

Before I begin, I feel it may be helpful to you and the board of the Foundation if I share with you some of my background in the field of criminal justice. I offer this information to give you and the board a better understanding the perspective I bring to my review of the proposal and to disclose my involvement with several of the individuals who will be involved in the proposed Robina Institute of Criminal Law and Justice if it becomes a reality.

I served as a Superior Court Judge for the State of North Carolina from 1984-2000. During my time on the bench, I presided over thousands of criminal cases and conducted hundreds of jury trials. The cases that came within the jurisdiction of my court included all felony crimes ranging from non-violent property offenses to violent crimes against the person to capital murders. During my tenure as a judge, I also served as the chair of the North Carolina Sentencing and Policy Advisory Commission. I was the first chair of the Commission which was created in 1990 and served for nine years in the role. While I was the chair, the Commission developed a comprehensive criminal justice reform package that included mandatory sentencing guidelines, known as Structured Sentencing, and community corrections legislation, both of which were enacted in 1993. Structured Sentencing and virtually every aspect of the community corrections legislation have operated successfully with only minor changes since their enactment.

Many in the field of criminal sentencing hailed the North Carolina reform efforts as balanced and a model for other states. As a result, I spent considerable time during the 10

years following adoption of our reform package working with other states on issues of criminal justice policy, particularly sentencing reform. I spoke on the topic in more than 35 states and acted as an unpaid consultant for several states. Through this work, I met and worked with several members of the University of Minnesota Law School faculty who are involved with this proposal. I serve as an advisor to the American Law Institute Model Penal Code revision project currently being led by Professor Kevin Reitz. I also participated for a full semester during the mid-1990s in a sentencing seminar conducted by Professor Bob Levy at the University of Minnesota Law School. Professor Richard Frase was also a participant. As an aside, following my participation in the seminar in Minnesota, I assisted in starting a seminar using the same model at the University of North Carolina School of Law which continues as part of that law school's curriculum. Further, I was an original member of the National Association of Sentencing Commissions and through that organization worked a significant amount with Richard Frase, Kevin Reitz and Michael Tonry. Finally, there was an attempt to begin an institute focused on criminal justice issues at the University of Minnesota in the late 1990s and I served on the Advisory Board of that effort in 1997-98. The effort failed primarily due to lack of funding.

Following my time as a judge, I served as director of the North Carolina court system from 1999-2000. Thereafter, I served as the executive director of the Z. Smith Reynolds Foundation from 2001 until 2007. The Z. Smith Reynolds Foundation at that time was the largest general purpose foundation in the state and focused on many issues including social justice issues and the criminal justice system.

Having shared my background, I now turn to your questions and my thoughts regarding the proposal. To begin, I must say that, in my opinion, there has been a dearth of attention given to critical criminal justice policy issues in the last quarter century. These issues, particularly sentencing policy, have been highly politicized since the early 1980s when our Nation embarked on the "war on drugs." In these last several decades many policy makers have appeared afraid to tackle the much-demagogued criminal justice issues and, thus, have generally failed to develop thoughtful, rational cost effective policies. The result has been that larger and larger portions of state budgets are consumed by the corrections systems, robbing resources from other public needs such as education, healthcare and the environment. This highly-charged environment has also, in my view, discouraged many young academics from entering the field and has deterred some in the field from addressing the volatile problems with our system. For these reasons among others, I strongly believe a new Institute that is focused on criminal justice policy, including the criminal process and sentencing and corrections policy, is very much needed and can play a significant and important role in improving state, national and international criminal justice systems.

I am not aware of any academic-based institution that is focused on the study, design and development of rational and innovative criminal justice policies. Many academic institutions offer courses of study in the field, but rarely does an institution focus on solutions to the problems being confronted by states and nations. I believe there is an opportunity for the institute proposed here to help governments design policies which enable budget savings while enhancing fairness. As a result of the recession and budget shortfalls many policy makers are looking for new ideas and solutions in the criminal justice and corrections areas. Even many conservative policy makers have moved away from the often espoused "lock them up and throw away the key" philosophy to a "smart on crime" philosophy. This change in attitude has changed the policy making environment just in the last year or two. Thus, a new institute that is able to assist governments engage in thoughtful reform could not come at a better time.

The question of what new or additional information this project would bring to systemic change effort is both difficult and easy to answer. It is almost always difficult to know what new ideas might be developed in this kind of endeavor. However, with the extremely talented and highly regarded faculty who would be involved in the institute, I am certain that the opportunity to think and work closely together in different ways than are now possible and which the institute would enable would lead to innovations and methods that would advance system improvement. In addition, having a nationally known institute with the mission of addressing major problems within criminal justice systems will enable academics from other institutions, policy makers, practitioners and other with an interest in these issues to focus together in ways not readily available now on why change is needed, who can lead it, and how it can occur.

The major strength of this project is first and foremost the people who are involved. The University of Minnesota has assembled a number of the best faculty in the world in the areas of criminal justice policy, criminal process, juvenile justice and sentencing policy. I know of no law school in or outside the United States that has as many outstanding faculty in these issues. As I mentioned, I have worked with Kevin Reitz, Richard Frase and Michael Tonry extensively and I know personally how talented and well-regarded each of them are. Another strength is the ability of the faculty involved in this project to involve experts from other academic institutions, top practitioners and experienced policy makers. I know and have worked with a number of the individuals from outside the law school who will be working with the institute if it is created. They represent some of the most talented, experienced and knowledgeable individuals in the field. No other institution has the talent in-house and external contacts that are available to the University of Minnesota Law School. It places the Law School in a truly unique situation to develop a successful institute focused on criminal justice matters. Finally, I believe the proposal for Robina Conferences offer a tremendous opportunity to bring national attention and focus to the many important criminal justice policy

issues in a way that has been missing from the national scene in the last several decades and can do so in a manner that can reignite much needed discussion and debate.

I would suggest two areas which could be classified as shortcomings or weaknesses. One is the ambitious goals and agenda set out in the proposal. My concern is not with whether the goals can be accomplished or should be pursued, but is instead with the timeline for their accomplishment. I believe it would be important for the new Institute to become a well-known and established entity as quickly as possible if it is to have the maximum influence and impact. To organize a new institute and establish a position of prominence will take significant time and energy of the key faculty. Thus, their time to focus only on the project goals will be compromised. This is as it should be with a new organization and, thus, I would encourage the leadership of the Foundation and the new Institute to recognize that there will be significant administrative and entity-building activities that may require modification of the timelines set forth in the proposal. Secondly, as I read the proposal it is anticipated that the proposed Advisory Board will include practitioners and policy makers all of whom are classified as "local." Though involvement of local experts is important, if the new Institute is to become a significant national policy player, I believe it will also be valuable and necessary to include practitioners and policy makers from other jurisdictions across the country.

In review of the budget, I see no significant issues or red flags. I do wonder if the proposed budget allocates sufficient funds to support an effective advisory board and whether the amounts set aside for the annual Robina Conferences will prove to be adequate.

I definitely believe the project is feasible and worthy of support. As I mentioned earlier, I believe the time is right to reexamine past criminal justice policies that have proven expensive and ineffective and develop new, innovative and more cost-effective approaches to manage crime and corrections. The proposed institute at the University of Minnesota Law School would be ideally positioned with its nationally and internationally recognized faculty to lead the discussion and debate of how to best revamp and reinvent the criminal justice system in this country. The goals are very ambitious, but focusing resources and expertise to address them is critically important and very timely.

The advice I might offer to those who have submitted this proposal is to be certain, if it is funded, that sufficient time is devoted to establishing the new institute and building knowledge of its existence and mission among academics, practitioners, and policy makers throughout the country. Even though the faculty of the Law School involved in this endeavor are highly regarded and well-established it will be important to develop an institution-building and communications plan that will place the organization on a solid footing and "get the word out" to key criminal justice leaders that there is a new institution focused on leading change within the criminal justice system. I would argue that lack of intentional action of this type is a major reason new institutions of all kinds fail to accomplish their goals. Too often those involved in efforts of this type move directly into the

Ms. Penny Hunt
August 1, 2011
Page 5 of 5

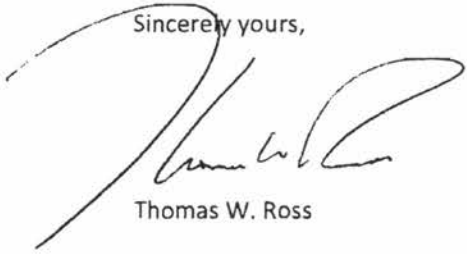
ongoing work of the organization without giving the needed attention to getting it established and known.

Having spent 6 ½ years in philanthropy, I am hesitant to give advice to the Foundation since I know how hard it is to "give away money" in a thoughtful way that has real impact. That said, I would suggest to the Foundation that it develop with those involved with this project specific benchmarks that will help both the Law School and the Foundation determine the success of the grant. Clearly research and academic publications are important and can influence policy development. This proposed institute has the potential of being much more proactive and involved in helping policy makers and practitioners lead change that will improve the quality of justice. Identifying ways to measure this involvement and its success will assist the foundation in determining if its investment was wise and whether additional investments are justified.

I hope the comments and thoughts I have shared prove to be of value to you and the Foundation. The potential of a Robina Institute of Criminal Law and Justice is unlimited and exciting. I have great respect for those who have submitted the proposal and I am confident that much could be accomplished if the Foundation decides to invest in the project.

Again, I appreciate the opportunity to review this proposal. If I can assist in any other way, please feel free to contact me.

Sincerely yours,


Thomas W. Ross

Areas of Expertise

Law, history, professional responsibility

Biography

Diana E. Murphy is one of the eleven judges on the United States Court of Appeals for the Eighth Circuit. Previously, she served as a United States District Judge for the District of Minnesota for 15 years. Before taking the bench, Murphy worked as a trial lawyer with Lindquist & Vennum. She also served as the chair of the United States Sentencing Commission.

Long active in justice-related organizations, Murphy has served as president of the Federal Judges Association, as chair of the board of the American Judicature Society, and as a director of the Federal Judicial Center. She chaired the Judges Advisory Committee to the ABA Standing Committee on Ethics and Professional Responsibility and is a member of the American Law Institute.

Murphy has chaired the governing boards of the University of Minnesota Foundation, the University of Minnesota Alumni Association, Saint John's University, the Bush Foundation, the United Way, Twin Cities Public Television, and the executive committee of the University of St. Thomas board of trustees.

Murphy received her undergraduate and law degrees magna cum laude from the University of Minnesota. She then did graduate work in history at the Gutenberg University in Mainz, Germany, and at the University of Minnesota, where she also taught Modern European history. Her academic honors include Phi Beta Kappa, Order of the Coif, Editor of the *Minnesota Law Review*, and L.L.D. degrees from St. John's University and the University of St. Thomas. In 2001 Judge Murphy received the Devitt Distinguished Service to Justice Award.



Comments on the University of Minnesota Law School's Proposal for The Robina Institute of Criminal Law and Justice

At the invitation of Tom Crosby, I have reviewed the University of Minnesota Law School grant proposal to The Robina Foundation for "The Robina Institute of Criminal Law and Justice." I understand the proposal was submitted in response to the Foundation's interest in a "transformative program."

While transformative change is very hard to achieve, that is no reason not to try to stimulate it and I do think this proposal has the potential for transformative effect. Since the work of the Law School's criminal law faculty is already well regarded nationally, the school was wise to choose criminal law and justice as one of its main areas of emphasis under the leadership of its excellent new dean.

The issues the project seeks to address are of critical importance in our society. The United States has a higher percentage of population in prison and for longer periods than most other countries. The wide diversity of our population and the constitutionally protected access to firearms are quite unique. Responsibility for criminal justice is widely diffused with federal, state, county, and municipal authorities all making laws and enforcing them. We provide lawyers for many who cannot afford them and the right to trial by jury for all accused of felonies. These characteristics create special challenges for our society, its lawmakers, and law enforcers. Furthermore, many problems of criminal activity are international in scope and the proposal is broad enough to encompass them.

I am aware of other law schools working on criminal policy issues such as Yale, Chicago, and Duke, but they have a narrower focus than that foreseen by this proposal. I personally am not aware of any other project with such a broad policy focus. It aims at developing specific policy norms in the various areas of criminal law, including criminal process, sentencing, and juvenile justice.

There is a strong likelihood that the proposed project will yield significant new or additional information in these areas. There are talented people involved. The proposed interactions with other experts and the additional resources your grant would provide would certainly amplify the available information base for criminal law studies, contribute learned analysis, and develop models for change. New ideas will likely emerge. Whether they will lead to larger systemic change is a tougher issue. They certainly will not if the work is too abstract or limited by current assumptions. It is not clear whether any experienced line prosecutors would be involved, but they would have valuable perspective to add.

Major strengths of the project include the wide collective experience of the faculty involved and the plan to involve others in this country and beyond in the exploration of new solutions to perplexing problems in criminal law—some on an ongoing basis and others in a series of high level conferences (which appear to be conceived as interactive exchanges in particular focus areas). Development of a new Model Penal Code would be sure to have wide influence. The existing code has had a great influence on lawmakers, but it is in need of review and revision. The criminal law is faced with perplexing new problems presented by, for example, international and domestic terrorism and violent drug cartels acting beyond territorial reach. Civil commitment of sexual predators is another problem area without a current solution. Open ended commitments can turn into something akin to a life sentence since effective treatment models have not been developed and the social costs of release into the community can be very high. The revolution in all forms of electronic communication provides new opportunities for crime and increases the complexity and opportunity for offenses like fraud, identity theft, and online seduction by predators.

There are some shortcomings in the project as presently portrayed. First, the component for outreach or bringing outsiders into the work appears to be skewed to current contacts, whether here or in Great Britain and northern Europe. Today much of the activity in the criminal law and prosecutions in this country involve Hispanics. Problems of illegal immigration and large scale drug trafficking are only examples. Emergency measures have had to be employed in some parts of the country, and in all areas there are insufficient translators and Spanish speaking lawyers. Where in the proposal are the experts needed to

address these issues? Second, there appears to be an existing bias for shortening all criminal sentences. To be sure, rehabilitation is always an important goal in sentencing, but it is not always easily attained. Society's needs for retribution, incapacitation of offenders to protect the public, and general and individual deterrence of future crimes are also significant sentencing goals. The European countries mentioned in the proposal no doubt have more moderate sentences, but they also do not have the same wide availability of guns as in this country. Third, the overriding role Congress has played in the federalization of crime and the lengthening of sentences should not be overlooked and must be considered for effective change.

The proposed budget appears to be rather loosely constructed. No doubt it was hurriedly put together by busy faculty facing many deadlines. Budgets will need to be carefully tied to the result sought for each part of the proposal. The proposed conferences are one of the strengths of the project, but their real costs may undoubtedly vary in practice. The Foundation will presumably require revisions to the budget with annual updates and more specificity.

Some of the proposal is very specific; those portions appear the most feasible. Others appear more speculative. The proposal would likely be improved by some tightening. Since the Law School is located in the United States and many of the proposed panels are associated with American institutions, I have looked at the proposal as centering on needs for change in American criminal policy and practices. The focus of the proposal should probably be clarified, especially the extent the Institute may want to contribute to criminal law in other countries. My advice to the applicant would be to tighten the proposal and make its priorities clearer. Right now portions of it look somewhat like a wish list drawn up at a roundtable discussion. I also suggest that the project take full advantage of the data collected by the United States Sentencing Commission on every criminal sentenced by a federal court in the last twenty years, including facts about the criminal conduct and the individual defendant as well as the sentence imposed.

This proposal has real potential for positive effect, even for transformative effect and significant change. The applicant has impressive resources to carry out its plan in terms of

experienced personnel and leadership, as well as established contacts with other faculties and experts in criminal law. The proposal has ambitious goals which are an essential starting point. My advice to the Foundation would be to proceed with the grant but not to be shy about asking for clarification of any portion of the proposal you have questions about. The Foundation may also wish to set certain reporting periods as the Institute's planning progresses and specific programs are being implemented.

/s/ Diana Murphy

Diana Murphy

Tracey L. Meares

Walton Hale Hamilton Professor of Law

Tracey Meares is the Walton Hale Hamilton Professor of Law at Yale Law School. She received her B.S. in General Engineering from the University of Illinois and her J.D. from the University of Chicago Law School. Upon graduation, Professor Meares clerked for Judge Harlington Wood, Jr. of the U.S. Court of Appeals for the Seventh Circuit, then served as an Honors Program Trial Attorney in the Antitrust Division in the United States Department of Justice, before joining the University of Chicago law faculty in 1994. Her research and teaching interests center on criminal procedure and criminal law policy, with a particular emphasis on empirical investigation of these subjects.

Education

J.D., University of Chicago, 1991

B.S., University of Illinois, 1988

Courses Taught

Criminal Law and Administration

Criminal Procedure



MEMORANDUM

TO: Ms. Penny Hunt

FROM: Tracey L. Meares, Walton Hale Hamilton Professor, Yale Law School

DATE: August 9, 2011

RE: Review of Minnesota Law School Proposal

The University of Minnesota Law School ("Minnesota") proposes to initiate an Institute of Criminal Law and Criminal Justice to, "create the preeminent program on criminal law and criminal justice in the United States, and one of the strongest in the world."

Anchored by long-time faculty members, Michael Tonry, Richard Frase and Barry Feld, along with newcomer, Antony Duff, Minnesota claims that the Institute will play a major role in fixing a broken system. These are large claims, to be sure. There are reasons to believe that Minnesota might pull it off. Tonry and Feld are giants in the policy realm, Duff is a renowned theorist, and Frase and Reitz also are quite strong scholars. AS it stands, the proposal rests, in my opinion, on the resumes and very strong past work of the scholars. It is rather on institutional specifics in my opinion. I shall begin with the strengths of the proposal, rehearse what I see as weaknesses, and then conclude with some observations for potentially strengthening the proposal.

The strength of the proposal is its personnel. While those of us from other law schools (UPenn and NYU immediately come to mind) may quibble with the claim that Minnesota's senior law faculty is the "strongest in the United States and possibly the world," there is no doubt that the group at Minnesota is excellent. For the best thinking on the three "streams" that the proposal identifies as the potential Institute's areas of interest, members of the Minnesota group would certainly be on anyone's short list to lead scholarly inquiry into criminal justice policy, sentencing and criminal law theory.

These three streams also are appropriate areas of inquiry. I use appropriate for a reason, as I am less sure that they are the "right" areas if one's goal is to impact and reform our broken criminal justice system for reasons I shall say more about below. Criminal justice policy obviously drives the system, so attention must be paid to it. It is a huge topic, however, and it is not clear to me that there is a clean line between it and sentencing as the proposal suggests. Criminal law theory is a separate inquiry, but it is hardly obvious ~~that~~ that deep examination of this area – especially those identified in the proposal – will lead to concrete reform strategies even as such inquiry generates new academic research.

The weakness of the proposal, in my view, comes in the somewhat amorphous relationship it articulates between the structure of the Institute, which is really built around the research agendas of the group of very strong faculty members who will form the Institute's core, and the goal of transforming American criminal justice.

The proposal mentions that each of the three activity streams will deliver concrete products that offer "[a] realistic hope of substantially improving American law, policy and practice." The proposal points to the Model Penal Code as a paradigmatic example. Next, the proposal identifies products relevant to the three streams. Specifically, it points to Reitz's work on sentencing as a potential product, although not quite up to the scale of the MPC. In Appendices B-D, the proposal mentions a "blue ribbon commission" report as another potential product of a stream, and then it lists research into a number of longstanding problems in criminal law theory as a third product. Of these three, the sentencing stream seems to be structured to have the greatest potential to achieve the systemic impact that the proposal seeks as its goal. Frase and Reitz already are insinuated into real-time policy making activities that reflect their research agendas, and they also have identified external academics who also have practitioner/policy ties, such as Petersilia and Travis, in addition to a host of people who are working on the ground on these important issues.

The two other streams stand in contrast (and not favorably so) to the sentencing stream. I may be jaded, but I am not hopeful about the potential impact of a nationwide blue ribbon commission report on criminal justice reform, primarily for the reasons that the proposal itself gestures toward in its opening pages regarding the reasons that the system is broken today. Political dynamics are strong and entrenched. And they are multi-jurisdictional. Broad-scale national attempts at reform aimed at broad problems, it seems to me, are doomed to fail. It is true that we achieved progress in the past with such commissions. Kerner and the Presidential Commission on Crime are the two obvious examples. Yet, we still suffer today from the problems that those commissions identified well. We do not need reidentification of the problems. What we need today is work directed to those longstanding problems of which we all are very much aware and which the proposal sketches. (Tonry could recite the list in his sleep.) Interventions that are targeted geographically, demographically, jurisdictionally or substantively seem, at least to me, to have greater chance of success.

It is true that the criminal law theory stream is not as scaled at as broad a level as the criminal justice policy stream, so my criticism here may seem orthogonal to the proposal as written. This section the proposal identifies drug offenses, strict liability, preventive justice and regulatory offenses as potential sites for inquiry. Each of these is promising in the sense that they are relatively narrow. The problem here is not breadth but lack of engagement with policy and practice. Each issue would be better pursued in concert with the policy stream. These are areas that cry out for collaborators who are not simply academicians, and there is none to be found in this section of the proposal. This is a glaring weakness in my view. *intersecting or lying at right angles.*

This weakness could potentially be addressed by a strong clinical component. It is my understanding that Minnesota currently has a criminal appellate defense and prosecution clinic. There is also a criminal misdemeanor clinic. I do not know very much about either clinic, but it would seem that neither is particularly policy-oriented, but rather case-based and litigation oriented. The proposal would be stronger in my opinion had its

authors either identified potential clinical targets for hire, or described the kind of clinical professor that Minnesota is seeking. On the ground demonstration projects are more likely to gain reform traction. There are examples throughout the country to be found at NYU, the University of Chicago, Stanford University and Yale.

This is potentially very strong proposal. The anchoring group is fantastic. It is not clear to me that the structure – in particular the relationship between the anchoring researchers and policymakers and practitioners on the ground in apposition to make any recommended changes -- has been completely thought through. The criminal justice policy work should be more targeted and should identify particular issues as opposed to grand systemic reform. Rather than imagining the idea of criminal justice system 30 years from now one potential idea for a panel might be imagining a world in which the incarceration rate of young African American men is half what it is now. Certainly such a thought exercise would lead to systemic reform. Another idea might be taking on fundamental reform of policing wherein we imagine police as substitute for prison. Yet a third idea might be thinking through the relationship between prison and mortality of minority (especially African American men). Each one of these issues is a **huge** problem. Tackling any one of them and making headway in concert with practitioners and policymakers would be a job well done.

2011 Proposals
Yale Law

IMPROVING HUMAN RIGHTS AT HOME AND WORLDWIDE:

THE ROBINA FOUNDATION HUMAN RIGHTS FELLOWSHIP INITIATIVE

&

**THE DEVELOPMENT OF A CENTER FOR IMMIGRATION AND MIGRANTS'
RIGHTS**

AT YALE LAW SCHOOL



**Proposal to the Robina Foundation from
Yale Law School**

**Presented by Robert C. Post
Dean and Sol & Lillian Goldman Professor of Law
Summer 2011**

EXECUTIVE SUMMARY

On becoming the COO of Honeywell, the Robina Foundation's founder James Binger, remarked in an interview with TIME magazine, "I wanted to develop my own set of problems to solve."¹ Mr. Binger's establishment of the Robina Foundation to develop cutting-edge solutions to humanity's worst problems has vindicated Mr. Binger's goal. It has defined and helped to solve significant problems. We at the Yale Law School are fortunate that the Robina Foundation has sought to address the profound problem of human rights abuses. Any hope of reducing these abuses requires a well-trained contingent of leaders who are skilled in both the theoretical and the practical questions of human rights and social justice.

Over the past three years, the Robina Foundation Human Rights Fellowship Initiative invested in the support and training of promising human rights leaders. It has inspired students interested in studying human rights: It has instructed them through intense coursework; seasoned them by providing opportunities to pursue practical fieldwork at international NGO's; tested their initiative by inviting them to develop compelling research projects; broadened their vision by convening young and advanced human rights scholars and activists to teach, share ideas, and electrify Yale's academic culture; and empowered them to create networks around the world of human rights activists and scholars who can support and challenge each other.

We believe that the time has come to fortify and entrench the Robina Foundation Human Rights Fellowship Initiative at Yale Law School. As shown by the recent assessment, as well as by the reports annually submitted to the Robina Foundation, the initial years of the Robina Initiative have been successful in moving toward the goal of encouraging and supporting students in their endeavor to advance human rights. Yet there is more work to do. The good work of the Robina Initiative needs to be preserved and extended to reap the full benefit of its many useful innovations. For these reasons, we request support in the amount of \$3 million to continue the Robina Initiative for an additional three years (from June 2012 to June 2015).

We also propose that an additional component be added to the Initiative that will materially enhance its scope and effect. The Initiative's focus on international human rights should be complemented by a programmatic focus on domestic human rights. We believe that the ideal way to do this is to add programming that concentrates on immigration law and policy. Through the generosity of the Robina Foundation, Lucas Guttentag has served as a Robina Foundation Distinguished Senior Fellow during the past two years. He has had a remarkable impact on the Law School community and on the University at large. Last year alone, Professor Guttentag taught in the Law School new courses on immigration law, migration issues, and constitutional litigation. He has in addition participated in many events and student activities at Yale College and gave numerous lectures and presentations as a Robina Fellow at institutions other than Yale.

Professor Guttentag's work has been so inspiring that we believe that he should become the director of a new Center on Immigration and Migrants' Rights at Yale Law School. The Center would

¹ *Time* magazine on becoming COO

promote the intersection of policy and scholarship; further the protection of immigrants' rights and immigration reform; and engage the broader scholarly work on immigration and migration that is produced throughout Yale University. The Center would convene and collaborate with University scholars, NGO leaders, activists, and advocates to encourage and develop new policy approaches in the area of immigration and migration. Just like the Robina Human Rights Fellowship Initiative, the Center will motivate and inspire future leaders in this area. It will empower them to make significant contributions and to devote their careers to this essential field. We ask the Robina Foundation to provide foundational three-year support (from September 2011 until September 2014) in the amount of \$535,000 to help launch this exciting new initiative and to help develop the Center over that period. The Robina Foundation's critical support for this initial phase will allow us to demonstrate the value of the Center, to generate additional support from other funders, and to make the case for sustaining it as an important new institution.

Through the continuation of the Robina Human Rights Fellowship Initiative and the establishment of a new center on immigration policy and migrants' rights, the Law School aims to cultivate a growing network of scholars committed to addressing the greatest human rights challenges of our time, both domestic and international.

YALE LAW SCHOOL AND THE PUBLIC INTEREST

Yale has long stood as one of the nation's leading law schools. Presently ranked as the number one law school in the United States, Yale offers an unmatched environment for scholarship and learning, featuring educational intimacy, a world renowned faculty, small classes, limitless opportunities for clinical training, and strong encouragement of public service. The Law School's impact on the world is measured by its accomplished graduates, its outstanding scholarship, and the policy impact of its projects and centers.

The culture of Yale Law School has traditionally included a vibrant commitment to public service. Many of Yale's Legal Realists of the 1930's—William O. Douglas, Thurman Arnold, Walton Hale Hamilton—moved to Washington DC to promote the New Deal. In the 1950s, Dean Eugene Rostow was among the first to have the courage to brand the Japanese Internment “a disaster,” even while noted civil libertarians defended the government's policy. During the McCarthy era, Professors Tom Emerson and Fowler Harper litigated against loyalty oaths; Dean Lou Pollak and Professor Charles Black helped to litigate *Brown v. Board of Education* and its progeny. In the 60s and 70s, Dean Abe Goldstein defended those Yale faculty charged with supporting the antiwar movement, while Professor Alexander Bickel argued the *Pentagon Papers* case. In the 1980s, Yale law graduates founded the National Resources Defense Council and led the environmental law movement. In the 1990s, Yale's Lowenstein Human Rights Clinic led national litigation on behalf of Haitian and Cuban refugees held at Guantanamo. Since September 11, 2001, the Law School's National Litigation Project has filed briefs in all five War on Terror cases to reach the United States Supreme Court; the Workers' Rights Clinic has pioneered innovating anti-trafficking litigation; and the Education Adequacy Clinic has litigated before the Connecticut Supreme Court to secure greater support for public education.

Yale is also the leading producer of law school professors and deans. At this writing, the deans of Columbia, NYU, Harvard, Georgetown, Chicago, Penn, Michigan, Virginia, UCLA and the University of Minnesota are all graduates of the Yale Law School. Of all professors hired at the 43 top law schools since 1995, 130 were trained at Yale. By contrast, only 115 received their degree from Harvard, the second most prolific producer of law professors. The third and fourth ranked schools were Chicago and Stanford, which produced, respectively, 35 and 34 of these professors. Of course, Harvard is three times Yale's size, so that Yale's per capita rate of producing law professors is roughly three times as high as that of Harvard, Stanford or Chicago. The Law School's graduates are also prominent in politics. For example, they include recent presidential candidates like Paul Tsongas, Gary Hart, Gerry Brown, Joe Lieberman, Bill Clinton, and Hillary Clinton.

Yale Law School is perfectly situated to produce the next generation of human rights leaders, both outside and inside the legal academy. We believe that Yale Law School is uniquely qualified to fulfill the goals of the Robina Initiative.

INTERNATIONAL HUMAN RIGHTS

The focal point for human rights activities at the Yale Law School is the Orville H. Schell, Jr. Center for International Human Rights. Founded in 1989, the Schell Center coordinates a diverse program that serves students and scholars at Yale while contributing to efforts to promote respect for human rights in the United States and globally. By taking advantage of the network and reputation of the Schell Center, the Robina Initiative has been able to expand its impact on human rights across the nation and the world.

Apart from the Robina Initiative, which is facilitated primarily by the Schell Center, the Center oversees its work through five main areas of activity: (1) Human Rights Events, including a speaker series, and other lectures, panels and symposia; (2) the Allard K. Lowenstein International Human Rights Project; (3) the Allard K. Lowenstein International Human Rights Clinic; (4) The Yale Human Rights and Development Law Journal; (5) the Robert L. Bernstein Post-Graduate Fellowships (supporting recent graduates for a year of full-time human rights advocacy work in settings throughout the world); and (6) Other Human Rights Fellowships, (scholars and practitioners in residence at the Law School).

(1) Human Rights Events: The Center offers a wide array of speakers and panels on human rights issues, including the bi-weekly Human Rights Workshop: Current Issues and Events. Many of these programs are organized in partnership with other centers and programs at the Law School and with other departments and centers at the University. Robina Visiting Scholars have contributed greatly to these programs. The list of some of the Schell Center's human rights speakers and symposia last spring included:

- **Daniel Bonilla**, *Associate Professor, Universidad de los Andes School of Law, and Robina Foundation Human Rights Fellow and Lecturer in Law, Yale Law School*: "Urban Indigenous Groups and the Limits of Multicultural Liberalism"

- **Daniel Wilkinson**, *Deputy Director for the Americas, Human Rights Watch*: “Human Rights in Cuba: Is Progress Possible?”
- **Karen Engle**, *Cecil D. Redford Professor in Law and Director, Bernard and Audre Rapoport Center for Human Rights and Justice, University of Texas School of Law*: “Queering Human Security”
- **Alice M. Miller**, *Senior Research Scholar in Law and Robina Foundation Human Rights Fellow, Yale Law School, and Lecturer in Law, UC-Berkeley School of Law*: “‘Norm’-alizing Sex: The Contingencies and Constraints in Establishing Sexual Rights in International Law”
- **Andrew F. March**, *Associate Professor of Political Science, Yale University*: “Blasphemy and other Speech-Crimes in Islamic Law and IHRL”
- **Laura Dickinson**, *Foundation Professor of Law, Sandra Day O’Connor College of Law, Arizona State University*: “Outsourcing War and Peace”
- **Joy Gordon**, *Professor of Philosophy, Fairfield University and Senior Fellow, Global Justice Program, MacMillan Center for Area and International Studies, Yale University*: “Invisible War: the United States and the Iraq Sanctions”
- **Renee Redman**, *Executive Director, Iran Human Rights Documentation Center*, and **Shadi Sadr**, *Iranian lawyer and Woman’s Rights Activist*: “Working on Womens’ Rights in Iran – the Case of Stoning”
- The annual **Robert L. Bernstein Symposium** on “Human Rights in 2025”

(2) **The Allard K. Lowenstein International Human Rights Project**: The project is a student organization that convenes small teams of students to work on specific human rights issues, usually on behalf of or with guidance from NGO’s. Yale Law School faculty member and Schell Center Executive Director James Silk provides overall supervision and guidance. Teams conduct research, write memoranda and other documents, engage in advocacy activities, and organize events at the Law School. In the last year, more than 35 students participating in the Lowenstein Project worked on a diverse range of human rights projects, including:

- A research memo assessing the legal basis for, and potential human rights challenges to, an EU border-control agency’s operation, particularly in the context of its prevention of illegal immigration;
- Research on whether victims’ participation in cases heard before the International Criminal Court has been in keeping with the legal framework envisioned by the framers of the Court and on how to ensure that both defendants’ and victims’ rights are fully protected at the Court; and
- An assessment of the relationship between US trade policy and conflict minerals that are mined and taxed by armed groups in eastern Congo and then used in the production of electronic products consumed in the United States, with recommendations for developing an international certification system for such conflict minerals.

(3) **The Allard K. Lowenstein International Human Rights Clinic**: Taught by Professor James Silk, the Clinic undertakes a wide variety of projects each term on behalf of human rights organizations and individual victims of human rights abuse. Class sessions provide an overview of basic human rights principles and their application; help students integrate the theory and practice of human rights; and

provide training in human rights research, writing, and other advocacy skills. The clinic has one or more student directors each year.

(4) Yale Human Rights and Development Law Journal: This student-run law review seeks to provide a broad range of perspectives on human rights and development. The journal is published in online and print editions. It includes articles by top legal scholars, notes from practitioners, student notes, and book reviews. The journal welcomes pieces that draw from different areas within the law, including constitutional law, economic regulation, international law, and institutional reform. Authors may address issues that arise in national and international contexts, in both developed and developing countries. In light of the interdisciplinary nature of human rights and development, scholarship in the journal often draws upon other fields, such as political science, economics, health, and sociology.

(5) Robert L. Bernstein Post-Graduate Human Rights Fellowships: The Robert L. Bernstein Fellowships enable two or more Law School graduating students or recent graduates to devote a year to human rights advocacy work in settings throughout the world. The Bernstein Fellowships are distinct from the Robina Post-Graduate Human Rights Fellowships in that they do not provide support for fellows interested in working in judicial and other governmental and intergovernmental entities or for conducting independent human rights research.

(6) Other Human Rights Fellowships: The Schell Center also offers a few human rights fellowships that are located at the Law School. The Cover-Lowenstein Fellowship is a two-year, post-graduate position at the Law School for lawyers with international human rights experience who are interested in preparing for a career in human rights practice or clinical teaching. This Fellow helps both to supervise the Allard K. Lowenstein International Human Rights Clinic and to coordinate activities of the Orville H. Schell, Jr. Center for International Human Rights. The Schell Fellows are practitioners and scholars who are invited to spend a period of time at the Law School engaged in human rights work and research as part of the Law School community. In addition, the Tom and Andi Bernstein Human Rights Fellowship provides support to bring human rights activists to the Law School. The Bernstein fellowship typically supports one or two fellows to come to the Law School annually.

Without counting the support of the Robina Initiative, the Schell Center's annual budget is approximately \$659,000 to \$702,000 per year. This includes the cost of the Schell Center's staff as well as its various activities, as discussed above. The Schell Center is primarily funded by an endowment fund that was established in 1988 in memoriam to Orville H. Schell, Jr. Since the Schell Center's inauguration, it has attracted other endowed funds, which are used to support the Schell Center's human rights lectures and speaker series, the Bernstein Post-Graduate Human Rights Fellowships, the Tom and Andi Bernstein Fellowship(s), and the annual Bernstein International Human Rights Symposium. Because these endowments do not always cover the Schell Center's full costs, the Center's budget is supplemented by general funds from Yale Law School when needed. Although the Robina Initiative does not provide direct financial support to any of the above-mentioned components in this section, Robina Visiting Human Rights Fellows do often participate in and speak at various Schell Center events, including the bi-weekly Human Rights Workshop. Our aim is to create a seamlessly integrated program.

The Schell Center is the umbrella for the Law School's formal human rights programs, yet many other human rights activities are facilitated by faculty members not directly under the auspices of the

Schell Center. These activities include lectures, conferences, workshops and courses led by faculty members interested in human rights-related subjects like workers' and immigrants' rights; the rights of prisoners; children's rights; the law of war; transnational development; and other subjects. The attached chart shows the relationship between the Robina Initiative, the Orville H. Schell, Jr. Center for International Human Rights, and "other" human rights activities at Yale Law School that are facilitated separately from the Schell Center.

The Law School's human rights programs aim to offer Yale law students interested in human rights a comprehensive law school experience. The Law School's programs work to strengthen the interest of students from the moment they enter law school to years after they graduate; together with the Robina Initiative, they can offer students theoretical and practical training for a lifetime of human rights work.

THE CONTINUATION OF THE ROBINA INITIATIVE

Programming at the Schell Center is extremely costly. It cannot be funded out of student tuition (which covers only about one-third of the Law School's operating budget). The support of the Robina Initiative during the last three years has enabled the Schell Center to meet the growing student demand for human rights education that we have witnessed, as well as meet the ever-growing need for financial support to sustain those students who wish to pursue human rights careers.

As the Robina Foundation is aware, ensuring the successful future of the human rights movement requires the necessary but frequently overlooked step of investing in the development of human capital. We are very grateful to the Robina Foundation for providing us with the support necessary to dramatically enhance the opportunities available to Yale Law School students interested in pursuing human rights academically and practically. By continuing to provide JD scholarships, summer human rights fellowships, post-graduate fellowships, and visiting human rights fellowships, the Robina Initiative allows Yale to expand the network and cohort of superbly trained human rights practitioners capable of contributing to all varieties of human rights endeavors. In the following sections, we outline the various components of the Robina Human Rights Fellowship Initiative and discuss their profound contribution to the human rights community of the Law School.

Robina JD Scholarships

Last year, the Law School spent \$8 million to provide financial aid to JD students. The vast majority of our current students—nearly 80 percent—would not be enrolled today if not for our generous financial aid. This aid comes in the form of loans and grants. In the past year, 60 percent of our students received grant-based aid, the average grant being \$22,000. Each year, many students receiving aid express interest in human rights, and some already have experience in the field. If encouraged to pursue their goals early on, some portion of these students will almost certainly become the human rights leaders of the next generation.

As the School continues to struggle to create diverse incoming classes—diverse in gender, ethnicity, age, extracurricular experience, and economic means—financial aid becomes increasingly

indispensable. Yet, the Law School's financial aid program is highly expensive and not adequately endowed. Every dollar spent in financial aid is a dollar that cannot be spent on educational programming or faculty recruitment and retention. It is therefore of great importance to the Law School to be able to continue to identify students who plan to pursue courses and clinics in human rights who can become Robina Human Rights JD Scholars. Without the support of the Robina Foundation, it is uncertain whether Yale will be able to continue to admit developing human rights leaders regardless of their economic situation.

The recent assessment of the Robina Initiative has provided important information about the impact of Robina JD Scholarships. More than one-third – 37.5%, to be exact – of the Robina JD Scholars in the Class of 2010 (or 3 of 8 students) chose human rights or public interest positions during their first year after graduation. Although the sample is too small to be statistically significant, the trend is noticeable. Each year, our Career Development Office conducts a survey of alumni who graduated five years earlier, and these surveys constitute the only statistical baseline we have by which we can measure the significance of this figure. The most recent survey is for the Yale Law School Class of 2005. In the Class of 2005, only 8% of graduates took public interest and/or human rights positions their first year after graduation. The significance of the 37.5% figure must also be evaluated in light of the fact that most Yale Law School graduates tend to move into human rights and public interest work *after* their first position, within 5 to 10 years after graduation. The first job of more than a third of our graduates, for example, is a judicial clerkship. Thus, the 37.5% figure is very likely to increase over time. Additional Robina JD Scholars will most probably move into the human rights field over the next several years.

It is equally compelling to note the significant roles that Robina JD Scholars have played as leaders for their peers within the Law School community. Robina JD Scholars have been very active participants in human rights activities; they have set the standard for other students interested in pursuing human rights academically or professionally. The vast majority of Robina JD Scholars have been involved in the Allard K. Lowenstein International Human Rights Clinic, the Transnational Development Clinic, and the Human Rights and Detention in the US Clinic, as well as in other human rights-related courses, such as Comparative Constitutional Law and Foreign Affairs, and National Security Law. Robina JD Scholars are leaders in coordinating human rights activities at the Law School: One was a student Co-Director of the Lowenstein Human Rights Project; another was the student Co-Director of the Schell Center; a third was the articles editor for the Yale Human Rights and Development Law Journal; and a fourth organized events for the Middle Eastern and North African Law Students Association, to cite just a few examples.

Other Robina JD Scholars have published scholarly articles (for example, with Professor Thomas Pogge on "Severe Poverty as a Human Rights Violation"); they have engaged in independent research projects (for example, with Professor Christine Jolls on the rights of adolescent workers in the US and Latin America); they have served as teaching assistants (for example, for the International Human Rights course at Yale College). Yet another Robina JD Scholar has been a Yale World Fellows Program Associate, participating in seminars that are taught twice weekly by top Yale faculty and that are designed especially for the World Fellows and Associates in order to educate them on topics such as global governance, international public health, rule of law, development economics, globalization, human rights, and technology. The World Fellows Program is a coveted opportunity, with only two or three Associates selected each year from all the graduate and professional schools of the University.

We hope to continue to encourage the leadership of these outstanding students by distinguishing them with the title and support provided through the Robina Human Rights JD Scholarships. With continued investment at the level of \$250,000 per year, the Law School will be able to sustain our commitment to cultivate brilliant student human rights leaders who represent a diverse array of perspectives and economic backgrounds. These students will not only continue to lead their peers, they will also energize the human rights community at the Law School through their involvement with clinics and student organizations. As our initial results have shown, they are likely to pursue human rights careers in significant numbers.

Robina Summer Human Rights Fellowships (also known as the Kirby Simon Summer Human Rights Fellowships, Supported by the Robina Foundation)

The summer human rights fellowships supported by the Robina Foundation provide pivotal, if not transformational, experiences for students. Prior to the inception of the Robina Human Rights Fellowship Initiative, the Schell Center offered some fellowships to students interested in doing international human rights work during the summer. However, these fellowships were based on insecure financial footing and would likely not have been insulated from the financial setbacks experienced by Yale in 2007, caused jointly by a decrease in the funding formerly provided by a private foundation and by the need to balance the Law School budget in the face of declines in endowment income that have still not been reversed.

These former fellowships were named in honor of Kirby Simon, Professor John Simon's son, who, as a Foreign Service officer, died in 1995 while serving in Taiwan. In order to continue to honor Kirby Simon's memory as well as acknowledge the generous support provided by the Robina Foundation, these fellowships are now called the "Kirby Simon Summer Human Rights Fellows, Supported by the Robina Foundation." The Robina Foundation's investment in these fellowships has provided the stable support needed to enrich and sustain students' interest in pursuing summer international human rights work and has greatly enhanced and strengthened the program.

A large portion of students have been affected by the program: sixteen to eighteen percent of students in the classes of 2010 and 2011 have chosen to participate in the summer human rights fellowship program supported by the Robina Foundation. These students return from their fellowships energized by what they have learned over the summer. The chance to participate in the important practical work of international courts or NGO's is invaluable. Students forge personal connections with mentors and co-workers, develop networks within the complex world of agencies, courts and advocacy groups, and witness first-hand the aspirations and challenges of human rights organizations. Nearly all of the students who participated in the summer human rights fellowship program supported by the Robina Foundation and who were interviewed for the recent assessment – approximately 87% – attested that their experience increased or sustained their desire to pursue international human rights as a career path.

The significance of this information is supported by the professional positions past summer human rights fellows have chosen. For example, 60% of the Robina summer human rights fellows from the Class of 2009 (or 3 of 5 students) and 31% of summer human rights fellows from the Class of 2010 (or 8 of 26 students) obtained public interest or human rights positions during their first year after graduation. Their positions varied widely and included, to name just a few, a clerkship at the Constitutional Court of

South Africa; a Soros Justice Advocacy Fellowship in the Louisiana Capital Assistance Center in New Orleans; a Skadden Fellowship at the Urban Justice Center in New York; and a fellowship at the Vera Institute in New York, focusing on legal reform in China. The numbers should once again be compared with the baseline established by the comprehensive survey of the Class of 2005, which indicate that only 8% of our graduates secured human rights or public interest positions during the first year after their graduation.

The summer human rights fellowships supported by the Robina Foundation also play an important role in encouraging students to develop their work into full-time human rights advocacy or advanced research projects. For example, Sam Ferguson '09, who as a summer fellow had initiated an independent study on the dirty war in Argentina, later developed this project into a much larger initiative, for which he received a Robina Post-Graduate Fellowship in 2009. His research project, which promises to soon be published as a book, focused on Argentina's decision in 2003 to repeal a series of amnesty laws passed in the 1980s that had shielded officials of the dictatorship from criminal prosecution for nearly two decades. Sam's work may be the only comprehensive book on this subject that is addressed to an English-speaking audience; it will provide an invaluable account of what happens when a democratically enacted amnesty law is repealed to re-open an examination of past human rights abuses.

Similarly, Rebecca Heller '10's summer human rights fellowship in 2008 led her to travel to Jordan where she became involved with Iraqi refugees who had been fleeing Iraq in great numbers since the US-led invasion in 2003. Soon after her fellowship, Becca co-founded the Iraqi Refugee Assistance Project (IRAP), which has evolved to become a full-scale legal advocacy organization with chapters at nine US law schools and at the University of Jordan. IRAP has provided pro bono legal assistance to more than 200 Iraqi refugee families and has successfully helped 90 families resettle safely in third countries. The success of IRAP has in no small part depended upon the opportunity that Becca was afforded through her summer human rights fellowship. The experiences she gained as a fellow are undoubtedly continuing to influence her current work as the Executive Director of the Iraqi Refugee Assistance Project. (Please see the attached recent front-page *New York Times* article, which features a quote by Becca Heller, Executive Director of the Iraqi Refugee Assistance Project.)

The Schell Center offers a series of events that highlights the experiences of the summer human rights fellows supported by the Robina Foundation and acknowledges their important contributions to the Yale human rights community. The Center hosts orientation and "debriefing" receptions for summer human rights fellows, which allow fellows to share their experiences with each other and reflect upon their experiences. In addition to these events, the Center also annually facilitates three student-led panels on human rights: the first panel provides a public forum for summer human rights fellows to discuss their work with first-year law students who may be interested in participating in summer human rights fellowships in the future, while the second and third panels provide a forum for fellows to lead discussions of specific human rights issues on which their summer work focused. These are just a few examples of the many events hosted by the Schell Center that help catalyze and solidify not only the relationships between summer human rights fellows supported by the Robina Foundation, but also between other students interested in human rights issues.

Through continued support at the current level of \$200,000, the Robina Initiative will deepen its effect on the field of human rights by allowing students to gain a broad range of human rights experience

outside the classroom in the kinds of intense real-world work that only an immersion for a significant period of time can provide. The Robina Foundation's investment will enable the summer human rights fellowship program to have the resources to produce enormous impact on the lives of our students and, through their careers, on the future of international human rights.

Robina Post-Graduate Fellowships

Although significant numbers of students enter Yale Law School eager to work in human rights, many are pushed by financial considerations and the lack of available entry-level positions to embark on careers in private or corporate practice. While many of our students can ultimately succeed in finding remunerative employment in nonprofit and governmental organizations, many find it impossible to find paying positions in human rights immediately or even soon after their graduation.

The Robina Initiative has significantly increased the number of opportunities available to recent graduates interested in entering the field of the human rights. The Robina Post-Graduate Fellowships have doubled the number of Yale human rights fellowships open to our recent graduates. The opportunities created by the Robina Post-Graduate Fellowships do not only increase the likelihood that our graduates will be able to fulfill their ambitions to land jobs in human rights; they also add valuable talent to the difficult work of generally under-resourced organizations struggling to advance respect for human rights. Most human rights organizations cannot offer paid internships. They very much value the work that Robina Post-Graduate Fellows are able to contribute to their efforts.

Various international criminal tribunals, foreign constitutional courts and intergovernmental agencies addressing human rights issues also value the opportunity to have a year of work from talented Yale Law School graduates. Robina Post-Graduate Fellowships have enabled our graduates to serve important courts like the Constitutional Court of South Africa, the International Criminal Tribunal for the Former Yugoslavia, and the International Criminal Court. This helps these courts fulfill their important mandates and also allows our graduates to gain invaluable first-hand experience of the day-to-day workings of these institutions. It provides the Fellows with precious knowledge that will dramatically increase their ability both to secure responsible positions in human rights and to be effective human rights practitioners. Equally important are the Robina Post-Graduate Fellowships that support graduates who wish to gain experience at institutions like the US State Department's Office of Democracy, Human Rights and Labor, or the Office of the United Nations' Special Rapporteur on the Right to Food, or the International Labor Organization, to name just a few. These institutions are vital for the international development of human rights. We are confident that the knowledge the Fellows gain from these extraordinary experiences will be put to long and worthwhile use as Robina Post-Graduate Fellows become practicing human rights advocates.

We have recently begun to invite and publicly announce current and past Robina Post-Graduate Fellows during the Schell Center's annual Robert L. Bernstein Symposium, an event which annually draws over a hundred attendees, including a variety of prominent human rights scholars and activists to participate in discussions and deliver lectures on specific human rights themes. This provides an opportune way to convene current and past Robina Post-Graduate Fellows as well as other students interested in human rights to allow them to exchange ideas and foster networks between each other and leaders in the human rights community. We intend to continue this practice in the future.

This year brought a significant increase in the number of applications for post-graduate human rights fellowships. This reflects not only students' increased awareness of the Robina Post-Graduate Fellowships, but also the proven success of these fellowships in opening up the field of human rights to those just seeking to enter it. In a world of otherwise contracting resources, the Robina Post-Graduate Fellowships constitute a rare expansion of opportunity. We would therefore propose increasing the support for these fellowships to \$180,000 in order to enable us to provide three graduates with fellowships that cover the cost of the living stipends plus benefits.

Robina Visiting Human Rights Fellows

The opportunity to participate in and benefit from a robust and distinguished intellectual community of human rights scholars and practitioners is rare. It allows scholars and advocates to develop further expertise, gain knowledge, and share ideas with others who are intimately familiar with human rights in both theory and practice. For these reasons, the Robina Visiting Human Rights Fellows in residence program is important not only to individual Visiting Fellows, but also to the larger human rights community at Yale and internationally.

In our proposal three years ago, we had originally conceived of supporting two separate categories of Robina Fellows – International Fellows and Senior Fellows – to spend a year in residence at the Law School to enable them to study comparative theories of human rights and to participate in and benefit from the community at Yale. Recently, we modified this vision to allow greater fluidity between these two categories by combining them into one group entitled the “Robina Visiting Human Rights Fellows.” The consolidation has enabled us to invite scholars and advocates at various career levels – from novitiates to seniors – to spend from a few weeks to a full year in residence at the Law School. These shorter residencies allow visits by fellows who may not otherwise be able to get away from their regular responsibilities, but who can, even in a short visit, take advantage of what the Law School offers and provide great benefits to our community.

Students, fellows, and Yale faculty have received a great benefit from the influx of new ideas and vitality that the Robina Visiting Human Rights Fellows have brought to campus. The expertise and experience of past fellows has included topics ranging from comparative constitutional law to international criminal law, from international dispute settlement to sexual rights, from language rights to comparative citizenship law. Robina Visiting Human Rights Fellows have taught seventeen human rights courses with a total of 130 enrolled students over the last three years. The Robina Visiting Human Rights Fellows have strengthened the curriculum of the Law School and, in particular, its international law and human rights curriculum. And the Fellows have made possible a valuable symbiosis: They have enriched the intellectual life of the Law School even as they themselves have been enriched by their contact with the Law School.

For the individual Robina Visiting Fellows, the opportunity to complete research and writing projects is invaluable. During their time here, they benefit not only from the dedicated time to think and write, but also from the chance to engage in an extended process of peer review. The benefit of the experience for the Robina Visiting Fellows is not limited to the freedom from routine tasks—which, in and of itself, is significant—but also results from the intellectual attention and critique that they receive

from Yale faculty and students. At the same time, Yale Law School students benefit from their interaction with diverse legal scholars and practitioners. They benefit not merely from the content of their teaching, but also because Robina Visiting Fellows are role models for our students. Lucas Guttentag is a perfect illustration. He exemplifies not only what a long-time human rights advocate can learn in the academic environment of the Law School, but also what he can bring to enliven and enrich the experience of students and faculty. We should add that the multiple activities that Robina Visiting Fellows pursue—hosting discussions, delivering lectures, participating in conferences, and publishing new scholarship—have a valuable impact *outside* the Law School, both throughout Yale University and in the wider community of human rights scholars and advocates.

Professor Dapo Akande, a 2008-09 Robina Visiting Fellow from the United Kingdom, summarized well the impact that his fellowship had on his thinking and scholarship. He wrote: “The Law School really values an interdisciplinary approach in a way that is not replicated in Europe and, I suppose, perhaps is not replicated in the States either. One looks at the value of the law and the way that the law influences behavior. Coming from a European background, this was very different for me, and something that I have really tried to value in my research since my time at Yale.”

Jeffrey Kahn, a 2010-11 Visiting Fellow, commented: “The fellowship’s flexibility allowed me to conduct research in multiple sites both in the United States and abroad, while also giving me access to the amazing resources at Yale Law School and to work under the guidance of Yale Law School faculty. There is no equivalent fellowship in existence that would allow this combination of multi-sited research and scholarly activity on issues of international human rights. It is truly a unique fellowship and one which I hope will result in the documentation of a unique and illuminating history of an important international human rights movement.”

We would not have been able to support such a rich curriculum in human rights, nor to have the opportunity to have in residence some of the most respected scholars in the world were it not for the Robina Human Rights Fellowship Initiative. Although the Law School works hard to attract and sustain a number of visiting scholars each year, we often have to prioritize individuals who teach in key areas of law for which we do not have permanent faculty. We are quite limited in our capacity to invite teachers who do not fit into our categories of immediate curricular need. The Robina Initiative has greatly augmented our ability to invite human rights leaders of all levels to spend time in residency and to provide them with the intellectual support and resources that they require to advance progress in their specific areas of work. Sustained support for the Robina Visiting Human Rights Fellows at the level of \$235,000 would allow us to continue to invite three to six scholars each year to spend time in residency and enrich the campus.

Innovation in Human Rights Clinical Education and Field Missions

Students’ clinical experiences are often essential to their ability to master the knowledge and skills necessary to be effective advocates. In light of this, we have added a new component to the Robina Initiative: support for innovation in human rights clinical education. This support will enable the Lowenstein and other human rights-related clinics to accomplish work that is impossible to achieve without a field research component and that will provide students with the intensive field experience that is so critical to developing human rights careers. It will also provide funding that will allow our faculty to

explore and develop new clinical initiatives that will renew and enrich the human rights-related clinical work shared by students and faculty alike.

By helping to support field missions of the Lowenstein and other clinics, the Robina Initiative would enable these clinics to provide more of their students with the kind of field experience that is only possible in the clinical context, with the supervision and guidance of clinical faculty. Support for human rights field missions would enable our students to conduct research and gather evidence (whether for cases in various fora or for human rights reports), to witness first-hand the context of the human rights issues on which they have been working, and to interview people immediately affected by or responsible for human rights abuses. The skills that students learn during these field missions are critical to human rights work, yet they are almost impossible to simulate and are fundamentally different from the experiences they gain from their work on other cases and projects at the Law School.

In addition to providing support for field missions, the fund could support new projects related to human rights, initiatives that would not otherwise have the necessary funds. One recent example of such experimentation is last year's new Transnational Development Clinic, which depended on a one-time grant to get started. A second example is the new clinic that Jim Silk and Hope Metcalf taught on detention and human rights in the United States. Work from this initiative is now being incorporated into the Lowenstein Clinic. Other possible types of new clinical efforts or projects might include research on emerging issues or areas of law, independent projects that result in reports or presentations to various foreign, international or domestic organizations, and conferences or workshops to bring together activists and scholars to discuss complex or emerging issues of relevance to our clinics. Last year, Cover-Lowenstein Fellow Laurel Fletcher and two students from the Lowenstein Clinic traveled to Dhaka, Bangladesh, to present a comparative legal analysis of victim and witness protection and support measures; the object was to explain how Bangladesh's national tribunal might implement similar measures. The proposed fund could be used to supplement this and similar types of work. In addition, part of this support could enable one or two clinics to hire students to work throughout the summer in order to advance projects that cannot be completed effectively within one semester.

Although the Lowenstein Clinic is the most recognized and long-standing of our human rights clinics, additional sister clinics that have emerged in more recent years are important complements to the more generalist human rights work of the Lowenstein Clinic and play a significant role in developing new approaches to human rights work at the Law School. None of these clinics, including the Lowenstein Clinic, has sufficient resources to meet the needs of their many potential clients. The Lowenstein Clinic must work on a shoestring budget to conduct its work and engage in a small number of field missions. Limited funding for the Clinic has required it to constrain its ability to take on new projects that necessitate field work and that would be of great interest and educational value to students and of great importance to the human rights organizations who have requested the Clinic's assistance. Our other human rights clinics have even more limited resources.

If the Robina Initiative were to provide the amount of \$50,000 for this new component, it would make possible a variety of opportunities. The Lowenstein Clinic and other clinics doing human rights could conduct approximately four to six additional field missions, with three or four students on each trip, every year; they could develop new projects or even new clinics to address emerging issues; they could hire students to work through the summer on projects that cannot be completed effectively within one

semester; or, most likely, they could do some combination of these things. This would be a welcome investment.

Robina Fellowship Coordinator

Three years ago, we envisioned the need for a Robina Project Director who would not only help facilitate the day-to-day activities of the Robina Initiative, but also take on a number of strategic activities to ensure that the Initiative maximally benefits both students and the greater society. We realized, however, that these tasks would be better accomplished through the combined efforts of faculty and staff members affiliated with the Robina Initiative and the Law School's human rights programs. Professor James Silk, Executive Director of the Schell Center, has, in coordination with Dean Robert Post and Associate Dean for Academic Affairs Megan Barnett, taken responsibility for the general oversight of the Initiative.

In light of this, we modified the directorship position to become the Robina Fellowship Coordinator, with responsibility for administering the Robina Initiative, assessing its impact, and helping with projects that benefit both the Initiative and the Schell Center. For example, the Coordinator designed, created and completed a Yale Law School human rights student database that details the full range of human rights experiences of the students who have participated in any of them over the last twenty-some years. The database has been of great value to the Schell Center both in gaining understanding of the history of the various programs and in planning outreach to alumni to develop a human rights alumni network that will be useful to alumni as well as students. The information in the database will itself prove useful to students exploring summer and post-graduate human rights opportunities.

We feel that the addition of Katy Lawder as the Robina Fellowship Coordinator has been of great value to the Schell Center and to the Robina Initiative as a whole. The Schell Center has a very small staff – in addition to Ms. Lawder, it consists of merely four other individuals, all of whom have other significant responsibilities: James Silk, *Clinical Professor of Law and Executive Director of the Schell Center*, who teaches and dedicates approximately half of his time to the Schell Center; Paul Kahn, *Robert W. Winner Professor of Law and Director of the Schell Center*, who devotes only a small percentage of his time to the Schell Center; Allyson McKinney, *Associate Research Scholar in Law and the Robert M. Cover -Allard K. Lowenstein Fellow in International Human Rights*, who shares responsibility for supervising the Lowenstein Clinic and dedicates approximately half of her time to the Schell Center; and Barbara Mianzo, *Senior Administrative Assistant*, who also provides administrative support to several other individual faculty members. Ms. Lawder's presence has increased the capacity of the Schell Center to administer the Robina Initiative. Ms. Lawder has shown initiative in designing the assessment of the Robina Initiative and the human rights student database and has done a sensitive and intelligent job of conducting interviews and implementing the other aspects of the Robina Initiative assessment plan. We hope to continue to have Ms. Lawder in this role for the foreseeable future.

In the coming period, Ms. Lawder will continue the assessment work she has begun, in order to evaluate the impact of the Robina Initiative. She will also use the new human rights database that she developed last year to reach out to Law School graduates who were involved in various aspects of the human rights program; this may include sending electronic messages and enewsletters informing

graduates about human rights activities and opportunities at the Law School. It would also include developing a more accessible tool that would enable students and graduates to make useful connections, whether to allow students to obtain human rights career advice from graduates, to share information about job opportunities or work on particular issues, or to seek help with advocacy initiatives, research projects or job searches. The Schell Center would also like to use the database to develop a cadre of alumni who could serve as mentors to students interested in human rights issues and work. There are a few obstacles, administrative and technological, that need to be overcome in order to make this system functional and effective, and we are fortunate to have Ms. Lawder in a position from which she can devote her time and energy to accomplishing this goal.

Despite all that we have accomplished through the Robina Human Rights Fellowship Initiative, including the work Mr. Lawder has done, there is still much more to do with respect to our original goals. As the Robina Foundation is aware, our original proposal three years ago stated that we could "examine the state of human rights movements globally and assess the needs of that community for cooperation from the Law School." While conducting a thoughtful global assessment is beyond the capacity of the Schell Center, the Center is continually in contact with human rights organizations and advocates to explore ways that the Center, particularly the Lowenstein Clinic, can advance specific human rights projects. The Center persistently evaluates how best to effectively utilize its resources to achieve the widest possible impact. The Schell Center will continue to explore and evaluate these possibilities to develop new ideas and experiment with fresh approaches to enhance its ability to contribute effectively to advancing international human rights.

Our original proposal also discussed broadening our outreach to encourage undergraduates, graduate students, faculty, administrators, and staff from throughout the University to participate in the Schell Center's many events. In the coming years, we will advance this outreach and consider ways for the Schell Center to expand its collaboration with other areas of the University and, in particular, encourage more interdisciplinary advocacy and research projects and discourse. In the last few years, the Schell Center has increasingly organized events with other departments, centers and organizations within the University. This not only extends the impact of the Schell Center's resources, but also brings more diverse perspectives to bear on issues and brings human rights content to a wider audience. The Schell Center co-sponsored 19 events with other schools and departments this year alone, including: "The Yale AIDS Colloquium Series," with the Global Health Leadership Institute and Yale World Fellows Program; "Pakistan and Beyond: The Law and Politics of Aid After Humanitarian Catastrophes," with the South Asian Law Students Association, the South Asian Studies Council, and the Yale Office of Student Affairs; a panel discussion entitled "No Human Way to Kill," with the Human Rights Centre at the University of Essex; and "Economic Sanctions: Moral, Legal, and Strategic Perspectives," with The Arab Students Association at Yale, The Global Justice Program, The Ethics Politics and Economics Program, and The Yale International Students Organization. With the support of the Robina Foundation, the Schell Center will be able to continue to build these efforts. Now that Katy Lawder has completed some of the initial tasks her position entails, particularly the development of assessment tools and the human rights database, she will devote significant time to outreach work.

Recently, the Schell Center compiled a list of all the undergraduate student organizations concerned with human rights and related issues (the list includes more than forty organizations). In the coming period, we plan to augment the Schell Center's ability to work systematically with these

organizations. This will entail convening a meeting of organizational representatives to make them aware of the Schell Center's offerings and potential support, to develop synergies that would enable them to undertake joint initiatives and projects, and to gauge the human rights interests of the Yale College community and sponsor or co-sponsor appropriate events. In tandem with this project, we will also work to develop a group of law students—including summer human rights fellows supported by the Robina Foundation and Robina JD Scholars—who can serve as mentors to undergraduate students interested in human rights activities and careers and in the possibility of studying law to prepare themselves for such work. Ms. Lawder will also carry out a survey of faculty and programs at the University that engage in scholarship or activities on human rights and related themes. Other than the Schell Center, there is no center or program at Yale that focuses explicitly on human rights, but the programs of many other centers and departments touch on human rights. It will be important to understand the substance and extent of the human rights-related activities of some of the programs and to cultivate further collaboration with them. Entities at Yale that will be important for this outreach work include the MacMillan Center for International and Area Studies at Yale, along with its various area and thematic councils, the Jackson Institute for Global Affairs, the Genocide Studies Program, the Program in Agrarian Studies, the Global Health Initiative, the Yale World Fellows Program, and the Yale School of Public Health. Once we catalogue these programs and their activities related to human rights, we will establish relationships with them and seek to develop further collaboration among them. This will likely take the form initially of co-sponsoring events and making efficient use of the resources that these programs can offer each other, but we will also explore collaboration with others on clinic work, research and curriculum. Katy Lawder will carry out the necessary information gathering and will expand efforts she has already begun to participate in interdisciplinary groups, like the Global Health Initiative. Professor Silk would oversee this work and initiate interaction at the faculty level.

WHAT WE HAVE LEARNED, GOALS, AND FUTURE RECOMMENDATIONS FOR THE ROBINA INITIATIVE

We have learned much from the past three years of the Robina Foundation Human Rights Fellowship Initiative. Our future goals for the human rights program at Yale Law School are to:

- Strengthen the existing program by attracting and engaging permanent and visiting faculty members, lecturers, and fellows to teach new courses and seminars, present lectures and lead discussions, and participate and collaborate with the human rights community at Yale;
- Leverage the institutional resources of the University and the external support of funders such as the Robina Foundation and other foundations and individual supporters, to further build a diverse human rights community at Yale Law School, inclusive of individual's different interests and diverse backgrounds and experiences;
- Provide more opportunities for Yale undergraduate and graduate students and faculty members interested in human rights to engage with each other and to participate in lectures, courses, symposia, and interdisciplinary events focusing on human rights issues;
- Complement the strong international human rights program with new programs focusing on domestic human rights issues;

- Provide financial and programmatic resources that encourage students to learn about human rights in theory and practice and encourage their interest in and pursuit of human rights and public interest law generally throughout their careers;
- Produce outstanding scholarship that contributes to the understanding and development of human rights;
- Expand the support that the Yale Law School human rights program provides to human rights organizations by carrying out useful, practical projects that advance the human rights of particular populations and the development of effective strategies generally;
- Continue to assess the needs of the human rights program at Yale Law School and the University in order to better serve this community as well as human rights organizations and individuals in need.

The Robina Initiative fits perfectly within our overall plan for the human rights program at Yale Law School. Our goals for the Robina Initiative over the next three years are to:

- Create opportunities for Robina-affiliated scholars and fellows to share ideas and experiences relating to human rights, work with each other on scholarship and practical research and projects, and make use of existing networks both at Yale and within the field broadly;
- Strengthen efforts to promote opportunities for students and scholars interested in human rights to participate in the summer human rights fellowships, post-graduate fellowships, and visiting human rights fellowships;
- Continue to develop opportunities for students and faculty members to create and participate in new and innovative human rights projects through coursework, hands-on field work, and student activities;
- Encourage new scholarship that will contribute to existing knowledge and advance new ideas in human rights;
- Utilize the new human rights database to help students learn about human rights fellowships and other opportunities at organizations or in regions of interest;
- Provide support and encouragement for students and emerging scholars and practitioners to continue to pursue human rights work, either domestically or internationally;
- Enhance the Schell Center's ability to conduct outreach and cooperate with other schools, departments and centers at Yale University and with external organizations to organize an increasingly diverse array of human rights events, including more events with interdisciplinary perspectives;
- Produce an annual assessment of the Robina Initiative by continuing to document and survey the experiences of Robina visiting fellows, summer fellows and Robina JD scholars, as well as beginning to track the post-law school career paths of our graduates who have benefited from these programs.

Overall, we believe that each of the components of the Robina Initiative has achieved the express purpose for which it was designed. It is for this reason, and for the reason that without Robina's continued support these programmatic innovations will suffer severe financial constraints, that we request continued support for the aforementioned elements of the Robina Initiative. The Initiative has been a resounding success in expanding the human rights community within the Law School, in encouraging the

interest and engagement of students in human rights, in fostering innovation in the academic and professional dimensions of human rights, and in advancing growth and improvement in international human rights. With the Robina Foundation's vital support, we hope to continue this work in the future.

ANNUAL BUDGET FOR THE ROBINA HUMAN RIGHTS FELLOWSHIP INITIATIVE

The following is an estimated annual budget for the Robina Foundation Human Rights Fellowships Initiative. The total amount of support requested on an annual basis is \$1 million per year for a period of three years to support the continuation of the Robina Initiative from June 2012 until June 2015. We would request payment in May 2012, 2013, and 2014.

Estimated Annual Expenses:

Robina Human Rights JD Scholarships (15-20)	\$250,000
Summer Fellowships, Supported by the Robina Foundation (30-35) <i>Includes travel support</i>	\$200,000
Robina Post-Graduate Fellowships (3) <i>Includes salary and benefits</i>	\$180,000
Robina Visiting Human Rights Fellowships (3-6) <i>Includes salary, benefits, and conference funds</i>	\$235,000
Robina Fellowship Coordinator <i>Includes salary and benefits</i>	\$65,000
Fund for Human Rights Clinical Education Innovation and Field Missions	\$50,000
Clerical Support and Associated Expenses*	<u>\$20,000</u>
TOTAL COST	\$1,000,000

*We propose that these expenses could cover not only clerical support, supplies, and other administrative expenses associated with implementing the Robina Initiative, but could also be used to support activities that would encourage interaction and networking between Robina-affiliated scholars and fellows and to conduct outreach activities and co-sponsor human rights events conducted with other schools and departments at the University.

A PROPOSAL FOR THE DEVELOPMENT OF A CENTER ON IMMIGRATION AND MIGRANTS' RIGHTS

Migration is a global phenomenon of immense proportions. It affects every region of the world and will endure for decades. The response of developed democracies to waves of migration is one of the defining issues of our era.

In the United States, the debate over immigration policy remains intense, divisive, and unresolved. A decade after 9/11 and fifteen years after adoption of the harshest immigration law in generations, legal issues proliferate, the prospects for major reform are dim, discrimination and intolerance are on the rise, civic integration of newcomers is increasingly urgent, detention and deportation are at unprecedented levels, and fears over national security and economic uncertainty infect policy proposals and public discourse. At the same time, there is widespread acknowledgement that existing immigration policies are ineffective, inhumane, unstable and inconsistent with national interests and global realities. Advocates, NGOs and policymakers recognize the need to reassess strategies, to grapple with contemporary realities, and to develop strategies capable of creatively responding to trends in global migration.

Yale Law School seeks to develop a new Center on Immigration and Migrants' Rights that will contribute to these efforts; galvanize creative thinking about immigration law and the protection of individual rights; and work at the intersection of education, scholarship, advocacy, and policymaking. The Center would engage collaboratively with NGOs and policy experts, encourage applied research, provide resources and intellectual capital to advocates, and seek to engender approaches that will support, enhance and broaden the field of immigration and migrants' rights. It will also help to train the next generation of national and global leaders in this important field.

The impetus for this exciting initiative is the opportunity to secure Lucas Guttentag as the director of the Yale Center. Professor Guttentag is a gifted teacher and one of the nation's foremost lawyers and strategists on behalf of immigrants' rights. Because of the generosity and support of the Robina Foundation, we have had the opportunity to get to know Lucas well during his time as a Robina Human Rights Fellow. We decided that he was so special that we could construct a new Center around his unique talents. The Center will complement the Law School's robust international human rights program by focusing on this key domestic human rights issue. It would build on the Law School's unparalleled stature in legal education, its long and proud devotion to public service and policy, its existing immigration clinics and its unmatched students and scholars. The Center would leverage the Law School's dynamic clinical program, our ability to engage the nation's leading immigration advocates, NGOs and public policy leaders, and our location in the center of a great university with ongoing scholarship about issues of migration and immigration. As set forth in more detail below, we envision developing the proposed Yale Center in two phases over the next several years.

BACKGROUND AND CURRENT ISSUES IN IMMIGRATION LAW

The United Nations estimates that approximately 200 million migrants now live outside their country of birth, that more than half (approximately 115 million) live in Europe and the United States, and

that the global total is growing by almost 3% per year. Migration is the product of many interlocking dynamics, including economic development and interdependence, wars and civil unrest, employment needs and opportunities, bilateral and multilateral relations, and domestic policies and laws.

In the United States, the foreign-born population is approximately 38 million (more than 12% of the population), and the number of undocumented immigrants is estimated at 11 million. Questions of immigration policy are deeply contested and controversial. Our history as a “nation of immigrants,” our commitment to tolerance, and our devotion to constitutional principles compete intensely with fears over national security, cyclical hostility to newcomers, and economic uncertainty.

The nation is at a critical juncture in grappling with these complex issues. Since 1996, federal immigration law has shifted fundamentally to eliminate much of its historic flexibility. Scholars view today’s immigration laws as the most restrictive since the enactment of the discredited National Origins Quota laws of the 1920’s. Concerns over national security have in recent years further fueled restrictive immigration policies.

The population of undocumented immigrants is at an historic high; the debate over immigration policy, Executive authority and legislative initiatives is deeply divided; and efforts at federal reform are at a stalemate. Furthermore, state and local laws targeting immigrants are proliferating and charges of discrimination and racial profiling are increasing. Mass detention, deportation and criminal prosecution of immigration violations are at unprecedented and growing levels. In recent years, nearly 400,000 immigrants have been expelled annually; immigration detention jails and prisons incarcerate more than 300,000 immigrants per year; assembly-line criminal prosecutions at the border are becoming standard practice; and the traditional civil enforcement process is becoming increasingly criminalized.

Meanwhile, legal and constitutional norms governing the rights of non-citizens are also in a state of significant legal ferment. On the one hand, despite generations of scholarly criticism, the foundational principles of US immigration policy remain rooted in 19th Century jurisprudence when racial discrimination was legal and the Bill of Rights unenforceable. The government’s “plenary power” over immigration policy remains vested in the political branches to insulate many practices from meaningful constitutional scrutiny and to deny constitutional protections to non-citizens. On the other hand, the immigration system and the protection of immigrants’ rights increasingly intersect with emerging international, human rights and criminal justice norms and with areas of evolving legal discourse such as LGBT rights, racial profiling, police practices, war powers, and extraterritorial constitutional protections. All these issues present rich opportunities for study, scholarship, advocacy and research.

Questions of immigration policy in the United States also involve fundamental issues of federalism, *i.e.*, the allocation of authority between the federal government and state or local entities to regulate immigration. A spate of state and local laws regulating immigrants, targeting undocumented migrants and, in some cases, providing benefits or protections to non-citizen residents, now raise a host of new and complex issues. These laws reflect the wide dispersion of new immigrants to virtually every state and region in the country, varying degrees of receptivity, changes in culture and the racial/ethnic demographics that immigrants have brought to many areas, and a range of efforts to increase civic participation and integration. The time-worn tradition – and temptation – to blame immigrants for economic and social ills is often evident. Arizona is the most well-known and visible manifestation of

that phenomenon. But states in places as diverse as Utah, Nebraska, Georgia, Indiana, and Alabama are following suit – and more locations are likely to follow. Developing coherent concepts of federalism in the context of immigration and migration raise particularly promising and important opportunities for a center at Yale.

THE INITIALIZATION OF A CENTER ON IMMIGRATION AND MIGRANTS' RIGHTS

Background

Through the generous support of the Robina Human Rights Fellowship Initiative, the Law School has been fortunate to have in residence Lucas Guttentag as a Robina Foundation Distinguished Senior Fellow since the fall of 2009, on a full-time basis during academic year 2009-10 and on part-time basis during academic year 2010-11. Professor Guttentag's presence has significantly increased the Law School's ability to offer a range of academic courses on immigration law and policy and on constitutional rights litigation. His teaching includes survey courses on immigration law, policy and constitutional rights; constitutional impact litigation; and advanced immigration issues. These classes, which have generated great student enthusiasm, supplement existing immigration clinical offerings (which currently include the *Worker and Immigrant Rights Advocacy Clinic* and the *Immigration Legal Services Clinic*). Professor Guttentag has also organized a range of speakers, workshops and symposia to allow students to engage directly in larger policy and legislative debates about immigration reform and immigrants' rights with leading experts and government officials.

With the strong encouragement and support of Dean Post, Professor Guttentag also initiated a new "Immigration Theory and Practice" workshop series in 2009. Under Professor Guttentag's guidance, students organized Law School interactive faculty presentations, discussions by visiting scholars, and conversations with invited practitioners from outside the Law School. Each session focused on some of the many theoretical and practical questions related to important contemporary areas of immigration policy and law. Among the participants were David Martin, Principal Deputy General Counsel for the Department of Homeland Security; Cecilia Munoz, White House Director of Intergovernmental Affairs; Luis Argueta, filmmaker and director of the film "abUSed: The Postville Raid"; Columbia Professor Jeff Fagan on policing immigrant communities and related criminal justice issues; and other experts on gender issues, workplace protections and refugee law issues. Professor Guttentag also organized and facilitated a day-long symposium, "Immigration Reform at the Crossroads: A Discussion with Administration and Congressional Insiders," that offered the Law School community an off-the-record cross-agency discussion among high-level Obama administration representatives of the Departments of Homeland Security, Labor, and Justice as well as legislative aides to key members of Congress on the prospects of comprehensive immigration legislation and administrative reform initiatives. Students actively prepared and participated in all these events.

Center Leadership

The Law School now has the opportunity to build on Professor Guttentag's contributions and expertise by inviting him to develop a Center on Immigration and Migrants' Rights that will expand and institutionalize these programs. The Center will capitalize on Professor Guttentag's unique role in the field to develop a new institution that we envision would play a special role in the immigration arena. It would enhance the academic offerings at the Law School, develop interdepartmental synergies at Yale, and make important contributions to the larger society by engaging NGOs and advocates in deeper deliberations and supporting advocacy through research, study and intellectual support. The proposed Center will meld Professor Guttentag's insights, experience and strategic vision with the academic resources of the country's preeminent law school. We believe the Center would educate a new generation of leaders on the complexities of immigration and migration; offer an essential forum where advocates could convene in a setting that allows for frank and constructive dialogue; contribute new research and ideas based on the direct interaction of NGOs and scholars; and enhance the intellectual resources available to the larger immigration advocacy community.

Lucas Guttentag's stature and expertise will be essential to building the program's success. Since the Robina Foundation is familiar with Lucas Guttentag, let us just briefly emphasize why he is the ideal candidate to direct this new program and to establish it over the next few years as a leading intellectual center for the development of immigration policy and law. Over the past twenty-five years, Professor Guttentag built the nation's preeminent legal program on behalf of immigrants' rights and directly litigated landmark cases throughout the country; he is widely recognized as one of the leading thinkers and strategists in the field. Equally important, he has long straddled the advocacy and academic fields and is respected in both communities. His background and reputation will ensure that the program engages highly respected scholars, senior practitioners, and policy leaders of divergent views from all sectors and throughout the country while offering students rigorous academic instruction and inspiration to engage in this challenging field. A copy of his CV is attached.

Professor Guttentag is committed to and tremendously enthusiastic about developing this Center. His current appointment is to be in residence to teach at the Law School for the fall semester of each academic year and to begin developing this program while we raise sufficient support to sustain the appointment, fully establish the Center and offer him a full-time position. We are committed to securing him, he is eager to join us, and we intend to maintain the Center (subject to funding) on an ongoing basis even if Professor Guttentag were to leave at some point in the future. The Law School believes in the importance of immigration legal and policy issues, in their centrality to the human rights agenda and in the contributions that Yale – with the support of the Robina Foundation – at this critical time.

The Center's Purpose and Goals

The Center's program would be committed to the interdisciplinary study and teaching of immigration, migration and individual rights through an integrated approach that directly engages and supports advocates and policymakers in order to influence the larger society and develop a deeper understanding about these issues among the next generation of civic leaders and advocates. The Center would be unlike any existing "think tanks," policy institutes or academic centers. It will operate outside the hothouse of Washington DC and will not be subject to the short-term imperatives of legislative or legal advocacy. Yet, in contrast to purely academically-focused institutions, it will be directly engaged with advocates and NGOs to enhance support and guide their work through Professor Guttentag's

experience and the unique intellectual resources of Yale Law School and the broader University. The Center will engage students and scholars under expert leadership to function as a vehicle for ongoing practical and conceptual rethinking, and it will test this scholarship against the continuous engagement of external advocates, policymakers, experts and civic leaders (inside and outside government).

The Center would capitalize and build on our students' already intense interest in immigration law and policy issues and their intersection with human rights principles. Immigration is a growing area of academic study, an important and vexing public policy concern, a necessary foundation for judicial clerkships and careers in the judiciary (where immigration cases comprise as much as 40% of major appellate court caseloads), and an evolving and thriving area for international legal practice and governmental service.

Within Yale University, the Center will, as it matures, serve as a forum for interdisciplinary work in the area of immigration that relates to current policy challenges. Yale presently lacks any such coordinating institution. We hope to engage the work of University scholars on questions of migration, immigration, development, labor and related areas. Moreover, the development of the Center will help to train and inspire students at the Law School and throughout the University. These students will become our future judges, government leaders, scholars, lawyers, and advocates.

The proposed Center will be distinct from the Orville H. Schell, Jr. Center for International Human Rights, but will build on the Schell Center's extant expertise regarding human rights, as well as on the existing expertise of Yale Law School's Legal Service Organization. In creating this program, Professor Guttentag will work with Professor James Silk and other members of the Law School faculty, such as Michael Wishnie and Muneer Ahmad, both of whom are well known for their creative approaches to immigration and human rights. The proposed program contains the potential to greatly enrich the existing Robina Human Rights Fellowship Initiative by complementing it with a parallel domestic human rights program. The Robina JD scholars and summer human rights fellows would directly benefit from the emerging academic and hands-on opportunities that this program will afford. The Center would serve also as a sounding board for Robina Visiting Human Rights Scholars interested in the intersection between immigration law and human rights.

We believe the Yale Center will address important existing gaps in the field that Yale is uniquely able to fill. Our attached initial scan of existing programs at other major schools shows that none offers or has the goals of the Center we envision. Other schools have valuable programs but none combines the leadership, the internal and external focus and the mission that Yale's proposed Center would encompass. The Yale Center promises to become a model of collaboration, innovation, and contribution to the larger society.

In order to expand our scan of other institutions and to confirm that the Center would not be duplicative of existing programs or centers, we propose that during the initial phase of the Center's development we undertake a further *Assessment of Opportunities and Needs*, which would review other programs and identify some of the needs of the field and the contributions that the Yale Center could make. Our aim is to ensure that the goals and mission of the Center contribute not only to Yale but to the larger society by ensuring that we utilize the unique capacities and resources of the Law School to be responsive to the needs of the field. We anticipate retaining a consultant with a background in the

immigration advocacy world who would work under Professor Guttentag's direction to conduct research as well as solicit input from NGO leaders and scholars in the field. While undertaken for purposes of this initiative, we would, if appropriate, share relevant findings or conclusions with advocates and others in the field.

Program Areas

The Center would focus on three broad and interrelated program areas:

- The Study of Migration and Protection of Individual Rights;
- Engaging and Supporting Advocates and Policymakers; and
- Developing National Leaders.

■ *The Study of Migration and Protection of Individual Rights.* Center faculty and affiliates will develop course offerings that will build on the unique strengths of the Law School and University to offer an integrated and interdisciplinary study of immigration law and policy. Through expanded courses, seminars and reading groups, the Center will stimulate and concentrate world-class intellectual leadership on the issues of migration, immigration, and individual rights. It will facilitate the continuation of the new Yale "Immigration Theory and Practice Workshop" (where scholars and experts from an array of disciplines discuss a range of contemporary issues in an informal setting. It will develop synergies among departments and programs at Yale to encourage and sponsor interdisciplinary offerings on comparative and international legal norms governing migrants; the interplay of immigration with criminal justice, education, public health and other civic institutions; the migration consequences of global climate change; and the relationship of class, gender, and race to migratory dynamics and the status of immigrants. We would anticipate scholars from inside and outside the Law School and University engaging on current issues, undertaking research, sharing expertise with students and others, and stimulating fresh approaches and thinking on urgent issues.

■ *Engaging and Supporting Advocates and Policymakers.* This area will have multiple components.

Conferences and Workshops. The Center will sponsor conferences, symposia, workshops and similar events to grapple with current challenges and problems in original ways. The goal is to encourage a dialogue that includes high-level policymakers, national experts and leading advocates of diverse views to stimulate new interactions and greater collaborations. Center convenings would also serve as launching pads for identifying fruitful areas of research and study to further innovation and reform.

Roundtables and Summits. The Center will convene smaller, off-the-record roundtables and strategy "summits" where participants will be encouraged to engage in strategic discussions and a franker exchange of views than is possible in public settings. Under Professor Guttentag's auspices, the Law School would be an ideal "neutral" venue for maximizing participation from a wide array of institutional and organizational players on selected problems, litigation initiatives or broad strategic questions. Many issues would benefit from structured private fora to evoke dialogue on competing concerns, strategies and goals. The Center will invite key stakeholders,

structure constructive discussion, and conduct preparatory as well as follow-up research and analysis. The goals for these summits will include solving identifiable problems, increasing alliances on existing priorities, and elevating the protection of individual rights as a key element in the immigration debate.

Applied Research and Training. The Center would also function as a sophisticated research institution and back-up resource center to contribute new intellectual capacity and creative ideas to the advocacy arena. It would support and guide fresh research, writing and scholarship on immigration-related topics; sponsor projects and empirical studies on contemporary problems; and conduct longer-term studies and analysis to advance strategic advocacy. The Center could also develop institute training programs to convey historical, economic, demographic and empirical data and analysis from scholars and experts to help develop new understandings and approaches to contemporary issues among advocates and NGOs.

■ *Developing Leaders.* Just as the Robina Human Rights Fellowship Initiative makes available summer internships and post-graduate fellowships to Yale students interested in human rights, the Center would plan, with sufficient funding, to offer a limited number of placements to students interested in entering the field of immigration law and immigrants' rights. Among the approaches would be establishing collaborative partnerships with one or more prominent immigrants' rights NGOs or governmental institutions to fund summer internships. Through these fellowships, students could work at NGOs or governmental institutions to undertake projects or to gain experience through work at ongoing programs. The Center would also seek to sponsor post-graduate fellowships either with outside organizations or in residence at the Law School in order to enable recent graduates to work under the guidance of Professor Guttentag, similarly-interested faculty members, and/or NGOs and government agencies to advance new scholarship and/or advocacy strategies in particular areas of immigration law and policy. In much the same way that the Robina Initiative has advanced a new generation of leaders interested in pursuing critical issues in human rights through their professional careers, the Yale Center could encourage and inspire a cohort of important young scholars and advocates to devote their lifetime to making significant progress in the protection of immigrants' rights.

* * *

Current policies and problems present rich opportunities for the kinds of research, strategic convenings and collaborative work that that the Center would undertake. Specific topics will understandably evolve and change based on external developments and opportunities. However, by way of example, the following issues are of the kind that the Center could address. The Center would prioritize these or other topics based on a number of considerations, including consultation with advocates and experts in the field, the *Assessment of Needs and Opportunities* referenced above, the likelihood of achieving progress, and the unique capacities Yale will bring to the table.

- *Arizona and Immigration Federalism.* Doctrines of federal control and local prerogative increasingly arise with regard to immigration regulation. The Law School would offer a setting in which the doctrines of federalism and local prerogative could be assessed in the specific context of immigration control with scholars of state and local government, Attorney Generals, local leaders struggling to diffuse tensions, and advocates grappling with on-the-

ground consequences for immigrant and ethnic communities. While most recent local laws and regulation seek to penalize immigrants or enact parochial enforcement schemes, some are designed to provide greater opportunities and protections for all individuals, including undocumented immigrants. The potential tension and reconciliation among these different types of local laws would be explored. The Center would be ideally situated to explore this new issue of immigration federalism in all its manifestations.

- *Strategies for Reform and Progress.* The landscape of immigration reform has fundamentally shifted in recent years due to the demise of federal legislative reform, the avalanche of state and local laws, the breakdown in bipartisan efforts and the reluctance to enact administrative initiatives. Yet, the process of developing new approaches and strategies is just beginning. No structure or forum currently exists to facilitate an introspective, innovative and frank self-assessment by a wide array of national, regional and local advocates that is an essential prelude to developing new collaborative strategies. The Yale Center would be the ideal venue for facilitating such discussions and initiating an ongoing process for further reflection.
- *Immigration, Policing and Crime.* Data show that immigrant communities are safer than other communities, yet immigration and crime are closely linked in the public mind. New police initiatives to enforce immigration status violations may have significant effects on perceptions of police among the foreign-born and give rise to new tensions, including the perception and reality of racial and ethnic profiling. Data obtained through public records requests in a handful of communities have suggested that immigration enforcement by state or local law enforcement agencies leads to disparate treatment of Latino citizens. Police departments are divided; some enforce immigration status violations while others believe doing so undermines effective community policing. Scholars at Yale and elsewhere who have studied policing and the criminal justice system have many insights to offer and could be engaged to extend their study to the new phenomenon of immigration enforcement. The Center would convene scholars, law enforcement officials and other experts to examine and develop these issues and to identify areas for further research.
- *Mass Adjudication: Fairness and Efficiency.* The immigration court adjudication system now issues several hundred thousand decisions each year in adversarial hearings at a rate of more than 1,200 adjudications per immigration judge per year. The majority of immigrants appear without a lawyer. About 35,000 administrative appeals are heard (without oral argument) annually by the Board of Immigration Appeals (BIA), a third of which are then appealed to the federal courts. The entire system is overloaded, efficiency is absent, fairness is sacrificed, and immigration adjudicators are overwhelmed. The Center would make significant contributions to developing models for reform by convening a spectrum of views and experiences, including a broad array of judges from all levels of the system, lawyers and organizations involved in legal representation, experts in administrative law and management of bureaucracies from the Yale law and management schools, and scholars who have studied other systems of mass hearings (such as Social Security disability adjudications).
- *Legal Counsel for Immigration Proceedings.* The absence of a right to appointed legal counsel in immigration proceedings has been a hallmark of the deportation process since its inception.

Litigants, commentators and judges are increasingly turning their attention to this shortcoming and seeking new models. Yet, many in the criminal justice system have concluded that counsel alone is insufficient to ensure fairness. The Center could contribute to this evolving area by providing logistical, legal and student support to developing the right to legal counsel while simultaneously examining the problem from a broader perspective to appraise the need for more systemic reform as noted above.

- *Border enforcement and militarization.* Border enforcement has increased dramatically through the erection of physical barriers, mass expedited criminal prosecutions in designated areas, detention accompanied by summary expulsion, and deployment of military National Guard units. The aggregate effects on border communities, migrants, international relations and domestic civil liberties are often overlooked and understudied in the political clamor.
- *The Future of Legislative and Administrative Reform.* With the seeming demise of comprehensive federal immigration reform, the Center could consider alternative strategies and approaches and the long-term societal consequences of an enduring undocumented population of more than ten million individuals. It could also begin the long-term work of addressing vexing questions related to actual implementation and oversight – including by the courts – of legalization programs that are eventually likely to be considered as well as stronger theoretical, comparative and historical support for sustainable standards that afford a process for providing legal status to long-time residents.

PROGRAM DEVELOPMENT, EVALUATION AND BENCHMARKS

We envision establishing the proposed Center in two phases: an initial start-up stage that is followed by formal establishment of the Center. The start-up phase will begin in September 2011. During this stage, Professor Guttentag will be in residence full-time for one semester each academic year in order to teach, develop the program, initiate a range of activities and projects, and demonstrate the unique contributions that the Yale Center can make. Once sufficient funding is obtained, we will formally establish the Center with Professor Guttentag transitioning to full-time residence throughout the academic year to teach, direct the Center's expanded program, add further staff and begin placing summer and post-graduate fellows. The precise timetable is subject to commitment of adequate funding; our goal is to establish the Center by the end of the third year or sooner. Due to financial constraints, we cannot invite Professor Guttentag for full-time residency throughout the academic year until sufficient Center funding is secured.

The three-year start-up phase for which we now seek the Robina Foundation's support will be critical to securing Professor Guttentag's involvement, building the program, beginning to undertake some of the initiatives outlined here and demonstrating the value of establishing the Center. We are confident that support for the start-up phase will allow us to confirm the significant contributions that the synergy of Professor Guttentag and Yale can make to the immigration field.

We will utilize a number of indicators to evaluate and assess our progress and programmatic accomplishments under this grant. Some of the concrete and measurable outcomes we anticipate are the number and scope of immigration courses offered at the Law School; student projects and scholarly research undertaken or supervised; NGO and strategy meetings and conferences sponsored; and programs and workshops for students and members of the Yale community. We will also measure the Center's success in building immigration and interdisciplinary activities within the University and heightening interest and enthusiasm among students.

We would seek to assess the program's contributions to the Law School, the immigration field and to the advocacy and NGO community. The activities and contributions will grow over the course of the initial start-up period as the presence of Professor Guttentag and the program become established and as the Center and the resources it offers become evident. As funding for fellowships and internships is developed, we would track students' placements and post-placement career paths and contributions to the field.

BUDGET FOR THE DEVELOPMENT OF A CENTER ON IMMIGRATION AND MIGRANTS' RIGHTS

We respectfully request seed funding from the Robina Foundation in the amount of \$535,000 over three years (from September 2011 through August 2014) to allow us to initialize and develop the proposed Center on Immigration and Migrants' Rights. Support at this level will allow us to initiate the start-up phase of the Center, begin the process of building for the future, and demonstrate the value of the synergy that Yale Law School and Lucas Guttentag can bring to the immigration field. The requested grant amount would provide \$135,000 to support the development of the Center in the first year and \$200,000 for each of the subsequent two years.

We present below budgets for the initial three years (Phase One) as well as a projected budget for the fully-established Center thereafter (Phase Two). Our initial three-year budget envisions gradual growth over the first period from \$235,000 per year in Year 1 (beginning Fall 2011) to \$300,000 per year in Years 2 and 3 (beginning Fall 2012 and 2013, respectively) to allow for increased staff and programs. The estimated annual budget for the fully established Center would range from \$505,000 to \$795,000 based on the staffing and program size, including support for summer and post-graduate fellows.

We are delighted that the Ford Foundation has already committed to provide an initial three-year grant of \$300,000 to support Phase One. It has also expressed interest in considering support for Phase Two and in the possibility of accelerating the initial grant to begin the second phase sooner.

As the initial supporter of Lucas Guttentag's residency at Yale Law School, the Robina Foundation's support for this program would be instrumental in helping to create a unique institution, would build on its successful human rights investment, and would play a pioneering role at this critical time in the field of immigration policy.

The following budgets present the minimum funding needed to initiate Phase One. In the future, we would welcome the opportunity to discuss with the Robina Foundation the potential for ongoing substantial support for the Center and possibly accelerating the grant period in order to launch the fully-established Center and secure Professor Guttentag's full-time role sooner.

**PHASE ONE: ANNUAL BUDGET FOR
YEAR 1**

	<u>Expenses</u>	<u>Projected Support: Robina Foundation</u>	<u>Projected Support: Ford Foundation</u>
Staff: Center director Guttentag and support staff (Part-time)**	\$150,000		
	\$50,000		
Roundtables, convenings, speakers, and travel			
Consultant and Research for "Assessment of Needs and Opportunities" ***	\$35,000		
Total:	\$235,000	\$135,000	\$100,000

*Year 1 of the Center is September 2011 to August 2012.

** Lucas Guttentag will be in residence during the fall semester to teach and lead the Center .

*** This scan and assessment would take place in Year 1 only.

**PHASE ONE: ANNUAL BUDGET FOR
YEARS 2 AND 3***

	<u>Total</u>	<u>Proposed Robina Support</u>	<u>Pending Ford Support</u>	<u>Other Support Needed</u>
Staff: Center director Guttentag and additional staff **	\$225,000			
Roundtables, convenings, speakers, and travel support	\$75,000			
Total: Year Two and Three (annually)	\$300,000	\$200,000	\$100,000	\$0

*Year 2 is September 2012 to August 2013; Year 3 is September 2013 to August 2014.

** Increase in staffing, and assuming continuing one-semester residency for Lucas. If sufficient funds are raised, we would offer Lucas a permanent full-time position in these years.

PHASE TWO: CENTER ON IMMIGRATION AND MIGRANTS' RIGHTS

This phase would begin after three years or as soon as sufficient funds are raised.

<u>Annual Estimated Costs</u>	<u>Total</u>
Staff: Center director Guttentag, program manager, and administrative staff support.*	\$325,000-425,000
Conferences, symposia, roundtables, speakers, and travel	\$80,000-160,000
Post-graduate fellows (3 fellows in residence or placed with NGOs)	\$180,000
Summer student fellowships (6 stipends for NGO placement)	\$30,000
Total	\$615,000 - \$795,000**

* This reflects Lucas in full-time residency and expanded full-time staff subject to funding.

** Total expenses range from \$615,000-795,000 depending on staffing level, program activities and number of fellowships awarded.

THE ROBINA FOUNDATION'S LEGACY

In sum, the Yale Law School requests continued support to invest in tomorrow's human rights leaders at all stages of their training. Great leaders have a leveraging effect on the problems they seek to solve. In their organizations, in their writing, and in their advocacy, genuine human rights leaders can transform the attitudes and actions of whole communities of people. Yale Law School seeks to encourage such leaders, and we invite the Robina Foundation to partner with us to increase the number and caliber of leaders that we can produce in the human rights and immigration areas.

We know that James Binger's broad philanthropic vision in establishing the Robina Foundation was to make a difference to mankind. Robina's continued investment in Yale Law School's human rights initiative and the development of a new Center on Immigration and Migrants' Rights will undeniably have such an impact. The Robina grant that we propose will have a huge leveraging effect. It will support the future human rights leaders of this country – both international and domestic – in their academic and clinical studies, give them practical experience at Yale and in the field, and train the best in year-long post-graduate service. It will also bring leaders in human rights and immigration policy to Yale to create important new strategies, extract lessons from their work, and educate the next generation. The Robina grant will provide the critical seed money for developing a generational cohort of versatile and committed

international and domestic human rights experts, and will continue to bear fruit for many generations to come. We thank the Foundation for its consideration.

ADDENDUM:

- 1) Map of Yale Law School Human Rights Program
- 2) *New York Times* article, which features a quote by Becca Heller, Executive Director of the Iraqi Refugee Assistance Project (July 12, 2011)
- 3) Lucas Guttentag's *curriculum vitae*
- 4) Overview of immigration or migration-related programs at other universities and law schools

Chart of the Yale Law School Human Rights Program*

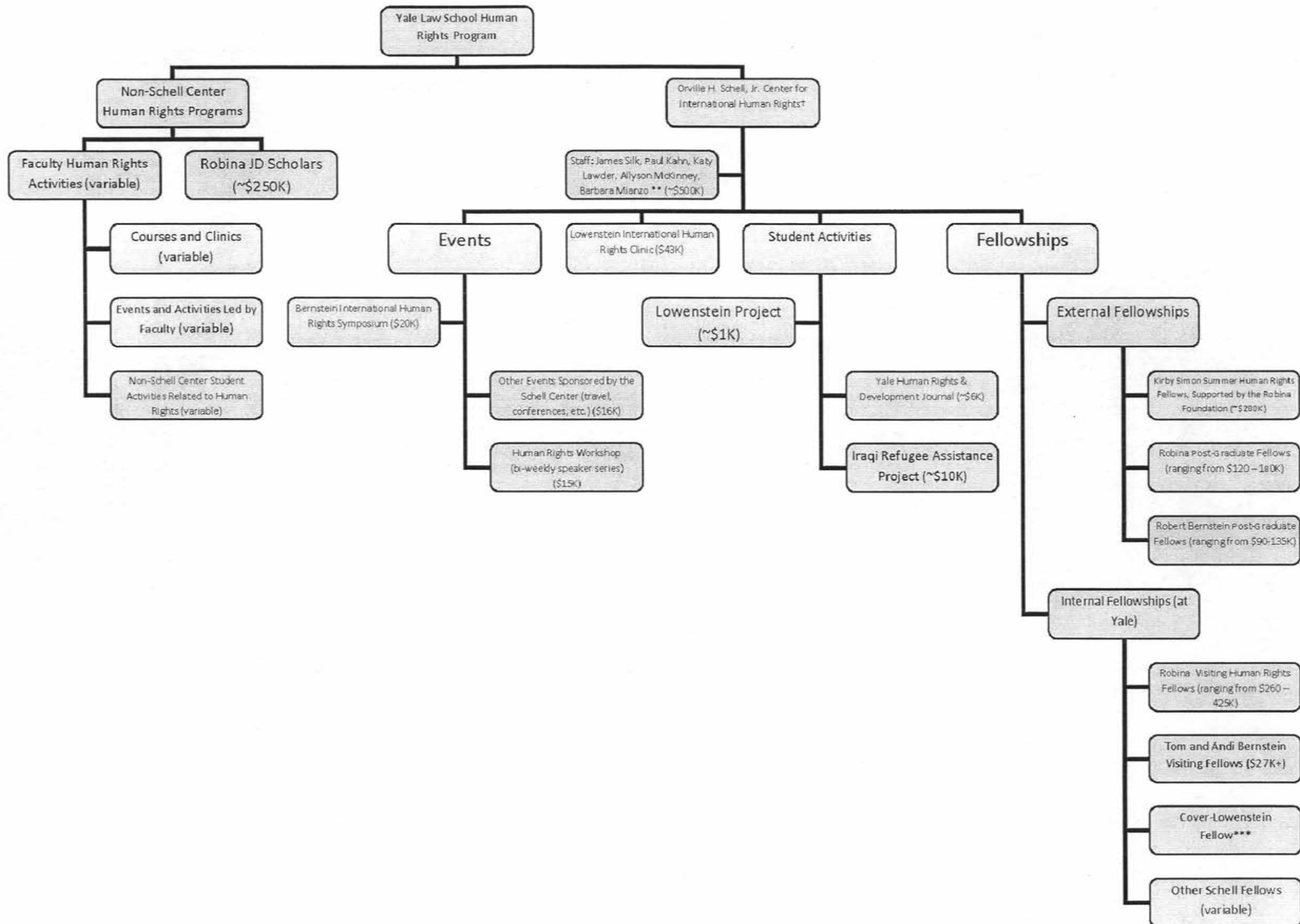


Chart of the Yale Law School Human Rights Program*

*This chart reflects the estimated costs of these items during the last few years. Each year, many of the costs of the components vary in accordance with the planned activities. The figures included in this chart reflect estimates to the best of our abilities. It is not possible to provide estimates regarding the costs of the Non-Schell Center Human Rights Programs, as these vary widely each year depending on the number of human-rights related courses taught and activities conducted by visiting and permanent faculty members of Yale Law School.

** Please note that the salary and benefit costs of the following individuals are included in the expenses of the Schell Center's staff: James Silk, *Clinical Professor of Law and Executive Director of the Schell Center*; Allyson McKinney, *Associate Research Scholar in Law and the Robert M. Cover -Allard K. Lowenstein Fellow in International Human Rights*; and Katy Lawder, *Robina Fellowship Coordinator*. In addition, a portion of the salary and benefit costs of Paul Kahn, *Robert W. Winner Professor of Law and Director of the Schell Center*, and Barbara Mianzo, *Senior Administrative Assistant*, are included in accordance with the percentage of time they spend working for the Schell Center.

*** The Cover-Lowenstein Fellow in 2010-11 was Allyson McKinney. The Cover-Lowenstein Fellow is also considered a member of the Schell Center staff, as she shares responsibility for supervising the Lowenstein Clinic and dedicates much of her time helping to organize activities conducted by the Schell Center. Therefore, in order to avoid counting these expenses twice, her costs are reflected in the Schell staff section and are not included under internal fellowship section.

† The estimated total annual cost of the Schell Center without including funding from the Robina Initiative is approximately \$659,000 - \$702,000.

From The New York Times
Visa Delays Put Iraqis Who Aided U.S. in Fear
By Tim Arango
July 12, 2011

BAGHDAD — Terrorism fears in the United States are all but halting visas for Iraqis, even those who risked their lives aiding the American war effort, making them especially vulnerable ahead of the planned American military withdrawal.

The Obama administration has required new background checks for visa applicants, reacting to a case in Kentucky in which two Iraqi immigrants were arrested on suspicion of ties to an insurgent group, according to American officials in Baghdad.

Advocates say that the administration is ignoring a directive from Congress to draft a contingency plan to expedite visas should those Iraqis who worked for the United States government, especially interpreters for the military, come under increased threat after American forces are drawn down at the end of the year.

“This is not a priority right now for anyone in the government,” said Becca Heller, who runs the Iraqi Refugee Assistance Project at the Urban Justice Center in New York. “Not enough people in the Obama administration care about this topic.”

The flow of Iraqis to the United States this year could be the smallest since 2007, when the Bush administration was facing an uproar for not effectively addressing the refugee crisis.

Through the first nine months of the current fiscal year, fewer than 7,000 Iraqis have been admitted to the United States. In March, just seven were admitted on a so-called special immigrant visa — a class established by Congress to quickly move Iraqis in danger for having helped the American government — and in April, just nine. In some months last year more than 200 arrived on such visas.

The logjam has put numerous Iraqis, like the Aeisa family, in a potentially dangerous bind.

Their story is a common one: a brother was kidnapped and tortured, and the children were bullied in the schoolyard, accused of being spies even by the principal.

Last month they received the phone call they thought would never come. Their visa applications were approved, and they would soon be on their way to Arizona.

The father quit his job at Zain, a cellphone company, the children left school, the television, furniture and air-conditioner were sold, and the remaining belongings were packed up. The family of five took up temporary residence in a friend’s storage room.

The week before the flight, another phone call came, this time with bad news. The departure was delayed indefinitely and without explanation.



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Curriculum Vitae

LUCAS GUTTENTAG

lucas.guttentag@yale.edu

EMPLOYMENT

- 2009 -- **Yale Law School.** Robina Foundation Distinguished Senior Fellow in Residence, Senior Research Scholar, Lecturer in Law. Courses and seminars on immigration law and policy; civil and constitutional rights of immigrants; advanced immigration topics; constitutional impact litigation.
- 1985 -- **American Civil Liberties Union Foundation,** National Office, New York and California. Founding national Director ACLU Immigrants' Rights Project 1985-2011; Senior Counsel since 2011. Established and directed nationwide program of strategic impact litigation and advocacy to advance constitutional and civil rights of non-citizens through offices in New York and California; extensive civil rights and constitutional litigation throughout the country in state and federal courts; national ACLU spokesperson on immigration law and constitutional issues.
- 2004, 2007, 2008 **Stanford Law School.** Lecturer (adjunct). Academic course on immigration law and constitutional, legal and policy issues. Lecturer in residence (part-time) beginning 2012.
- 1996 - 2009 **University of California Berkeley School of Law (Boalt Hall).** Lecturer (adjunct). Regular one-semester academic course on constitutional and civil rights of immigrants. Continuing appointment based on University 'excellence review' in 2009.
- 1983 - 1997 **Columbia University School of Law.** Associate Clinical Professor of Law and Director of Immigration Law Clinic 1983-87 (full-time); adjunct lecturer 1987-97. Clinical faculty directing immigration law clinic; supervising students in client representation and simulations on wide range of immigration matters, including family-based visas, political asylum and deportation defense. Invited to teach annual academic course on immigration law as adjunct beginning in 1987 after joining ACLU full-time.
- 1979 - 1983 **Center for Law in the Public Interest, Los Angeles, California.** Staff attorney. Class action civil rights and appellate litigation on employment discrimination, police practices, freedom of speech, environmental protection and attorneys' fees. Argued in California Supreme Court, federal and state trial and appellate courts.
- 1978 - 1979 **Hon. William Wayne Justice,** United States District Court (E.D. Tex). Law Clerk.

EDUCATION

- 1978 **Harvard Law School,** J.D. *cum laude*. Board of Student Advisers (BSA)
- 1973 **University of California at Berkeley,** A.B. History with honors; Phi Beta Kappa.

PROFESSIONAL EXPERIENCE

Representative Litigation (partial list of cases argued or lead counsel)

INS v. St. Cyr, 533 U.S. 289 (2001) (upholding right to habeas corpus review of immigration removal order and overturning retroactive application of new deportation law) (argued)

Calcano-Martinez v. INS, 533 U.S. 349 (2001) (holding that petition-for-review jurisdiction over final removal order is repealed and that habeas corpus jurisdiction is preserved) (argued)

Directing litigation challenging local and state regulation of immigration (co-lead and co-counsel):

Friendly House v. Whiting, CV 10-1061-PHX-SRB (D. Ariz.) (pending district court challenge to Arizona SB1070)

US Chamber v. Whiting, No. 09-115 (U.S.) (challenge to Arizona employer sanctions statute)

Lozano v. City of Hazleton, 620 F.3d 170 (3d Cir. 2010) (challenge to Hazleton employer sanctions and renter verification ordinance) *cert. pending* No. 10-772

Ali v. Rumsfeld, 479 F. Supp. 2d 85 (D.D.C. 2007) (constitutional and international law damages suit on behalf of Iraqi and Afghan civilians tortured in United States military custody overseas) (argued) (appeal pending)

Soskin v. Reinertson, 353 F.3d 1242 (10th Cir. 2004) (class action equal protection challenge to state law authorized by 1996 Welfare Act terminating welfare benefits of legal permanent resident immigrants) (argued)

Flores-Chavez v. Ashcroft, 362 F.3d 1150 (9th Cir. 2003) (argued as amicus by invitation of the court) (due process challenge to denial of notice to juvenile detained by immigration authorities)

National legal strategy to litigate jurisdiction-stripping restrictions in 1996 immigration act (partial list of cases argued):

Calcano-Martinez v. INS, 232 F.3d 328 (2d Cir. 2000) *aff'd* 533 U.S. 348 (2001)

Henderson v. Reno, 157 F.3d 106 (2d Cir. 1998), *cert denied sub nom Reno v. Navas*, 526 U.S. 1004 (1999)

Magana-Pizano v. INS, 152 F.3d 1213 (9th Cir. 1998) *vacated and remanded* 526 U.S. 1001 (1999) *aff'd* 200 F.3d 603 (9th Cir. 1999)

Hose v. INS, 180 F.3d 992 (9th Cir. 1999) (*en banc*)

Requena-Rodriguez v. Pasquarel, 190 F.3d 299 (5th Cir. 1999)

Jurado-Gutierrez v. Greene, 190 F.3d 1135 (10th Cir. 1999)

LaGuerre v. INS, 164 F.3d 1035 (7th Cir. 1998)

Williams v. INS, 114 F.3d 82 (5th Cir. 1997)

Fernandez v. INS, 113 F.3d 1151 (10th Cir. 1997)

Haitian Centers Council v. McNary, 823 F.Supp. 1028 (E.D.N.Y. 1993) (co-lead trial counsel in three-week trial challenging indefinite detention and conditions of confinement of Haitian refugees at Guantanamo Naval Base) related to 509 U.S. 155 (1993) (challenging summary repatriation of Haitian refugees interdicted on the high seas)

American Baptist Churches v. Thornburgh, 760 F. Supp. 796 (N.D. Cal. 1991) (co-lead counsel in nationwide class action culminating in settlement providing for new and unbiased asylum adjudications for approximately 240,000 Salvadoran and Guatemalan class members)

Manwani v. U.S. Department of Justice, 736 F. Supp. 1367 (W.D.N.C. 1990) (declaring federal immigration "marriage fraud" statute unconstitutional) (argued)

Azizi v. Thornburgh, 908 F.2d 1130 (2d Cir. 1990) (constitutional challenge to federal immigration

"marriage fraud" statute) (argued)

Press v. Lucky Stores Inc., 34 Cal. 3d 311, 667 P.2d 704 (1983) (California Supreme Court) (holding that enforcing free speech rights at private shopping center constitutes broad public benefit under attorneys' fees statute) (argued)

Selected Professional Honors, Publications and Presentations

Honors (partial)

Fellow, American Bar Foundation (elected 2007)

"California's Top 100 Lawyers" 2008, 2007 *San Francisco/Los Angeles Daily Journal*

Honor Roll of Nation's 25 Leading Advocates of Last 25 Years, National Immigration Forum, Washington DC (2007)

California Lawyer of the Year (CLAY) in Appellate Law, *California Lawyer* magazine (2002)

"Human Rights Hero," American Bar Association *Human Rights* magazine (2001)

Jack Wasserman Litigation Award, American Immigration Lawyers Association (2002, 1997, 1991, 1990)

Human Rights Award, American Immigration Lawyers Association (co-recipient 1992)

Carol King Award for Outstanding Contribution to Immigration Law, National Immigration Project of the National Lawyers Guild (1998, 1991)

East Bay Sanctuary Covenant (Berkeley 2007)

Civil Rights Award, Chinese for Affirmative Action (San Francisco, 2002)

Philip Burton Immigration and Civil Rights Award, Immigrant Legal Resources Center (San Francisco 1999)

Political Asylum Immigration Representation Project "PAIR" (co-recipient Boston 1994)

Central American Refugee Center "CARECEN" (New York 1991)

Presentations, Papers and Publications (partial)

University of Iowa College of Law Practitioner-in-Residence. Invited faculty talk on "Immigration Federalism: A Civil Rights Perspective on Preemption And Local Regulation." Law school lecture on "Immigrants' Rights and Constitutional Values: Is Arizona the Future?" Various panels and classroom presentations. (2010)

Arizona State University Sandra Day O'Connor College of Law; The Role of States in Immigration Policy and Enforcement. Presentation on "Preemption and the Protection of Individual Rights: From Hazleton to SB1070" (2010)

University of Texas, 34th Annual Conference on Immigration and Nationality Law; Luncheon Keynote "Immigration Rights and Reform: Prospects, Promises and Pitfalls in the Courts and Congress" (2010)

University of California Berkeley Law School and Graduate School of Journalism; The Changing

Face of America: Going Beyond Rhetoric on Immigration. Presentation on "Policing Immigration: the Local Enforcement of Federal Laws" (2010)

Claremont McKenna College, "Protecting Immigrants' Rights in the Era of Arizona SB1070: Politics, Race and Constitutional Principles" (2010)

University Of Miami Program on Immigration Law and Deportation Defense; presentation on "Local Enforcement of Immigration Law" (2010)

Ninth Circuit Appellate Practice Workshop; Panel on conducting effective oral argument (with various Ninth Circuit judges) (2010)

Yale Law School Human Rights Workshop; "Immigrants' Rights and the Obama Administration: Developments and Dangers" (2009)

Judicial Conference of the Fifth Circuit; Panel "Should I Stay or Should I Go Now – Evolving Changes in Immigration Law" (2009)

Yale Law School Orville Schell Center Symposium; Beyond Borders: Immigration Policy in the New Century, presentation on "A Reform Agenda for the Obama Administration" (2009)

"Immigration and American Values: Some Initial Steps for a New Administration," *ABA Human Rights Journal* (2008)

"Innocents Abroad: Judicial Review and the Water's Edge," Immigration Law Professors Conference, University of Miami (2008)

"The Fourteenth Amendment and Birthright Citizenship: The Danger of Abandoning Settled Principles," University of Pennsylvania, The Second Founding of the Constitution; American Constitution Society (2008)

"Sanctions, Sanctuary and Symbolism: Local Regulation of Immigration," Cities and Counties in the Global Economy: A Hard Look at Local Economic and Immigration Policies; University of California Hastings College of Law: Center for Law and Local Government & Municipal Law Institute and League of California Cities City Attorneys Department (2008)

Building an Immigration System in Mexico; Migration Policy Institute and Secretaria De Relaciones Exteriores (Mexico City, 2008)

Keynote, Confronting Hidden Borders: Immigration and Uniting Communities of Color; Symposium sponsored by Hastings Race and Poverty Law Journal. (2008)

"Immigration Reform: A Civil Rights Issue," 2 *Stanford Journal of Civil Rights & Civil Liberties* 157 (2007) (originally delivered September 2006)

Amherst College; The Constitution and Citizenship, Colloquium on the Constitution and Imagining of America. Presentation "Beyond the Shackles of History: Bringing Constitutional Rights for Non-Citizens Into the 21st Century" (2007)

State Law and Immigration: Crossing the Constitutional Border; National Conference of State Legislators (Phoenix 2007)

Washington University Law School, Public Interest Law Speakers Series: Invited lecture on "Immigrants' Rights in the Courts and Congress: Constitutional Protections and the Rule of Law after 9/11," published in 25 *Washington University Journal of Law & Policy* 11 (2007) (originally delivered 2006)

The Bellagio Dialogue on Migration; German Marshall Fund of the United States (Bellagio, Italy 2006)

Immigration Law Policy Shifts in Response to Terrorist Threats, Human Rights Across Borders: The Impact of Global Terrorism on Immigration Law and Policy; UCLA School of Law (2006)

"Is Reform 'Comprehensive' Without Due Process?" 2 *New Americans* (2006) (published by Grantmakers Concerned with Immigrants and Refugees)

Presenter and Moderator, Ninth Circuit Court of Appeals Appellate Practice Workshop, Federal Bar Association (San Francisco and Los Angeles 2006, 2005)

Cornell Law School, Symposium on Developments in the Law of Habeas Corpus. Presentation "Navigating the Road to the Courthouse Door: Judicial Review for Immigrants After *INS v. St. Cyr*," (2005)

New York Law School Symposium on Immigration Law and Federal Courts. Perspective from Litigators, Seeking Review: Immigration Law and Federal Court Jurisdiction. (2005)

"Immigrants' Rights Post-9/11: Detention, Deportation and Discrimination," 25 *In Defense of the Alien* (2003)

"1996 Immigration Act: Federal Court Jurisdiction -- Statutory Restrictions and Constitutional Rights," 74 *Interpreter Releases* 245 (1997)

"'Court-Stripping' in the 1996 Immigration Laws: A Dangerous Precedent," 20 *In Defense of the Alien* 213 (1997)

"Immigration Legislation and Due Process: The Forgotten Issue," 19 *In Defense of the Alien* 25 (1996)

"Employer Sanctions and the National Identity Card," Testimony before House Judiciary Subcommittee on International Law, Immigration and Refugees (1993)

"IRCA-Related Employment Discrimination: Problems, Procedures and Recent Developments," American Bar Association Annual Meeting (1992)

"Temporary Protected Status for Haitians," Testimony before House Judiciary Subcommittee on International Law, Immigration, and Refugees (1991)

"Marriage Fraud: Yesterday, Today and Tomorrow," Department of Justice, Annual Conference of Immigration Judges (1991)

The Rights of Aliens and Refugees, Southern Illinois University Press (2d ed. 1990) with D. Carliner, A. Helton & W. Henderson

"Immigration-Related Employment Discrimination: IRCA's Prohibitions, Procedures and Remedies," 37 *Fed. Bar News & J.* 23 (Jan. 1990)

"Marriage Fraud and Immigration Reform," Testimony before House Judiciary Subcommittee on Immigration, Refugees, and International Law (1989)

"Report of the Committee on Immigration and Nationality Law of the Bar of the City of New York: An Analysis of Discrimination Resulting from Employer Sanctions and a Call for Repeal," 26 *San Diego L. Rev.* 711 (1989) with M. Davis & A. Wernick

"IRCA's Anti-Discrimination Prohibitions and Procedures," Administrative Law Judge Course on the Immigration Reform and Control Act of 1986 sponsored by The Legal Education Institute of the U.S. Department of Justice (1987)

The INS and Outs of Immigration Law (clinical course book) with H. Rabb (2d ed. 1984)

Selected Professional Activities and Boards

American Bar Association, Vice-Chair Rights of Immigrants Committee, Section on Individual Rights and Responsibilities (2006 - present)

American Constitution Society, Co-Chair Access to Justice Issues Group (2005 - present)

Board, National Immigration Law Center, Los Angeles, CA (1998 - present; Treasurer 2007-present)

Board, National Immigration Forum, Washington, DC (1989-2001)

American Bar Association Coordinating Committee on Immigration Law (1994-98)

Co-Chair, Immigration Law Committee, Section on Labor Law, American Bar Association (1987-96)

Advisory Group, Columbia University Center for the Study of Human Rights, Human Rights Advocates Program (1992-98)

Chair, National Advisory Committee, Asylum Study Project of Harvard Law School (1992-94)

Consultant, Clinton Administration Presidential Transition Team for Immigration and Naturalization Service (1992)

Harvard Law School, Faculty-appointed committee to evaluate Law School immigration program; principal author committee report (1989) (with Prof. Mary Ann Glendon & Robert Juceam)

Advisory Board, American Immigration Law Foundation Legal Action Center (1988-92)

Advisory Board, American Friends Service Committee Immigration Law Enforcement Monitoring Project (ILEMP) (1984-86)

Employment Before Law School

International Commission of Jurists (ICJ) (New York). International legal human rights organization. Monitored human rights hearings and bodies at United Nations Headquarters for ICJ.

College Preparatory School (CPS) (Berkeley, California). Taught Chinese history courses at highly selective private high school.

Bar Admissions

State of California; State of New York; United States Supreme Court; numerous federal circuit and district courts.

A BRIEF OVERVIEW OF IMMIGRATION OR MIGRATION-RELATED PROGRAMS AT OTHER UNIVERSITIES AND LAW SCHOOLS

The following brief summary of the principal immigration- or migration-related programs or centers at major schools that our scan identified provides a sense of their purpose and agenda. Each is valuable in its own right but none has the mission or focus of the proposed Yale center to address the urgent issue of immigration and individual rights and to bring innovation, collaboration and continuous engagement with the larger society while also enhancing the scholarship and program of the Law School.

Immigration, Migration and Refugee Centers or Programs

Columbia University has a Program on International Migration: Economics, Ethics, and the Law, which is under direction of a prominent economist. The program aims at providing an umbrella for faculty and students engaged in scholarly research on analytical and policy issues raised by the international flows of humanity. Associated faculty includes scholars of economics, literary theory, philosophy, sociology, political science, international relations and law.

The Columbia program is focused specifically on scholarly activity in the context of economics, ethics, philosophy and other disciplines. Among many differences, it does not have the Yale program's key component of focusing on immigration policy in the context of protecting individual rights and working collaboratively with the advocacy community to help develop new and innovative strategies.

University of Virginia Law School has an Immigration Program. It is designed to allow students to explore legal and policy issues such as who should qualify for asylum, immigration and national security, and the effect of globalization on migration patterns. The program is a forum for considering philosophical and theoretical issues, for practical skills training through clinical work, and for inviting expert speakers for talks, panels and symposia.

This Virginia program focuses on student training and experience, inviting speakers and considering philosophical and theoretical issues. It does not have our goal of linking to outside advocates, developing innovative strategies for reform, undertaking empirical and applied research or engaging in collaborative initiatives designed to advance the protection of individual rights.

Georgetown University has an Institute for the Study of International Migration (ISIM), which is part of the Foreign Service School and affiliated with the law school. The Institute focuses on international migration and its effects on foreign policy and national security, comparative migration studies and forced movements of people, and integration of migrants into host societies (which encompasses immigration and refugee issues). ISIM conducts and sponsors research, convenes symposia and sponsors conferences. It provides a certificate program for Masters level in the School of Foreign Service.

The Georgetown program has a broad migration agenda and, as its location in the School of Foreign Service reflects, is especially focused on foreign relations and national security. Its consideration of refugee issues arises in that context. The Yale program will address immigration issues in the larger context of broader human rights principles and protections.

The University of Michigan has a Program in Refugee and Asylum Law, which brings together students, visiting scholars, and faculty with a commitment to reconciling international legal principles to the practical challenges posed by involuntary migration in all parts of the world. The heart of the program is a formal academic program, allowing in-depth study of international refugee law doctrine, its application in comparative jurisprudence, and direct engagement with the process of international refugee law reform.

The Michigan program focuses solely on refugee and asylum law, which comprises only one aspect of immigration policy, and emphasizes the applicable international legal norms. It does not encompass immigration law and policy as a whole nor does it seek to synthesize the advocacy and academic approaches that are central to Yale's program.

The University of California-Hastings has a Center for Gender and Refugee Studies (CGRS). The CGRS's mission is to protect the basic human rights of refugee women and girls by advancing gender-sensitive asylum laws, helping advocates successfully represent women in need of protection, and preventing these refugees from being forcibly returned to the countries from which they have fled. The Center carries out original research and advocacy initiatives around human rights violations in specific countries or regions of the world.

The Hastings program centers on female refugees in the context of advancing gender-sensitive asylum and refugee protections. Its agenda does not include other broader issues of immigration policy and individual rights.

Social Policy Centers

Among numerous social policy centers at various law schools, some include immigration as a specific area of interest.

U.C. Berkeley (Boalt Hall) School of Law has the Chief Justice Earl Warren Institute on Law and Social Policy. It is a multidisciplinary research center designed to address civil rights, education, criminal justice, family and economic security, immigration and healthcare issues facing California and the country. The Warren Institute defines its mission as engaging a wide range of legal and public policy subject areas. One program area is immigration, which seeks to offer research-based policy proposals from its unique vantage point in California.

The Berkeley program has immigration as one among many program areas and has a special focus on California. Yale's program would be national in scope and would engage specifically on the range of immigration law and policy issues related to individual rights. We could incorporate research-based policy proposals from California

or elsewhere while synthesizing those into new strategies and initiatives in collaboration with advocates and leaders.

City University of New York (CUNY) Law School has a Center on Latino and Latina Rights and Equality (CLORE) that is envisioned as an academic and scholarly institution seeking to meld community service and educational activities to improve the quality of legal care provided to Latinos and Latinas in the city and nationwide and highlighting issues that impact this population. Among the issues of concern are an increase in hate crimes, negative profiling by local law enforcement, rejection of constitutional and statutory protections at the workplace, at home and in school, and the popular movement to "close the borders" to Latino and Latina immigrants.

The CUNY program is focused on the entire range of issues related to Latino and Latina rights, of which immigration is one among many. The Yale program's agenda would encompass immigration more broadly and the focus would be distinguished from CUNY's program by encompassing not only issues affecting Latino and Latina rights, but also the rights of immigrants from a myriad of different countries – ranging from Europe and Africa to Asia. Our program would seek to address the underlying issues affecting immigrants' quality of life, especially those topics pertaining to recognition of immigrants' rights and access to services and education.

The James Binger Center for New Theatre: Yale's Vision

The Center for New Theatre at Yale, from its inception, has played a leading role in the American theatre. Established in 2008 through the outstanding support of the Robina Foundation, the Center has made significant investments in emerging and mid-career playwrights: in the past three years, Yale Repertory Theatre (Yale Rep) has entered into more and larger commissioning agreements than any other theatre in the nation. By the end of FY12, the Center will have supported nine new productions of plays and musicals, seven of them from commissioned writers. Of the six produced at this writing, three have already been performed again to critical acclaim at other leading theatres nationwide.

The Center has emerged as a high impact, highly successful venture, leveraging Yale's artistic expertise and institutional capacity for risk-taking. We develop and produce high quality work in collaboration with diverse artists; we promote rapidly—and visibly—the voices and careers of distinctive writers; and we raise the national standard of theatre production through training and the sharing of best practices.

Through the Robina Foundation's early investment, the Center has proven the viability of its operating model. Ensuring the continuation and expansion of this approach has the potential to transform American theatre. Yale now seeks to establish, in partnership with the Robina Foundation, the financial stability that will enable the Center to fire the American theatrical imagination for generations to come. The Center's significant investment in artists, robust production, and rigorous assessment of programs will provide an essential conduit and serve as a model for new theatrical production around the country.

We believe that this endeavor would also provide a fitting tribute to Yale's distinguished alumnus, James Binger. Yale would be honored to commemorate his legacy by creating the James Binger Center for New Theatre.

Background: Mission and Strategy

Through the last half of the 20th century, the United States rode a wave of artistic excitement, civic pride, and economic growth to create significant theatrical institutions nationwide. The resident theatre movement, as it is called, became the creative engine of the art form in America. All but two of the Pulitzer Prizes for Drama between 1969 and 2011 were awarded to plays that began in the regional theatre. Unfortunately, many nonprofit theatres, including some of the largest, have over-committed capital to infrastructure and administration at the expense of artists, and undercapitalized the risks inherent in producing new work, especially with respect to ticket income. As a result, there is intense pressure on theatres to produce familiar, pre-marketed

commodities, and playwrights are driven to write smaller scale work for fewer and fewer characters. The field is distressed.

The mission of the Center for New Theatre is to commission, develop, and produce new work for the stage, cultivating the talents of playwrights and other theatre artists.

Since their founding in 1926 and 1966, respectively, the School of Drama and Yale Rep have championed the development of playwrights and the production of new plays. Taken together, the School and Rep offer a unique combination—a leading training program in partnership with a professional theatre. They have promoted the work and careers of such award-winning playwrights as Christopher Durang '74, Athol Fugard, Richard Greenberg '86, John Guare '63, Amy Herzog '07, David Ives '84, Rolin Jones '04, Tarell Alvin McCraney '07, Lynn Nottage '89, Suzan-Lori Parks, Sarah Ruhl, Wendy Wasserstein '76, and August Wilson, among many others.

Because Yale trains more than just playwrights, the School of Drama and Yale Rep perpetually innovate and model best practices in the production of new theatre in every discipline of the art form. Here, actors, directors, designers, dramaturgs, producers, and managers prepare for leadership internationally. Yale serves as both classroom and laboratory for the theatre arts, launching new contributions from the University to the wider world, just as physicists and computer scientists disseminate new technology.

The strategy for the Center for New Theatre is to support the artistry of playwrights and address the critical needs of the field by providing:

1. *meaningful compensation for writers:* this represents both time to work and a reasonable financial incentive to make live theatre;
2. *artist-centered processes:* the Center manages the order and scale of readings, workshops, residencies, and other events in response to the playwrights' creativity and timing;
3. *significant opportunities for production:* these include musicals and plays with larger casts, at Yale Rep and other leading American theatres, utilizing enhancement funds provided by the Center for non-Yale productions;
4. *multiple venues for interaction:* classes, retreats, readings, workshops, residencies, and productions bring working playwrights and other theatre artists together at every stage of professional development.

This combination of activities leverages several complementary elements—a nexus of training and production; a community of talented artists teaching and learning here; the intellectual curiosity of Southern Connecticut and the New York metropolitan area; Yale's international reputation; and the University's long-term economic stability—to drive the Center's resources

aggressively toward the support of playwrights and our art form. We are confident that our program is a model for energized and exciting theatre programming.

Plans for the Future

Theatre is a plastic and evanescent medium—just as no two performances are identical, no two artists, no two plays, and no two production processes should be treated identically. The early success of the Center for New Theatre stems from our flexible capacity: to tailor each new play's development activity to meet the commissioned writer's specific needs; to provide production opportunities at Yale and beyond; and to prioritize competitive compensation, putting resources directly in the hands of artists.

We anticipate the continuation of current program activities. We seek opportunities to modify, expand, or deepen these activities both in response to the needs of our commissioned artists and in dialogue with current trends and concerns in the field.

Commissions

In the first three years of the Center for New Theatre (FY09-FY11), Yale Rep awarded 22 new commissions and provided developmental support to an additional 10 commissioned projects that were in progress at the time the original gift was received from the Robina Foundation. In all, 35 individual artists (including playwrights, composers, and directors) have received support as commissioned artists through the Center for New Theatre.

We plan to remain the field leader by commissioning 50-70 works in the next decade, with highly competitive compensation: our strategic aims are to attract and retain the most compelling emerging and established writers and to provide them with significant developmental support and meaningful production opportunities. Yale Rep's commission fees now start at \$25,000 and range up to \$50,000 for musicals or other projects with multiple authors. We plan to raise the base fee to \$35,000 by FY22, and we remain committed to commissioning both straight plays and musicals.

Workshop, Retreats, and Residencies

Since 2008, we have conducted 17 workshops and coordinated 9 writing retreats and/or residencies. Workshop activity doubled from FY09 to FY10 and stayed steady in FY11: the number of workshops relates strongly to the number of projects commissioned, so that as more commissioned artists join the roster, we anticipate more developmental activity through the Center. Retreats and residencies have grown rapidly in FY11: our commissioned artists demonstrate significant need for the space and time to concentrate on their writing, outside of their day-to-day responsibilities and schedules.

By far the most popular residency we have created to date is the annual Boot Camp. Each year, three to five commissioned artists are invited to participate with School of Drama playwrights in a week-long intensive retreat in New Haven, led by Paula Vogel, Chair of the Playwriting program and Playwright-in-Residence at Yale Rep. The experience has been widely praised by

all writers who have attended; not only does it provide them with creative challenges, new techniques, and aesthetic inspiration, but it also links our commissioned artists closely to the playwriting students at the School of Drama. Boot Camp thrives on a community that could only exist at Yale; writers with considerable experience in the field relish the opportunity to mentor talented students at the School, while students grow more rapidly in the company of their professional role models. The immediacy and closeness of these relationships are key elements in our writers' identification of Yale as their creative home.

Based on the positive feedback from our commissioned artists, we anticipate the expansion of our residency activities in the next three to five years, incorporating two new approaches:

1. A year-long residency in New Haven, including salary and health benefits. A commissioned artist would be invited to spend a year working at Yale Rep and at the School of Drama. For example, the playwright could attend the weekly writers' workshop with the students in the playwriting department, or perhaps teach a section. Over the course of the year, the playwright would be encouraged to work not only on her Yale commission, but all of her writing. If desired, the playwright could request a workshop or reading of any of her plays through the Center for New Theatre.
2. A two-week artist retreat at a rural location to be determined. Boot Camp has demonstrated the value of bringing artists together to encourage dialogue and inspire creativity. A communal retreat combines the advantages of group interaction with the time to focus on individual projects, without any expectation of an immediate public showcase. Commissioned artists would receive travel, housing, and meals. Over time, the retreat could expand to include a company of actors and directors, enabling playwrights to rehearse works-in-progress throughout the retreat period.

Yale Institute for Music Theatre

Musicals are the United States' original contribution to world theatre, but they are notoriously expensive to produce. Thus, early-career composers, lyricists, and book writers are especially challenged to find opportunities to see their work on stage.

Since 2009, the Yale Institute for Music Theatre (YIMT) has supported young composers and authors as they make the transition from their formal studies to the professional world. It is the only music theatre workshop program in the country geared solely towards providing developmental support for these artists during this crucial period in their careers. YIMT is one of the most successful components of our work, dovetailing with Yale's graduate and undergraduate curricula in libretto writing, lyric writing, and composition.

The Institute is submission-based, and to be eligible the authors must have completed their training at a degree-granting institution (undergraduate or graduate) within the last five years. Up to three projects per year are chosen by the Artistic Director, Mark Brokaw, for inclusion, and each receives a two-week full-time workshop on the Yale campus, bringing together a professional company of up to 40 artists and managers including graduate students and undergraduates. At the completion of the two weeks, two "open rehearsals" per project are held

for the public. They are called rehearsals rather than “performances” because the focus up to the very end is the developmental process. Every team has made significant and substantial changes to their work between the two open rehearsals, incorporating what they have learned from watching the material as it meets an audience.

In 2009, *POP!*, by Maggie-Kate Coleman and Anna K. Jacobs, went from a workshop at YIMT to a production at Yale Rep, supported by the Center for New Theatre. *POP!* continues its life this summer in production at the Studio Theatre in Washington, DC. The success of this piece, and of YIMT overall, is an example of how a diverse and flexible portfolio serves our mission: we may bring musicals to production through commissioning, and/or through this program. We can also meet and get to know the work of talented musical theatre writers early in their careers, all while giving our students opportunities to participate at a high level in the development of new musicals.

Initially funded through individual gift support, the Institute began as a partnership between the School of Music and the School of Drama. This funding is no longer available, but the School of Drama and Yale Rep see this program as a unique and critical contribution to the field and hope to bring it under the umbrella of Robina Foundation support.

Productions

Since FY09, the Center for New Theatre has underwritten five world premieres at Yale Rep and one world premiere at Lincoln Center’s LCT3, and it has seeded subsequent productions of work premiered by Yale Rep at Berkeley Repertory Theatre, The Public Theater, Theatre for a New Audience (NY), and La Jolla Playhouse. The 2011-12 Yale Rep season includes three world premiere productions. Two are commissioned from the award-winning writers Will Eno and Amy Herzog; the third is by Christina Anderson, a recent graduate of the School of Drama; and all three are supported by the Center.

As more plays move through the pipeline from commission to completed draft, there will be dozens of scripts available for production at Yale Rep and theatres across the country. Just as we maintain flexibility in tailoring each development process, we will seek diverse opportunities to leverage further production of Yale-commissioned plays through the Production Enhancement Fund (PEF). Investments of different sizes from this fund have advanced our playwrights’ work, cemented vital partnerships with our peer theatres, and addressed a range of production problems. For example:

1. PEF subsidized the La Jolla Playhouse presentation of *Notes From Underground* by underwriting advanced video technology, also used for the Theater for a New Audience presentation underwritten by PEF;
2. PEF provided an additional week of rehearsal to the LCT3 production of *On the Levee*;

3. PEF funds are expected to subsidize costume construction on David Adjmi's large period piece, *Marie Antoinette*, a Yale commission scheduled for production first at American Repertory Theatre and then at Yale Rep in FY13.

Other potential uses of the PEF include: payments to smaller theatres producing plays that Yale Rep has commissioned but will not produce, and co-productions between Yale and other leading theatres (union rules and significant differences in pay scale generally make it impractical for Yale Rep to collaborate closely with theatres with much smaller budgets). We still do not know how the completion of commissions being written now—and that we will not produce ourselves—may affect PEF expenditures: we anticipate using the \$560,000 remaining from the original PEF grant from FY13-18, and estimate spending an average of \$100,000 per year thereafter.

Management and Accountability

To promote the highest standards of artistry and production over time, Yale's vision includes two forms of evaluation: annual reviews by Center staff and the Dean/Artistic Director, and the creation of an independent committee of distinguished theatre professionals to review the programs of the Center and their relationship to the field every five years, submitting their recommendations to the Dean/Artistic Director, with copies to the President and Provost of Yale.

Annual reviews are already part of the Center's rubric, and the Dean/Artistic Director will continue to report on the Center to the Robina Foundation as requested, as well as to the President and Provost each year. Annual reports are also prepared on endowment funds. In this case, such reports will contain a narrative description of the Center's activities and use of endowment income. They will also provide a financial report with details on the market value of the fund along with the Center's operational expenses. We anticipate that these practices will continue in perpetuity.

The purpose of the five-year review is to provide the Dean/Artistic Director with rigorous program and field evaluations from independent sources, including an overview of endowment expenditures. Conducted by a nationally-distinguished committee comprising leaders in the field of new play commissioning, development, and production, including at least one individual artist, the review will survey the Center's mission, strategy, and programming in the context of future developments in the professional theatre. Our budget reflects travel and expense reimbursement for this team. The committee's report, delivered to the Dean/Artistic Director, President, and Provost, will assess the strengths and weaknesses of the program at that time, with recommendations for enhancements and/or course corrections. We also plan to share meaningful data and findings with the theatres we survey: knowledge disseminated in this effort serves the field broadly.

Request and Budget Overview

Yale School of Drama and Yale Repertory Theatre respectfully request a transformative gift of \$23 million over ten years to continue and expand the work of the Center for New Theatre in perpetuity. The proposed ten-year gift combines \$7 million in operating funds with \$16 million in endowment.

As a private institution, Yale depends most heavily on philanthropy and tuition income for support of its mission in teaching, research, and public service. We are fortunate that the exceptional generosity of Yale's donors—alumni, foundations, corporations—and a long history of careful and prudent management of the endowment built with those gifts have made Yale into an institution of worldwide renown and global impact. Thus, gifts continue to be the main funding source for new initiatives, and endowment plays a vital role in institutionalizing innovation over the long-term. A gift for endowment is an investment in the future.

Endowment support will make it possible for the Center's long-term impact to become truly transformational by giving it time and opportunity to develop a world-class environment for playwriting. Such a gift will leverage the University's historic strengths: artistic vision, institutional stability, and investment expertise.

The Center's mission and strategic alignment are especially appropriate for endowment support for several reasons including:

1. The Center for New Theatre has an evergreen purpose—it is invested in the future of an enduring art form;
2. Yale has a longstanding competitive advantage both in playwriting and in creating environments in which playwrights succeed;
3. The School and Rep together foster multi-generational collaborations and the dissemination of new art and best practices: we will continue to send both plays and people out into the world.

Benefits to the Center that will accrue from endowment support include:

1. Endowment growth over time will support leadership in artist compensation;
2. Endowment income will flexibly support the mission, allowing us to promote strategic innovations in the commissioning, development, and production of new theatre.

The budget we propose combines energetic investment in near-term work with secure long-term funding, even if specific elements of the program should change in the future.

The budget also reflects Yale's anticipated efforts to match the Robina Foundation's potential commitment with gifts of over \$4 million in operating and approximately \$8 million in endowment funds from other donors. This new fundraising of \$12 million is an ambitious but achievable goal—as a point of comparison, the Center has secured nearly \$2 million in operating gifts and \$2.5 million in endowment commitments in the past four years. The scope of this matching effort is enhanced by Yale University's exceptional waiver of indirect costs (currently 12%) for the operating portion of the gift, directing an additional \$840,000 into Center activities over the decade.

In sum, the gift structure we seek is a template for promoting the Center's aggressive programming, robust fundraising, long-term financial stability, and artistic potential.

Expected Impact

The theatre, as western culture knows it, is almost three millennia old. We are honored to follow our forebears, delighted to collaborate with our contemporaries, and humbled in the face of what we do not know about the future.

The proposed Robina gift would represent the single largest philanthropic commitment in the history of playwriting. It would immediately call national attention to the opportunities and challenges faced by theatre artists and significantly advance—indeed, permanently alter—the national dialogue among theatre practitioners and philanthropists about individual and institutional priorities.

We believe that this model—meaningful financial and artistic support of playwrights in combination with robust production opportunities and the fostering of community among artists—holds the highest promise for promoting the next great age of American playwriting. We also look forward to the reality that there will be exciting innovations for the Center to embrace in the near and distant future, in order to better achieve that goal.

The Robina Foundation's gift of \$23 million would sustain the extraordinary early impact of the Center for New Theatre; prepare the ground for the theatre artistry of the 21st century; and commemorate in perpetuity the joyful generosity of James Binger—a great man of the American theatre.

Lead Staff

James Bundy is in his tenth year as Dean of Yale School of Drama and Artistic Director of Yale Repertory Theatre. During his tenure Yale Rep has produced more than twenty world, American, and regional premieres, six of which have been honored by the Connecticut Critics Circle with the award for Best Production of the year, and two of which have been Pulitzer Prize finalists. Under Mr. Bundy's leadership, Yale's Center for New Theatre has supported the work of 35 individual artists; and Yale Rep has provided low-cost theatre tickets and classroom visits to thousands of middle and high school students from Greater New Haven through WILL POWER!, an educational program initiated in 2004. Mr. Bundy's directing credits include *The Psychic Life of Savages*, *The Ladies of the Camellias*, *All's Well That Ends Well*, *A Woman of No Importance*, *Death of a Salesman*, and *A Delicate Balance* at Yale Rep, as well as productions at Great Lakes Theater Festival, The Acting Company, California Shakespeare Festival, Alabama Shakespeare Festival, and The Juilliard School Drama Division. He is a recipient of the Connecticut Critics Circle's Tom Killen Award for extraordinary contributions to Connecticut professional theatre in 2007. Mr. Bundy serves on the board of directors of Theatre Communications Group, the national service organization for nonprofit theatre. Previously, he worked as Managing Director of Cornerstone Theater Company, Associate Producing Director of The Acting Company, and Artistic Director of Great Lakes Theater Festival. He is a graduate of Harvard College and Yale School of Drama and trained as an actor at the London Academy of Music and Dramatic Art.

Victoria Nolan is in her 19th year as Managing Director of Yale Repertory Theatre and serves as Deputy Dean of Yale School of Drama. She was previously Managing Director of Indiana Repertory Theatre; Associate Managing Director at Baltimore's CENTERSTAGE; and Managing Director at Ram Island Dance Company in Portland, Maine. She has held various positions at Loeb Drama Center of Harvard University; TAG Foundation, an organization producing Off-Broadway modern dance festivals; and Boston University School for the Arts. Ms. Nolan has been an evaluator for the National Endowment for the Arts, for which she has chaired numerous grant panels, and has served on other panels and foundation review boards including the AT&T Foundation, The Heinz Family Foundation, Lila Wallace-Reader's Digest Fund, and the Metropolitan Life Foundation. She has also served on the Executive Committee of the League of Resident Theatres (LORT) and on numerous negotiating teams for national labor contracts. A Fellow at Yale's Saybrook College, she is the recipient of the Betsy L. Mahaffey Arts Administration Fellowship Award from the State of Connecticut and the Elm/Ivy Award, given jointly by Yale University and the City of New Haven for distinguished service to the community.

Paula Vogel is the Eugene O'Neill Professor (adjunct) of Playwriting and Chair of the Playwriting Department at Yale School of Drama and Playwright-in-Residence at Yale Repertory Theatre. Her play, *How I Learned to Drive*, received the 1998 Pulitzer Prize for Drama, the Lortel Prize, Drama Desk, OBIE, Outer Critics Circle and New York Drama Critics Awards for Best Play. Her other plays include *The Long Christmas Ride Home*, *The Mineola Twins*, *The Baltimore Waltz*, *Hot 'N' Throbbing*, *Desdemona*, *And Baby Makes Seven*, and *The Oldest Profession*. Other awards include the 2010 William Inge Festival Distinguished

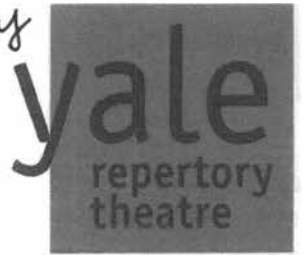
the American Theatre Award, the Stephen and Christine Schwarzman Legacy Award for Excellence in Theatre for lifetime achievement and excellence in teaching, the 2004 Award for Literature from the American Academy of Arts and Letters, the Rhode Island Pell Award in the Arts, the Hull-Warriner Award, The Laura Pels Award, the Pew Charitable Trust Senior Award, a Guggenheim, an AT&T New Plays Award, the Fund for New American Plays, the Rockefeller Foundation's Bellagio Center Fellowship, several National Endowment for the Arts Fellowships, the McKnight Fellowship, the Bunting Fellowship, and the Governor's Award for the Arts. She is a fellow of the American Academy of Arts and Sciences, has been a fellow at the MacDowell Colony and Yaddo, and was recently inducted into the College of Fellows of the American Theatre at the Kennedy Center.

Jennifer Kiger is in her seventh year at Yale Rep as Associate Artistic Director and is also director of the new play programs of the Center for New Theatre. Ms. Kiger came to Yale Rep from South Coast Repertory (SCR), where she was Literary Manager from 2000 to 2005 and served as Co-Director of the Pacific Playwrights Festival. She was dramaturg on more than 40 new plays at SCR, including the world premieres of Rolin Jones's *The Intelligent Design of Jenny Chow*, Amy Freed's *The Beard of Avon*, and the West Coast premieres of Sarah Ruhl's *The Clean House* and Nilo Cruz's *Anna in the Tropics*. Prior to that, she served as production dramaturg at American Repertory Theatre, collaborating with Robert Brustein, Robert Woodruff, Liz Diamond, and Kate Whoriskey, and with multi-media director Bob McGrath on stage adaptations of Robert Coover's *Charlie in the House of Rue* and Mac Wellman's *Hypatia*. She has been a dramaturg for The Playwrights' Center of Minneapolis and Boston Theatre Works and a panelist for the National Endowment for the Arts and the California Arts Council. Ms. Kiger completed her training in Dramaturgy at the American Repertory Theatre Institute for Advanced Theatre Training at Harvard University, where she taught courses in acting and dramatic arts.

Amy Boratko is the Literary Manager at Yale Rep and has served as dramaturg on the Yale Rep productions of *Autumn Sonata*, *We Have Always Lived in the Castle*, *Battle of Black and Dogs*, *Compulsion*, *Notes from Underground*, *A Woman of No Importance*, *Eurydice*, and *The Cherry Orchard*. Other dramaturgy credits include *The Time of Your Life*, *The Summer People*, *Romeo and Juliet*, *The War Is Over* (Yale School of Drama), as well as Voice and Vision's ENVISION Retreat at Bard College. She has been a teaching fellow at Yale College and Yale School of Drama and was a managing editor of *Theater* magazine. A graduate of Rice University, she received her MFA in Dramaturgy and Dramatic Criticism from Yale School of Drama.

Mark Brokaw is the Artistic Director of the Yale Institute for Music Theatre. His Broadway directing credits include *Reckless*, *The Constant Wife*, the musical *Cry-Baby*, and *After Miss Julie*. He has also directed many Off-Broadway productions at Playwrights Horizons, Lincoln Center, and the New York Shakespeare Festival, among others. For his direction of Paula Vogel's Pulitzer Prize winning play, *How I Learned to Drive*, Mr. Brokaw won the Drama Desk, OBIE, and Lucille Lortel Awards for Outstanding Director. Regionally, he has directed at the Guthrie Theater, Seattle Repertory Theatre, Long Wharf Theatre, Yale Repertory Theatre, South Coast Repertory, Berkeley Repertory Theatre, Actors Theatre of Louisville, Center Theatre Group, La Jolla Playhouse, the O'Neill Playwrights Conference, and the Sundance Theatre

*Yale Drama
2011 Proposal
file copy*



JAMES BUNDY,
ARTISTIC DIRECTOR

VICTORIA NOLAN,
MANAGING DIRECTOR

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August 1, 2011

Ms. Penny Hunt
Executive Director
Robina Foundation
4900 IDS Center
80 South 8th Street
Minneapolis, MN 55402

Dear Penny,

All of us at Yale School of Drama and Yale Repertory Theatre have been inspired by the remarkable generosity and intellectual engagement that the Robina Foundation has brought to its philanthropy at the Center for New Theatre.

It is a particular honor and pleasure, therefore, to forward our proposal for a transformative gift from the Foundation to provide operating and endowment funding for the Center, and to rename it in honor of Yale alumnus James Binger.

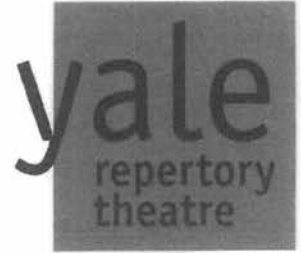
This proposal is based on a strategic vision that combines investments in artists; staff expertise; the joyous adventure of producing live theatre; the stability and reputation of a great university; and nimble, responsible management. We know it works, in large part, because you and the trustees have asked us challenging questions and encouraged us to stay open to every new opportunity.

So now, we thank you and the trustees for the opportunity to make this case to you: that a bright future for remarkable playwrights in America is worth a major investment now, and that Yale is precisely the great university to be trusted—and underwritten—as the steward of that mission.

We are deeply grateful for your consideration, and we look forward to any questions or discussion that the proposal engenders.

Sincerely yours,


James Bundy



JAMES BUNDY,
ARTISTIC DIRECTOR

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MANAGING DIRECTOR

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August 3, 2011

Ms. Penny A. Hunt
Executive Director
Robina Foundation
4900 IDS Center
80 South 8th Street
Minneapolis, MN 55402

Dear Penny,

Thank you again for the helpful feedback and questions that you and Peter Karoff provided us on the draft of our proposal. As we discussed on the phone, I am answering a few of your questions here for the purpose of providing background information that may be shared with the trustees.

1. *Non-commissioned Writers in Boot Camp*: We currently assess the intimacy and connection of the group to Yale as one of its great strengths—our writers tell us repeatedly that they feel they have a creative “home” here. We may in the future invite writers whose work we are producing but haven’t commissioned, or writers who are no longer commissioned by Yale—but we expect that their sense of professional attachment here will remain a key criterion for their inclusion in the program.
2. *Production Enhancement Fund*: You read the PEF budget correctly over the life of the ten years, though in the final draft of the proposal we altered the last four years of the budget to reflect consistent projections of spending \$100K per year.

In the original grant, PEF was treated effectively as a separate fund—and we still have \$560K of the original \$600K left, which we anticipate spending between FY2013-18—these are expenditures of funds in escrow, not of the gift funds requested. Thereafter, we estimate PEF expenses of \$100K per year, but we don’t treat them as a separate income line, because we anticipate funding them out of the operating gift and endowment income.

3. *Yale Match and Indirect Costs*: The timing of accumulation of our \$12 million in matching funds is a pretty straight arithmetic progression, based on what we have done and think we can do, as well as on the projected appreciation of those endowment assets already donated. This is slightly more than a 1:2 match, which is quite aggressive for the

School of Drama and Yale Rep. We have raised about \$2 million in operating funds and have \$2.5 million in endowment commitments for the Center over the four years ending in FY2012. We feel the projections are a reasonable continuation of our efforts, but we will also be managing other fundraising priorities, such as financial aid for students and new facilities.

The University's waiver of indirect costs over the decade is also a component of the match, an effective contribution to the Center's work of overhead typically billed to the operating portion of the gift. Because the indirect costs are now calculated at 12%, the waiver generates an additional \$840,000 in operating funds over the decade.

4. The endowment commitments to date: \$1 million testamentary; just over \$500K pledged; and approximately \$1 million committed from previously established endowments supporting playwrights at Yale Rep.

Thank you, again, for the opportunity to address these questions—we would be pleased to answer any others that may arise during the trustees' consideration of the proposal.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "James", with a stylized flourish at the end.

James Bundy

Festival. He also directed *A Little Night Music* for the Kennedy Center Sondheim Celebration in 2002. Internationally, Mr. Brokaw's work has been seen at London's Donmar Warehouse and Dublin's Gate Theatre. He is an associate artist of the Roundabout Theatre and a graduate of Yale School of Drama.

Yale Center for New Theatre Ten-Year Proposed Gift Payment Schedule and Budget

PROPOSED GIFT SCHEDULE		FY2013	FY2014	FY2015	FY2016	FY2017
1. Robina Endowment Gift		1,600,000	1,600,000	1,600,000	1,600,000	1,600,000
2. Robina Operating Gift		1,000,000	950,000	900,000	850,000	750,000
Total Annual Gift		2,600,000	2,550,000	2,500,000	2,450,000	2,350,000

Yale Endowment Match - Fundraising Goal	1,250,000	1,250,000
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Income ¹	FY2012 Robina Grant Projected	FY2012 Other Sources Projected	FY2012 Center for New Theatre Total	FY2013 Robina Projected	FY2013 Other Sources Projected	FY2013 Center for New Theatre Total	FY2014 Robina Projected	FY2014 Other Sources Projected	FY2014 Center for New Theatre Total	FY2015 Robina Projected	FY2015 Other Sources Projected	FY2015 Center for New Theatre Total	FY2016 Robina Projected	FY2016 Other Sources Projected	FY2016 Center for New Theatre Total	FY2017 Robina Projected	FY2017 Other Sources Projected	FY2017 Center for New Theatre Total
1. Robina Endowment Income ²			-	84,000		84,000	168,600		168,600	254,100		254,100	343,300		343,300	434,800		434,800
2. Robina Operating Support				1,000,000		1,000,000	950,000		950,000	900,000		900,000	850,000		850,000	750,000		750,000
3. Current Robina Grant and Enhancement Fund	950,000		950,000	60,000		60,000	100,000		100,000	100,000		100,000	100,000		100,000	100,000		100,000
4. Match: Non-Robina Endowment Income and Current Use Funds ³		486,400	486,400		494,200	494,200		507,700	507,700		520,400	520,400		587,300	587,300		664,900	664,900
Grand Total Income	950,000	486,400	1,436,400	1,144,000	494,200	1,638,200	1,218,600	507,700	1,726,300	1,254,100	520,400	1,774,500	1,293,300	587,300	1,880,600	1,284,800	664,900	1,949,700
Expenses ¹																		
5. Literary Manager & Artistic Associate Salary & Benefits ⁴	129,800		129,800	154,400		154,400	161,700		161,700	168,400		168,400	175,300		175,300	182,500		182,500
6. Commissions	200,000		200,000	204,000		204,000	208,100		208,100	214,400		214,400	220,900		220,900	227,600		227,600
7. Workshops, Residencies and Retreats	75,000	14,400	89,400	76,500	14,700	91,200	78,000	15,000	93,000	80,300	15,500	95,800	82,700	16,000	98,700	85,200	16,500	101,700
8. Production Expenses	450,200	200,000	650,200	474,100	200,000	674,100	492,300	200,000	692,300	507,200	200,000	707,200	525,400	253,900	779,300	494,800	297,900	792,700
9. Enhancement Support			-	60,000		60,000	100,000		100,000	100,000		100,000	100,000		100,000	100,000		100,000
10. Yale Institute for Music Theatre			-	175,000		175,000	178,500		178,500	183,800		183,800	189,000		189,000	194,700		194,700
11. YSD Playwriting Lecturers ⁴	68,300		68,300		69,700	69,700		73,000	73,000		76,100	76,100		79,200	79,200		82,500	82,500
12. YSD Key Staff Time ¹	203,700		203,700		209,800	209,800		219,700	219,700		228,800	228,800		238,200	238,200		248,000	248,000
13. Program Review			-			-			-			-			-		20,000	20,000
14. Robina Indirect Costs ⁵	95,000		95,000			-			-			-			-			-
Grand Total Expenses	950,000	486,400	1,436,400	1,144,000	494,200	1,638,200	1,218,600	507,700	1,726,300	1,254,100	520,400	1,774,500	1,293,300	587,300	1,880,600	1,284,800	664,900	1,949,700

Footnotes

¹All numbers rounded to the nearest hundred

²Endowment growth projections are based upon additions to principal and Yale University's long-term-model budget parameters

³Components include Mellon Foundation Grant (expires in FY2015), Center for New Theatre Endowment Income and Foundation and Individual Giving

⁴Yale University projects increases in employee benefits that are higher than the expected rate of inflation

⁵Indirect costs waived by Yale University as part of matching effort

Yale Center for New Theatre Ten-Year Proposed Gift Payment Schedule and Budget

PROPOSED GIFT SCHEDULE	FY2018	FY2019	FY2020	FY2021	FY2022	TOTAL
1. Robina Endowment Gift	1,600,000	1,600,000	1,600,000	1,600,000	1,600,000	16,000,000
2. Robina Operating Gift	650,000	625,000	525,000	425,000	325,000	7,000,000
Total Annual Gift	2,250,000	2,225,000	2,125,000	2,025,000	1,925,000	23,000,000

Yale Endowment Match - Fundraising Goal	1,250,000	1,250,000	1,250,000	1,250,000	1,250,000	7,500,000
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Income ¹	FY2018 Robina Projected	FY2018 Other Sources Projected	FY2018 Center for New Theatre Total	FY2019 Robina Projected	FY2019 Other Sources Projected	FY2019 Center for New Theatre Total	FY2020 Robina Projected	FY2020 Other Sources Projected	FY2020 Center for New Theatre Total	FY2021 Robina Projected	FY2021 Other Sources Projected	FY2021 Center for New Theatre Total	FY2022 Robina Projected	FY2022 Other Sources Projected	FY2022 Center for New Theatre Total
1. Robina Endowment Income ²	528,340		528,340	623,600		623,600	721,200		721,200	820,800		820,800	922,800		922,800
2. Robina Operating Support	650,000		650,000	625,000		625,000	525,000		525,000	425,000		425,000	325,000		325,000
3. Current Robina Grant and Enhancement Fund	100,000		100,000			-			-			-			-
4. Match: Non-Robina Endowment Income and Current Use Funds ³		744,200	744,200		875,200	875,200		958,400	958,400		1,043,400	1,043,400		1,130,200	1,130,200
Grand Total Income	1,278,340	744,200	2,022,540	1,248,600	875,200	2,123,800	1,246,200	958,400	2,204,600	1,245,800	1,043,400	2,289,200	1,247,800	1,130,200	2,378,000
Expenses¹															
5. Literary Manager & Artistic Associate Salary & Benefits ⁴	190,000		190,000	197,800		197,800	205,900		205,900	214,400		214,400	223,200		223,200
6. Commissions	234,400		234,400	241,200		241,200	248,500		248,500	256,000		256,000	263,700		263,700
7. Workshops, Residencies and Retreats	87,800	17,000	104,800	90,400	17,500	107,900	93,100	18,000	111,100	95,900	18,500	114,400	98,800	19,000	117,800
8. Production Expenses	465,600	383,100	848,700	437,600	474,400	912,000	410,900	542,300	953,200	385,400	611,400	996,800	361,400	656,700	1,018,100
9. Enhancement Support	100,000		100,000	100,000		100,000	100,000		100,000	100,000		100,000	100,000		100,000
10. Yale Institute for Music Theatre	200,540		200,540	206,600		206,600	212,800		212,800	219,100		219,100	225,700		225,700
11. YSD Playwriting Lecturers ⁴		85,900	85,900		89,400	89,400		93,100	93,100		97,000	97,000		101,000	101,000
12. YSD Key Staff Time ⁴		258,200	258,200		268,900	268,900		280,000	280,000		291,500	291,500		303,500	303,500
13. Program Review			-			-			-			-		25,000	25,000
14. Robina Indirect Costs ⁵			-			-			-			-			-
Grand Total Expenses	1,278,340	744,200	2,022,540	1,273,600	850,200	2,123,800	1,271,200	933,400	2,204,600	1,270,800	1,018,400	2,289,200	1,272,800	1,105,200	2,378,000

Footnotes

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