

**U.S. Programs
Criminal Justice Fund
Summary of Recommended Grants
Docket II
June 26, 2009**

Criminal Justice Fund

2009 Criminal Justice Fund Grantmaking Budget (24027)	5,475,000
2009 Re-Entry Grantmaking Budget (24013)	1,415,000
2009 Gideon Grantmaking Budget (24420)	1,050,000
Out of Docket Grantmaking	(394,780)
Docket I Grantmaking	(1,737,895)
Docket II Grantmaking	
Docket III Grantmaking	
Catch-Up Docket Grantmaking	
Total 2009 Available Grantmaking Budget:	\$ 5,807,325

<u>Program Area/Organization</u>	<u>Grants Totals</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
<u>Criminal Justice Fund Grantmaking (24027)</u>				
Capital Litigation Communications Project (Texas Defender Service as fiscal sponsor)	\$ 100,000	\$ 100,000		
Death Penalty Information Center (DPIC)	\$ 65,000	\$ 65,000		
Equal Justice Initiative (EJI)	\$ 150,000	\$ 150,000		
Equal Justice USA (EJUSA)	\$ 75,000	\$ 75,000		
Murder Victims' Families for Reconciliation (MVFR)	\$ 75,000	\$ 75,000		
NAACP LDF: Federal Death Penalty	\$ 75,000	\$ 75,000		
National Coalition to Abolish the Death Penalty (NCADP)	\$ 250,000	\$ 250,000		
Pennsylvania Capital Representation Project (PCRP)	\$ 100,000	\$ 100,000		
People of Faith Against the Death Penalty (PFADP)	\$ 75,000	\$ 75,000		
Southern Center for Human Rights (SCHR)	\$ 125,000	\$ 125,000		
Texas Defender Service (TDS)	\$ 250,000	\$ 250,000		
Witness to Innocence (Moratorium Campaign as fiscal sponsor)	\$ 50,000	\$ 50,000		
Judge David L. Bazelon Center for Mental Health Law	\$ 300,000	\$ 150,000	\$ 150,000	
Families Against Mandatory Minimums ¹	\$ 200,000	\$ 200,000		
Harm Reduction Coalition	\$ 200,000	\$ 200,000		
Justice Policy Institute (JPI) ²	\$ 175,000	\$ 87,500	\$ 87,500	
Immigrant Defense Project (IDP) ³	\$ 200,000	\$ 100,000	\$ 100,000	
Community Studies of New York	\$ 89,000	\$ 89,000		
Texas Fair Defense Project (TFDP) ⁴	\$ 25,000	\$ 12,500	\$ 12,500	
Total Recommended:	\$ 2,579,000	\$ 2,229,000	\$ 350,000	\$ -

Indigent Defense (24420)

Juvenile Justice Project of Louisiana (JJPL) ⁵	\$ 200,000	\$ 100,000	\$ 100,000	
New York State Defenders Association (NYSDA)	\$ 200,000	\$ 100,000	\$ 100,000	
Texas Fair Defense Project (TFDP) ⁴	\$ 100,000	\$ 50,000	\$ 50,000	
Total Recommended:	\$ 500,000	\$ 250,000	\$ 250,000	\$ -

CJF GRANTMAKING TOTAL THIS DOCKET: \$ 3,079,000 \$ 2,479,000 \$ 600,000 \$ -

Seize the Day (Carpe Diem) Grantmaking (21079)

Justice Policy Institute (JPI) ²	\$ 165,000	\$ 82,500	\$ 82,500	
Total Recommended:	\$ 165,000	\$ 82,500	\$ 82,500	\$ -

JEHT Response (59959)

Families Against Mandatory Minimums ¹	\$ 250,000	\$ 250,000		
Juvenile Justice Project of Louisiana (JJPL) ⁵	\$ 100,000	\$ 50,000	\$ 50,000	
Total Recommended:	\$ 350,000	\$ 300,000	\$ 50,000	\$ -

Equality and Opportunity Fund (24023)

Immigrant Defense Project ³	\$ 200,000	\$ 100,000	\$ 100,000	
Total Recommended:	\$ 200,000	\$ 100,000	\$ 100,000	\$ -

Total CJF 2009 Available Grantmaking Budget: \$ 5,807,325
Total CJF Recommendations This Docket: (3,079,000)
Total 2009 CJF Grantmaking Budget Remaining Upon Approval of This Docket: \$ 2,728,325


Approval Signature

June 25, 2009
Date

¹ Families Against Mandatory Minimums: Total grant amount \$450,000 from 2 budget lines (\$200,000 from Criminal Justice Fund; \$250,000 from JEHT response)
² Justice Policy Institute: Total grant amount \$340,000 from 2 budget lines (\$175,000 from Criminal Justice Fund; \$165,000 from Carpe Diem)
³ Immigrant Defense Project: Total grant amount \$400,000 from two budget lines (\$200,000 from Criminal Justice Fund; \$200,000 from Equality and Opportunity Fund)
⁴ Texas Fair Defense Project: Total grant amount \$125,000 from two budget lines (\$25,000 from Criminal Justice Fund; \$100,000 from CJF-Gideon)
⁵ Juvenile Justice Project of Louisiana: Total grant amount \$300,000 from 2 budget lines (\$200,000 from CJF-Gideon; \$100,000 from JEHT Emergency Response Fund)

Memo

To: Aryeh Neier
From: Ann Beeson, Leonard Noisette, and CJF Staff
Date: 26 June 2009
Re: Docket II 2009 Recommendations, Criminal Justice Fund

For this second docket of 2009, the Criminal Justice Fund (CJF) recommends 21 grants for funding totaling \$3,079,000; two of these grants include funding from the JEHT Response Grantmaking budget, totaling \$350,000. These grants would advance the Criminal Justice Fund's goals of reducing mass incarceration, eliminating harsh punishment and securing a fair and equitable system of justice

Criminal Justice Fund

Death Penalty Abolition – Campaign to Abolish the Death Penalty by 2025

We propose twelve grants as part of our continued support of the Campaign to Abolish the Death Penalty by 2025, a strategic and coordinated effort designed by a Steering Committee of advocates from the field and supported by a collaborative of funders, the Funders for Alternatives to the Death Penalty (FADP), of which OSI is a founding and leading partner. This campaign effort supports the CJF goal of eliminating harsh punishment. We are now in the first full year of the campaign. We will provide, under separate cover, a memo to update you on campaign activities. The funding recommendations we present here result from a joint meeting of the Steering Committee and the FADP held in Houston, Texas at the end of April. We anticipate that a number of the proposed grantees will be long-time partners during the life of the campaign, and expect to be able to make multi-year grants to some of them in the future through greater coordination among our funding partners.

Capital Litigation Communications Project (*fiscal agent Texas Defender Service*) (CLCP) - \$100,000 project support for one year to further the Project's mission to serve as a nationwide communications resource for capital litigators. Led by communications expert Laura Burstein, this project will address the media and communications needs of the anti-death penalty movement. Ms. Burstein will operate nationally to assess and develop the communications potential in various state cases and to locate and recruit effective media messengers.

Death Penalty Information Center (DPIC) - \$65,000 project support over one year to provide additional support to a current grant from the European Commission that allows DPIC to update needed public opinion information used in the organization's communications and public education work and media trainings. To maximize the potential of this research, CJF's grant will add six focus groups in three geographical regions of the country and demographic subgroups. This information will point to the important question of why certain members of the public maintain their support of the death penalty and what sort of public education messages might make them question this support.

Equal Justice Initiative (EJI) - \$150,000 general support grant over one year to advance EJI's primary mandate to abolish the death penalty. To further the goal of the Campaign to Abolish the Death Penalty by 2025 to reduce death sentences and executions, targeted activities must be increased in the South - the location of the most intractable death penalty states. By virtue of EJI's reputation and its position as a leader in the south, the CJF and the Campaign Steering Committee members have identified EJI as one of a small number of organizations selected for an increase in capacity in order to accomplish the goals of the Campaign.

Equal Justice USA (EJUSA) - \$75,000 general support over one year to provide core support to EJUSA, one of two leading national advocacy organizations providing critical strategic support to state-based campaigns aimed at abolishing the death penalty. This grant will allow EJUSA to grow its capacity to partner with state-based abolitionists to provide technical assistance, capacity building, training and organizing support, a necessary growth of resources as more and more states begin to engage in public education campaigns about the arbitrary and ineffectual nature of the death penalty.

Murder Victims' Families for Reconciliation (MVFR) - \$75,000 general support grant over one year to enhance MVFR's efforts to influence public opinion against the death penalty by working in collaboration with state and national anti-death penalty organizations to incorporate murder victims' family members and their perspectives into campaigns for death penalty reform, moratorium and repeal. The grant will provide MVFR with additional capacity to work in the three priority states of California, North Carolina and Texas and engage in six additional target states during the next two years.

NAACP Legal Defense Fund- \$75,000 project support over one year to support the Campaign for Prisoners Facing Federal Execution, a comprehensive communications campaign designed to highlight the problems with the federal death penalty and place pressure on the Obama Administration to prevent the execution of six capital defendants on federal death row, all of whom are African American. The project will seek to: 1) raise awareness among federal decision-makers about the continuing unanswered questions regarding the administration of the federal death penalty including its lack of transparency, racial disparities, and extraordinary cost; and 2) influence the Obama Administration's Department of Justice to perform the comprehensive research needed to address each of the above-mentioned issues.

National Coalition to Abolish the Death Penalty (NCADP) - \$250,000 general support over one year to advance NCADP's mission to abolish the death penalty. As the nation's only membership-based, national advocacy organization dedicated solely to abolishing the death penalty, NCADP provides critical technical support in the areas of grassroots organizing, membership base building, fundraising, and communications to its network of over 100 state-based affiliates, individual members, and scores of activists. The organization's annual national conference also provides much needed leadership development and movement-building opportunities through workshops, networking, and strategy sessions for advocates, attorneys, murder victim and death row family members.

Pennsylvania Capital Representation Project (PCRP) - \$100,000 project support over one year to further PCRP's core mission of representing condemned prisoners in state court litigation. The Pennsylvania Capital Representation Project is part of the Federal Community Defender Office for the Eastern District of Pennsylvania. The grant will capitalize on the momentum building in the mid-Atlantic and Northeast regions toward abolition of the death penalty by providing the capacity for post-conviction representation in Pennsylvania and Delaware state courts.

People of Faith Against the Death Penalty (PFADP) - \$75,000 project support in support of the first interfaith conference on religious organizing for abolition in the United States and the development of a comprehensive plan to sustain the effort following the conference. The two-day conference will bring interfaith religious leaders and staff together for an educational exchange with national abolitionist organizers, providing faith leadership with the tools they need to bring the message of abolition to their local communities, and giving organizers a fresh understanding of how to develop a successful partnership with a large and diverse part of the public.

Southern Center for Human Rights (SCHR) - \$125,000 general support over one year. Due to SCHR's track record as the leading independent capital defense representation organization in the heavy-use state of Georgia, the CJF and the Steering Committee of the Campaign to End the Death Penalty by 2025 have elevated SCHR as one of a select group of organizations whose capacity should be grown in light of the increased activity needed to reduce sentencing and executions in the U.S.—a goal achieved largely through a concerted effort in the South. SCHR's attorneys represent capital defendants at trials, on appeal and in post conviction proceedings and also serve as critical resources to the private criminal defense bar and state capital defenders, consulting regularly on death penalty cases.

Texas Defender Service (TDS) - \$250,000 general support over one year to maintain capacity for key trial and post-conviction litigation activities aimed at reducing the number of death sentences and executions in Texas and thus the nation. The grant will allow TDS to continue the organization's "crisis-case" intervention – cases with imminent execution dates and viable legal issues that have not been properly litigated (if at all). Given TDS's significant impact in the field, the CJF and the Campaign Steering Committee members have selected TDS to join SCHR and EJI as defender offices identified for growth in capacity.

Witness to Innocence (WTI) - \$50,000 project support over one year for the TOOLS (Training, Outreach, Organizing, Leadership, and Speaking) Project, which recruits, trains, and supports death row exonerees and their family members to become spokespersons for the anti-death penalty movement. This grant will amplify the powerful voice of innocence—largely cited as the most salient and compelling reason for the shift in public opinion against the death penalty—by extending the unparalleled influence of exonerated ex-death row prisoners.

Criminal Justice Fund General Grantmaking

Reducing Mass Incarceration

Judge David L. Bazelon Center for Mental Health Law (Bazelon Center), \$300,000 project grant over two years to develop performance improvement standards for community mental health programs and establish local pilots, in four jurisdictions, for reducing mental health crises that lead to criminal justice involvement of people with serious mental illness. Specifically, OSI funding will enable the Bazelon Center to convene, and provide technical assistance to a task force of local mental health authorities, service providers, consumer and family advocates, police and court representatives, and other stakeholders to establish local mental health system performance improvement pilots that drive reforms to address fundamental issues that prevent access to mental health services and thus lead to police intervention.

Families Against Mandatory Minimums (FAMM), \$450,000 general support grant over two years (from OSI's JEHT Response and Criminal Justice Fund grantmaking budgets) to support sentencing reform efforts. Over the next two years, FAMM will continue its efforts to eliminate or

limit the reach of federal mandatory minimum sentencing laws, by preserving and increasing judicial discretion, expanding the use of the clemency power, and preventing restoration of mandatory guidelines. FMM will also continue its state-level sentencing reform campaigns in Michigan, Massachusetts, Nevada, and New Jersey, begin a campaign in Florida, and explore other states for possible campaigns.

Harm Reduction Coalition (HRC), \$200,000 general support over one year to challenge the stigmatization of people who use drugs and advance policies and programs that help people address the adverse effects of drug use including overdose, HIV, hepatitis C, addiction, and incarceration through policy analysis, advocacy, public education, and technical assistance to service providers. This renewal grant would advance the Criminal Justice Fund's interest in decriminalizing drug use by reframing and linking drug policy debate to public health and harm reduction approaches, pressing the public health benefits nationally, and internationally, of lifting the ban on needle exchange, and by building partnerships and collaborations for drug policy reform across communities, sectors, and issues.

Justice Policy Institute (JPI) - \$390,000 (\$175,000 general support from Criminal Justice Fund grantmaking budget, \$165,000 in project support from the Seize the Day Fund) to further the project's mission to reduce instances of adult and juvenile incarceration through research, communications, organizing, and policy advocacy; to support an emerging network of criminal justice advocates in Maryland to significantly advance policy reforms at the national level; and to develop a policy report which contextualizes and compares incarceration rates and social structures of the United States with other Western democracies to encourage reform that reduces incarceration rates.

Eliminating Harsh Punishment

Immigrant Defense Project (*fiscal agent* Fund for the City of New York) (IDP) - \$400,000 general support grant over two years (co-funded with the Equality and Opportunity Fund) to support advocacy efforts to scale back egregious overreaching government interpretations of the current criminal-immigration deportation laws through impact litigation and, where resources allow, coordinated communications work; support reform of the current mandatory deportation system through policy analysis and administrative advocacy focusing on the criminal immigration intersection; build the capacity of community groups to respond to immigration enforcement and support community-based advocacy efforts through community education; and establish models for systemic changes in the criminal justice system.

Securing a Fair and Equitable System of Justice

Juvenile Justice Project of Louisiana (JJPL) - \$300,000 general support over two years (from OSI's JEHT Response and Criminal Justice Fund grantmaking budgets) to provide core support to JJPL's efforts to transform Louisiana's public defender system for youth into one that provides trained, supervised and competent counsel to all children accused or adjudicated of crimes. The grant will support JJPL's mission to provide trainings, resources and political support necessary for indigent defense reform to take root in Louisiana.

New York State Defenders Association, Inc. (NYSDA) - \$200,000 general support over two years to provide support to the organization's efforts to improve indigent defense services in New York State. NYSDA provides back-up services to more than 100 county-based public defense offices and to more than 5,000 private defense attorneys, including impact litigation; amicus briefs; case consultations, technical assistance; trainings, and monitoring of state legislation.

NYSDA will also continue its efforts to create a statewide public defense system and an independent public defense commission.

Community Studies of New York, \$89,000 project grant over one year, to support "Racial Bias in U.S. Marijuana Possession Arrests: Policing Policy and Misdemeanor Arrests in Obama's America." Building on his prior work, project leader Harry Levine will combine policy advocacy, activism and research focusing on the racial bias in marijuana arrests nationally and in New York, and will emphasize the damaging, stigmatizing effects of the arrests and criminal records, especially on black and Latino teenagers and young men. In addition to the project's primary focus on marijuana arrests, it will more broadly examine police practices and their effects for common low-level offenses including other misdemeanors, and stop and frisks. The project will also examine the role of federal grants to police departments which likely fund many of these arrests, and of potential regulatory changes within the U.S. Justice Department that could substantially reduce them.

The Texas Fair Defense Project (TFDP) - \$125,000 general support over two years to strengthen the project's advocacy and litigation to challenge practices that unconstitutionally deny individuals accused of crime access to counsel in Texas courts and to promote best practices for ensuring access to counsel. TFDP staff works with criminal justice stakeholders, bar associations, advocacy organizations, and persons accused of crimes and their families to accomplish these goals.

Name of Organization: Texas Defender Service (as *fiscal agent* for Capital Litigation Communications Project)

Tax Status: 501(c)(3)

Purpose of Grant: To support the Capital Litigation Communications Project

Previous OSI Support: \$230,000 Gideon Project 2008; \$50,000 Gideon Project 2008; \$50,000 U.S. Justice Communications Fund 2008

Organizational Budget: \$2,428,403

Project Budget: \$230,000

Sources of Support: \$115,000 Funders Against the Death Penalty members; \$15,000 NAACP-LDF

Amount Requested: \$100,000

Amount Recommended: \$100,000 (T1: 24027)

Term: One year (November 2009 – October 2010)

Matching Requirements: None.

Description of Organization:

The Texas Defender Service (TDS) is a non-profit legal organization with offices in Houston and Austin. Since its founding in 1995, TDS has been working to improve the quality of representation provided to those facing the death penalty in Texas. TDS provides representation to death row inmates, consults in capital cases at all phases of the proceedings, participates in attorney training, and conducts research and data collection.

The Capital Litigation Communications Project (CLCP) is a national communications strategy agency which bolsters success in capital cases through sophisticated communications plans to maximize the useful public understanding of the injustice of the death penalty through unified messages from the field. CLCP is run by Laura Burstein, a communications professional who is highly regarded in the capital advocacy community with over 20 years of experience in social justice communications campaigns. She has focused on anti-death penalty communications work for the past 12 years. Ms. Burstein works with an advisory board of leading death penalty advocates, and is assisted by a full-time communications associate as well as a legal consultant. The CLCP's board is made up of leading members of the field such as George Kendall of Holland & Knight and Andrea Keilen, the Executive Director of CJF grantee Texas Defender Service.

Description of the Project for Which Funding Is Sought:

Capital Communications project requests \$100,000 support over one year to increase chances for success in capital cases and undermine public confidence in the death penalty by drawing attention to mistakes and unfairness in key cases with the long-term goal of ending capital punishment within our lifetimes. The Project is designed to develop and implement sophisticated

communications strategies for critical death penalty cases in a variety of jurisdictions, while remaining flexible to respond to unexpected opportunities to break news and shape public opinion against the death penalty. Some of the identified projects are as follows:

Troy Davis, Georgia – Innocence

CLCP continues to provide communications support in the Troy Davis innocence case; it is implementing a national strategy targeting the U.S. Supreme Court and Georgia decision makers that highlights the grave problems in Mr. Davis' case and the procedural hurdles that are barring him from raising his claims of innocence in a court of law. The communications plan includes coordinating with members of Mr. Davis' legal team, amplifying the voices of *amici*, and promoting conservative pro-death penalty voices, including Bob Barr, a former Congressman from Georgia, who co-authored the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) and who bylined an op-ed discussing how the law was never intended to prevent factual exploration of an innocence case. CLCP has drafted talking points, media pitches, and op-eds as well as initiated conference calls to coordinate communications strategy with numerous advocacy groups and other organizations working on Mr. Davis' case.

Andre Thomas, Texas – Mental Illness

In April 2009, CLCP began strategic discussions with attorneys from Andre Thomas' legal team after the Court of Criminal Appeals ruled that Mr. Thomas is "crazy but sane" enough to be executed, even though he violently blinded himself. The case provides an opportunity to expose the fallacy of a system that permits someone as mentally ill as Mr. Thomas to be found competent to stand trial and sentenced to death. CLCP is helping the attorneys frame the mental health issues to place a thoughtful long-lead piece in a major news outlet such as the *New York Times Sunday Magazine* or the *New Yorker*. In the coming year, this case will present opportunities to collaborate with mental illness associations and anti-death penalty advocates.

Earl J. McGahee, Alabama - Racial Discrimination

Equal Justice Initiative's Report on Racial Discrimination in Capital Jury Selection

In late March of 2009 CLCP began working with Bryan Stevenson of Equal Justice Initiative (EJI) on promoting an egregious case of racial discrimination in capital jury selection, where Mr. McGahee, who is African American, was convicted of capital murder and sentenced to death by an all-white jury in a predominantly black county. The prosecutor said that he excluded six prospective black jurors because "they appeared to be of low intelligence," though nothing in the record supported this claim and the excluded jurors included teachers, a minister, and a member of the Selma Police Department. In March, the Eleventh Circuit granted Mr. McGahee a new trial but the state may appeal this rare "win" to the U.S. Supreme Court. CLCP has garnered interest from a nationally-syndicated columnist to write about the case. CLCP plans to design and implement a communications strategy for EJI's upcoming report on racial discrimination in capital jury selection.

Delma Banks, Texas – Prosecutorial Misconduct

Since 2003, CLCP has provided communications support to attorney George Kendall in this case involving prosecutorial misconduct. Delma Banks was ten minutes from execution when the U.S. Supreme Court stepped in and granted a stay. Mr. Banks has served nearly 30 years on death row, even though the prosecution's star witness lied at his trial and sentencing, and the prosecution suppressed evidence favorable to Mr. Banks for almost two decades. Earlier this year, the State of Texas appealed a district court ruling in favor of Mr. Banks. The Project is prepared to promote the Fifth Circuit decision in the coming weeks and months, which may involve utilizing the prominent and unlikely allies who were *amici* in Mr. Banks' successful Supreme Court bid.

Undermining Public Confidence in Lethal Injection

The Project will continue to monitor daily coverage pertaining to lethal injection issues, provide strategic communications counsel to the Berkeley Law Team, which recently received emergency JEHT funding from OSI, and lethal injection litigators in various jurisdictions, and work to bring public scrutiny to lethal injection protocols at key moments. The strategic tactics include developing messages that expose the death penalty as an ineffective public policy that fails to deter crime, drains government resources for reducing crime, and does not deliver the promised “closure” to victims’ family members; recruiting messengers beyond the “usual suspects” by enlisting unlikely allies such as victims, former prosecutors, judges and other prominent individuals and groups who bring instant credibility and attract media attention; writing and placing opinion pieces that are bylined by prominent messengers, published at the right time to reach the identified target audiences; briefing journalists and editorial boards, and generating favorable media coverage; and anticipating and monitoring the opposition to inform the strategic communications plan at the outset and prepare for any challenges that may arise in the course of the litigation.

Rationale for Recommendation:

This grant supports the Criminal Justice Fund’s priority areas of eliminating harsh punishment and ensuring the fair administration of justice by abolishing the death penalty. CLCP’s communications support continues to lift up the often unheard voices and stories of those on death row and consequently has been a driving force in the Campaign to End the Death Penalty by 2025.

OSI funding will enable CLCP to continue to serve as a nationwide resource for capital litigators where the strategic use of communications has the power to highlight the system’s failures and erode public support for the death penalty. CLCP will continue to play a key coordination role between capital litigators and the broader anti-death penalty advocacy community, bolstering the chances for litigation success and education of the public about the unfairness and inaccuracies that leave the system too broken to be fixed.

The current political and economic climate presents an extraordinary opportunity for those who seek the end of capital punishment in the United States. In March 2009, New Mexico became the 15th state to abandon capital punishment and the third state in the last two years. This year, 10 other states introduced repeal legislation, reflecting a growing consensus that the death penalty is burdened with too many risks and costs, including the danger of executing the innocent, its unfair application, and the diversion of scarce resources. Six out of 10 Americans believe it is time for a national moratorium while the process undergoes a careful review. With momentum on the side of abolition, it is now more important than ever to nurture and intensify public sentiment against the death penalty.

Accordingly, the work of CLCP is essential for exposing the mistakes and unfairness of individual death penalty cases that can have broad impact on the debate; coordinating messages among capital litigators, advocates, and “unlikely allies;” galvanizing media attention; shaping public opinion; and creating the stories and examples needed to persuade policymakers to reform or abolish state systems of capital punishment. Moreover, the Project’s sophisticated messaging and communications outreach to the public and involvement with state anti-death penalty groups has provided necessary support to the Campaign to the End the Death Penalty by 2025. For the above reasons, the Criminal Justice Fund recommends a one year grant of \$100,000 to the CLCP.

<u>Name of Organization:</u>	Death Penalty Information Center
<u>Tax Status:</u>	501(c)(3)
<u>Purpose of Grant:</u>	To leverage a current grant from the European Commission to allow DPIC to update essential public opinion information that will be used to advance death penalty reform
<u>Previous OSI Support:</u>	\$50,000 Gideon 2000; \$100,000 Gideon 2001; \$100,000 Gideon 2003; \$160,000 Gideon 2006; \$200,000 Gideon 2008; \$100,000 JEHT Foundation Emergency Fund 2009; \$70,000 Law & Society/Criminal Justice 1999
<u>Organizational Budget:</u>	\$598,130
<u>Project Budget:</u>	\$215,000
<u>Sources of Support:</u>	European Commission
<u>Amount Requested:</u>	\$65,000
<u>Amount Recommended:</u>	\$65,000 (T1: 24027)
<u>Term:</u>	One year (July 2009 – June 2010)
<u>Matching Requirements:</u>	None

Description of Organization:

The Death Penalty Information Center (DPIC) is a D.C.-based private foundation that serves the media and the public by providing information and analysis on the use of capital punishment in the United States. Formed in 1999, DPIC operates under the premise that the more the public knows about the death penalty, the more it will understand that this form of punishment is irremediably flawed and must be brought to an end. Richard Dieter became the executive director in 1992 and continues in that role. Mr. Dieter is quoted in multiple types of media and news resources on a daily basis.

DPIC regularly issues press releases and conducts briefings for journalists and is one of the most widely cited sources of information on the death penalty in the media. DPIC has produced and broadly disseminated 18 major reports on the death penalty and 14 annual reports. Three of the major reports have been based on commissioned national opinion polls. All of these reports have been widely covered in the media. The 2008 annual report was cited in articles in *The New York Times* and *USA Today*, and in editorials in *The Washington Post* and *Boston Globe*. In 2008 DPIC’s main website received approximately 125 million hits and is the first site given by search engines when “death penalty” is entered. The site was upgraded in 2008 and has a presence on networking websites such as Facebook, Twitter, YouTube, and produces free podcasts available through iTunes, in addition to four other sites devoted to university and school curricula.

Description of the Project for Which Funding Is Sought:

DPIC seeks \$65,000 over one year to conduct six focus groups on death penalty issues in three geographical regions of the country. This research will supplement a broader initiative of message development and polling research to be conducted by Lake Research Partners in coordination with DPIC and funded by a two-year grant from the European Commission to pursue national opinion and message research to identify new messages that will be targeted towards specific segments of the U.S. population. DPIC will oversee all of this work and will disseminate the findings through a series of meetings around the country with death penalty leaders and organizations.

Lake Research Partners, formed through the merger of Lake Snell Perry Mermin and Associates and Decision Research, is one of the nation's premiere national public opinion and political strategy research firms. Its principals are leading information-campaign strategists, serving as tacticians and senior advisors to a wide range of progressive advocacy groups, school districts, labor unions, non-profits, and foundations, as well as dozens of elected officials at all levels of the electoral process. LRP takes the opinion pulse at city, state, and national levels on a weekly basis and helps turn those results into actionable information for our clients.

Under the present contract, DPIC and Lake will receive \$150,000 from the European Commission grant to gather existing message research, formulate new messages to be tested, conduct extensive national polling to identify the key messages and target subgroups of the population that together will result in the most movement in the years ahead. Lake will analyze the results of the research and distill it into key messages and a blueprint for change which will be disseminated with the field through national and regional trainings. The application was submitted by DPIC as part of the EC's call for proposals fitting the "Actions supporting human rights and democracy issues covered by the EU Guidelines on the Death Penalty" funding pool.

For an additional \$65,000, Lake Research will add six focus groups in three geographical regions of the country to the research. In each region, the first focus group would be made up of a typical demographic subgroup such as Latinos, African Americans, Libertarian/Conservative – significant populations currently unavailable to the movement because of the lack of targeted outreach tools. The second focus group in each region will consist of a control group. The groups will be conducted entirely by Lake Research. DPIC, through its executive director, will assist in the selection of locales and issues to be pursued in each group. A small portion of the grant will be used for DPIC to travel to the focus groups and staff time will be paid through other sources of funding.

Skilled facilitators will explore why respondents hold the views they have on capital punishment, what or who influences those views, and test messages to see how they impact individual views on the death penalty. When the national poll is conducted to test these new messages, it will already have the benefit of focus-group refinement so that the most effective tone, wording, and cultural nuances will have been incorporated. It would be inefficient to test a potentially effective new message, only to have it fail because of slight misstep in wording. Finally, when it comes time to share these new messages with the death penalty community, the added feedback from the focus groups will make the content of the new messages richer and more precisely tailored for specific groups.

DPIC has planned a series of conversations with experts and activists to glean potential messages for testing. Lake Research will prepare a segmentation of the American public according to attitudes on various issues so that the polling will reveal different responses not only by geography but by types of respondents. The six focus groups in the three regions will take place in the late summer. A national poll will be conducted in the fall to test the new messages. The EC grant supports the dissemination of the results of the polling through national and regional trainings for the field, tailoring

presentations to particular geographical regions, and supplementing the training with a communications plan on key issues. Trainings will begin at the end of 2009 and continue in early 2010. The research itself will not be made available for public consumption outside of the media messages.

Rationale for Recommendation:

This grant supports the Criminal Justice Fund's priority of eliminating harsh punishment in the criminal justice system. It also advances the goals of the Campaign to End the Death Penalty by 2025, a national coordinated effort of advocates, litigators and funders, which OSI helped to develop.

In the last few years, caution and skepticism about capital punishment have been running high, resulting in fewer death sentences and executions and state campaigns for reform or abolition. Enormous opportunities lie ahead if the current momentum can be sustained. Unfortunately, the death penalty remains a tempting political symbol, even if it has no positive effect on public safety. To ensure significant movement away from the death penalty, comprehensive opinion research, followed by carefully crafted new messages delivered in a professional, systematic manner is needed.

DPIC is well positioned to undertake this important task and has successfully utilized polling services in the past. DPIC's poll highlighting the support for life without parole as an alternative to the death penalty helped mark an important trend in American public opinion. Additionally, DPIC's poll of police chiefs around the country is frequently cited as a counterweight to the argument that law enforcement officers automatically support the death penalty. DPIC is uniquely positioned to implement this project. Richard Dieter, the organization's executive director, recently finished his term as the President of the Steering Committee of the Campaign to End the Death Penalty by 2025 but continues to be a member of the Communications Subcommittee, whose members support this project. DPIC will be able to have the network of the Campaign at his disposal, to gain input from regional and national sources and to organize effective trainings using the expertise of Campaign partners. Leaders in the community will be invited to observe the focus groups as they take place. DPIC will consult with Campaign activists and researchers in the final analysis of the data before it is shared with the wider death penalty movement.

Lake Research Partners is particularly qualified to carry out this research and polling because of its previous experience conducting innovative research on issues, including capital punishment. They have extensive experience working with and for politicians and policymakers, including the use of in-depth interviews and large-scale opinion research to make strategic issue campaign decisions.

This grant provides a unique opportunity to leverage sophisticated analysis of what drives attitudes on capital punishment, a companion to the largest national survey to be conducted on attitudes toward the death penalty and public perceptions of abolitionist messages. The suggested focus groups represent significant segments of the population that have not experienced movement in their attitudes toward the death penalty. The Latino population is an important factor in the West and messaging should be tailored to address this group. African Americans mobilized in the 2008 elections could be tapped for the abolition movement. Focus group research will allow the field to target regional and cultural differences with nuanced messages, allow them avoid the pitfalls that made previous messaging ineffective. Refining the messages and developing new ones would significantly enhance the value of the national survey and greatly serve those who work to abolish the death penalty.

For the above reasons, the Criminal Justice Fund recommends a one-year grant in the amount of \$65,000 to DPIC as part of a broader initiative of message development and polling research.

Name of Organization: Equal Justice Initiative

Tax Status: 501(c)(3)

Purpose of Grant: To provide general support

Previous OSI Support: \$525,000 JEHT Emergency Fund 2009; \$900,000 Gideon 2007; \$900,000 Gideon 2004; \$400,000 Gideon 2002; \$375,000 Gideon 2000; \$200,000 Law & Society 1999; \$100,000 Policy & Research 1997

Organizational Budget: \$2,595,000

Sources of Support: \$200,000 Ford Foundation; \$250,000 Tides Foundation; \$125,000 Atlantic Philanthropies; \$200,000 Southern Poverty Law; \$50,000 Clifford Chance Foundation; \$25,000 Herb Block Foundation; \$50,000 Wallace Global Fund; \$89,500 Select Equity Foundation; \$63,000 Alabama Law Foundation

Amount Requested: General support

Amount Recommended: General support: \$150,000 (T1: 24027)

Term: One year (June 2009 – June 2010)

Matching Requirements: None

Description of Organization:

The Equal Justice Initiative of Alabama (EJI) is a non-profit law office that provides legal assistance to poor and disadvantaged people in the Deep South who are affected by the unfair administration of criminal justice. EJI also uses strategic litigation, public education, training, and advocacy to promote civil and human rights and policy reform. Since its founding in 1989, EJI has provided direct legal assistance to death row prisoners, people who have received excessive prison terms, children sentenced to adult prisons, the mentally ill, and others who have been unfairly or illegally convicted. OSI has supported many of EJI's successful activities, which are explained in more detail below.

Over the last 15 years, EJI has won reversals in more than 75 death penalty cases. In May 2004, the U.S. Supreme Court unanimously ruled that Alabama death row prisoner David L. Nelson could challenge the state's lethal injection procedure.¹ The decision spurred a spate of civil rights challenges to lethal injection, halting executions in several states. In 2007, EJI initiated a project extending to five southern states that combines research, litigation and public advocacy in an effort to expose the persistence of racial bias in the criminal justice system focusing on discriminatory jury selection practices.

In January 2009, EJI won relief for Glen Holladay, an Alabama death row inmate who suffers from mental retardation. EJI's Eleventh Circuit Court of Appeals win means that Glenn Holladay cannot be executed because he is mentally retarded. The decision makes Mr. Holladay the first death row

¹ *Nelson v. Campbell*, 541 U.S. 637 (2004).

prisoner in Alabama to win, over the State's opposition, a claim that the Constitution prohibits his execution because of his mental retardation.

Moreover, EJI has made great strides in large-scale reform litigation including *McGahee v. Alabama*, a case decided by the Eleventh Circuit in March 2009 ruling that illegal racial bias violated the Constitution, granting a new trial to Earl McGahee based on the trial prosecutor's exclusion of all 24 black prospective jurors at Mr. McGahee's capital trial. *McGahee* represents the first complete guilt-phase reversal by the Eleventh Circuit in a death penalty habeas case in over five years and the decision contains language that should help lawyers and community members challenge discriminatory use of peremptory strikes in other cases.

In the last year, EJI has filed over a dozen challenges to illegal and unconstitutional convictions in death penalty cases. EJI's staff also filed a major challenge to the treatment of disabled sex offenders in Alabama, and initiated a major effort to end revocation of parole for technical violations. Success in this area could result in over 2000 prisoners being released in Alabama and hundreds more being released from parole supervision.

Among EJI's more recent work is its focused and targeted litigation efforts to confront the imposition of the sentence of life without the possibility of parole. In May 2009, the Supreme Court granted cert in two Florida cases involving life without parole for individuals who were juveniles when they were sentenced. One of these cases involves Joe Sullivan who was 13 years old when he was convicted of rape and one of only two 13-year-old children sentenced to life without parole for a non-homicide crime in the United States. Bryan Stevenson is representing Mr. Sullivan, who is now 33 years old. The Court's decision to grant cert is significant since it will decide whether sentencing juveniles to spend the rest of their lives in prison without the possibility of parole constitutes cruel and unusual punishment. In March 2008, EJI won a reversal in the United States District Court for the Eastern District of Missouri of the conviction and sentence of life imprisonment without possibility of parole imposed on Phillip Shaw for a crime that occurred when he was 14 years old. In 2005 EJI won a ruling from the Alabama Supreme Court that permitted non-violent offenders sentenced to life in prison without the possibility of parole to obtain reduced sentences. As a result, EJI secured relief for dozens of prisoners who would otherwise have died in prison for petty crimes like drug possession and small property crimes.

In recent years, EJI has expanded its mission in Alabama to provide assistance to noncapital prisoners who were unjustly and harshly sentenced and to provide assistance and develop advocacy around parole issues. EJI has also implemented a special project to examine racial discrimination in jury selection in the Deep South, and more recently, a project that will examine the intersection of race and poverty in Alabama's Black Belt.

Description of the Project for Which Funding Is Sought:

This recommendation seeks general support.

Rationale for Recommendation:

This grant advances the Criminal Justice Fund's goals of eliminating harsh punishment and racial disparities, and securing and equitable system of justice, by abolishing the death penalty, combating racially disparate law enforcement, and improving indigent defense services. Moreover, EJI's work is critical to furthering the goals of the Campaign to End the Death Penalty by 2025, a nationally coordinated effort which was spearheaded by OSI.

In the first half of 2009, the state of Alabama scheduled six executions following a one-year hiatus that included the U.S. Supreme Court review of the constitutionality of lethal injection in *Baze v. Rees*. Alabama has not executed as many as six people in a single year in more than 60 years. There are other death row prisoners who will likely receive execution dates before the end of the year. Despite these setbacks, two-thirds of Alabama residents voted to abolish the death penalty all together in a recently administered statewide survey by the Birmingham News asking Alabamians how they feel about the death penalty as it is currently applied. Public opinion, the increasingly vocal opposition to the death penalty from federal and state judges, and recent successes in abolishing the death penalty in New Jersey and New Mexico provide fresh momentum to strategies focused on abolition in Alabama and other Southern states. To move toward abolition, EJI's services are needed more than ever before.

EJI plans to expand legal assistance to individual prisoners on death row coupled with strategic litigation that targets key reform issues in Alabama including racial discrimination, judicial override, inadequate counsel, over-prosecution, and challenges to the state's failure to provide counsel for post-conviction proceedings. EJI's team believes that the best way to confront the injustices in death penalty cases is to dramatize through strategic litigation, education, and communications specific cases that highlight the abuse of the death penalty and to merge this information with broader efforts aimed at policy reform. To this end, during the next year, EJI will support litigation with vigorous reporting documentation that is strategically presented to the public, the media, and other decision makers in order to improve the environment for systemic reforms. More pronounced legal challenges by EJI over a range of issues leveraged with collaborations and other reform advocates can lead to a reduction in the number of death sentences and executions, create a greater ambivalence about the death penalty, and nurture momentum for abolition.

One example of the need for EJI's critical litigation and advocacy efforts is Alabama's egregious disregard of the right to counsel. Alabama is the only state in the country without a state-funded program to provide legal assistance to death row prisoners. There is no state public defender program and in some counties, defendants have been sentenced to death after trials where they were represented by a lawyer who did not even meet the minimum requirement of five years of criminal defense experience. More than half of the 200 people on Alabama's death row were represented at trial by appointed lawyers whose compensation for out-of-court preparation was capped at \$1,000. Unlike every other state in the country that uses the death penalty, Alabama does not provide legal assistance to death row inmates who challenge the inadequate representation they received at trial or other aspects of their conviction or sentence in post-conviction proceedings. EJI is now aggressively challenging the notion that counsel is not critical at any stage of the appeals of a capital conviction and death sentence. Successful litigation in this area could prove critical to enforcing federal constitutional rights and substantially broadening the right to counsel for capital and noncapital prisoners around the country.

In fiscal year 2008, EJI built its program capacity by adding staff and an office upgrade. The organizational budget for fiscal year 2009, which has been lowered to reflect a loss in support from the JEHT Foundation, is \$2.6 million, representing an 80 percent increase from fiscal year 2007. Although EJI has been successful in making up for the loss of JEHT funds, including support from OSI, the organization does not anticipate this level of support will be sustained in fiscal year 2010 and beyond. To support the organizational capacity at current levels and avoid cutbacks in program work and staff, EJI will need to sustain its current funding levels and develop additional untapped funding sources in fiscal year 2010.

For the reasons discussed above, the Criminal Justice Fund recommends a grant to EJI in the amount of \$150,000 over one year.

<u>Name of Organization:</u>	Equal Justice USA
<u>Tax Status:</u>	501(c)(3)
<u>Purpose of Grant:</u>	To provide general support
<u>Previous OSI Support:</u>	\$250,000 Gideon 2008; \$100,000 Gideon 2006; \$80,000 Gideon 2003; \$80,000 Gideon 2001
<u>Organizational Budget:</u>	\$925,000
<u>Project Budget:</u>	N/A
<u>Sources of Support:</u>	Atlantic Philanthropies \$400,000; \$100,000 Tides Sheilah's Fund; \$10,000 Wardlaw Charitable Trust; \$5,000 New World Foundation; \$86,500 Individual donations, small grants
<u>Amount Requested:</u>	\$75,000
<u>Amount Recommended:</u>	\$75,000 (T1: 24027)
<u>Term:</u>	One year (July 2009 – June 2010)
<u>Matching Requirements:</u>	None

Description of Organization:

Equal Justice USA (EJUSA) was established in 1990 as a grassroots criminal justice program of the multi-issue Quixote Center located in Hyattsville, Maryland. EJUSA's mission is to build a criminal justice system that is fair, effective, and humane, and to mobilize ordinary citizens to advocate for reforms. In 1997, EJUSA launched a grassroots campaign that seeks a moratorium on executions throughout the United States and the reallocation of resources saved in the process toward support for the family members of murder victims. This campaign is now EJUSA's primary focus. On July 1, 2008, EJUSA separated from the Quixote Center and gained status as an independent non-profit entity. EJUSA recently relocated from Maryland to New York City. Over the past two years, EJUSA has increased its staff size from four to seven.

Description of the Project for Which Funding Is Sought:

EJUSA seeks general support in the amount of \$75,000 over one year.

Rationale for Recommendation:

This grant supports the CJF's goal of eliminating harsh punishment. It also furthers the goals of the Campaign to End the Death Penalty by 2025, a nationally coordinated effort spearheaded by OSI's leadership.

This grant would provide needed assistance permitting EJUSA to continue its work as a nationally recognized leader in the death penalty abolition movement. In recent years, EJUSA's leadership has demonstrated its organizational savvy and ability to bring together a variety of groups through a

hands-on and collaborative approach to political organizing. For example, EJUSA has demonstrated its effectiveness at targeting states that are ripe for engagement on death penalty abolition and building the capacity of grassroots groups in those states. Notwithstanding its slim budget and small staff, EJUSA has played an instrumental role in achieving many of the abolition movement's most important recent wins. EJUSA partnered closely with partners in New Jersey to win the nation's first legislative repeal of a state death penalty statute in the modern death penalty era in December 2007. EJUSA also worked with partners in Maryland to achieve a moratorium on executions in 2002 and gutted the states death penalty in 2009 by securing restrictions on death eligibility that make it the narrowest in the nation. In addition, EJUSA has worked with partners in New York since 2004 to maintain the court-imposed moratorium on the state's death penalty. EJUSA continues to conduct an Annual Training and Strategy Retreat and on-site trainings, which have provided organizers in over two dozen states with effective strategies for reducing and elimination state-imposed executions.

Over the course of the next year, EJUSA's has set several priorities to advance the goals of the Campaign to End the Death Penalty by 2025. One such priority is to obtain death penalty moratoria and repeal of death penalty statutes in two to four states through close partnership with state grassroots organizations. Some of the states targeted will include Maryland, Montana, Nebraska, Illinois, and Colorado. Additionally, EJUSA and its partners will work to strengthen similar campaigns in states such as Ohio, Missouri, Pennsylvania, Tennessee, Connecticut, Illinois, and Colorado. EJUSA leadership will also build on the lessons learned from the successful New Jersey and New Mexico campaigns by integrating demands for victims' services into state campaigns for repeal. EJUSA also plans to support the national movement's efforts to expand the constituency of law enforcement agents, religious groups, murder victim families, and other "unusual suspects" in state moratoria and repeal efforts.

To implement these objectives, EJUSA will provide technical assistance to state partners over a multi-year period and work inside state campaigns. Some of the services EJUSA will provide are described in more detail below.

- **Provide Technical Assistance.** EJUSA will provide a national and on-site training and technical assistance to state groups in organizing, policy advocacy, media and message development, campaign coordination, custom development of public education materials, membership and organizational development, and fundraising.
- **Support Field Organizing.** EJUSA's field organizers will devote themselves to a cluster of states in a geographical region and provide constant capacity-building assistance to organizations in these states. EJUSA maintains a regional field office for the Midwest in Cincinnati and plans to open a second regional field office for the Western states in Seattle, Washington in June 2009 and an additional office in Atlanta, Georgia.
- **Provide Campaign Coordination.** When state campaigns reach a high level of sophistication, EJUSA will facilitate a "strategy team" of key staff and media and political consultants while state team members carry out on-the-ground campaign activities. In campaigns where EJUSA is not providing a coordination role, it will consult with state campaigns, advise them on how to capitalize on opportunities, share best practices and lessons learned from other campaigns, facilitate contacts with advocates in other states, and offer a national perspective.
- **Leverage Financial Assistance.** EJUSA will occasionally provide modest funds to state groups to get them off the ground or assist them in an emergency recognizing that, for

EJUSA's leadership has nurtured collaborative relationships that have resulted in tremendous victories for the anti-death penalty movement, including the recent victory in New Mexico. Executive director Shari Silberstein has the strategic vision to identify states that are ripe for reform, train and develop exceptional partners in those states, and strike quickly and effectively when new opportunities arise. Ms. Silberstein's skill and sophistication in grassroots organizing and national networking have become evident to both the funders and advocates who have teamed up in the past year to launch the Campaign to End the Death Penalty by 2025. Ms. Silberstein was the innovator who designed a matrix for categorizing state campaigns. The matrix continues to serve as an invaluable tool for both funders and advocates as they prioritize the objectives of the Campaign to End the Death Penalty by 2025. Ms. Silberstein continues to serve as a Steering Committee Member of the Campaign.

For the above reasons, the Criminal Justice Fund recommends a one-year general support grant of \$75,000 to Equal Justice USA.

<u>Name of Organization:</u>	Murder Victims' Families for Reconciliation
<u>Tax Status:</u>	501(c)(3)
<u>Purpose of Grant:</u>	to provide general support
<u>Previous OSI Support:</u>	\$125,000 Gideon 2003; \$100,000 Gideon 2001; \$50,000 Gideon 2000
<u>Organizational Budget:</u>	\$336,500
<u>Project Budget:</u>	N/A
<u>Sources of Support:</u>	\$75,000 Sheilah's Fund; \$75,000 Atlantic Philanthropies; \$60,000 Z. Smith Reynolds (NC)
<u>Amount Requested:</u>	\$75,000
<u>Amount Recommended:</u>	\$75,000 (T1: 24027)
<u>Term:</u>	One year (June 2009 – May 2010)
<u>Matching Requirements:</u>	None

Description of Organization:

Founded in 1976, MVFR has helped to raise the consciousness of Americans and dispel the myth that all murder victims' family members are proponents of state killing. The group has been praised by Sister Helen Prejean—internationally renowned anti-death penalty activist, author and Nobel Peace Prize nominee—and recognized by many other national and international human rights advocates and organizations for its trailblazing work.

When MVFR hired Lorry Post as its new executive director in January of 2008, after conducting an extensive national search, the group ended a period of transition and took a confident step toward organizational revitalization. Lorry, a long-time MVFR member and father of a daughter lost to murder, had played an integral role in the decade-long campaign that led to the abolition of the New Jersey death penalty on December 17, 2007.

MVFR influences public opinion against the death penalty by presenting the unique and compelling stories of murder victims' family members who oppose capital punishment. Murder victims' family members bring irrefutable integrity and unquestionable moral authority to the debate about the death penalty, and have been some of the most effective advocates for abolition across the country. MVFR works to identify, recruit, train, and mobilize murder victims' family members across the United States in collaboration with state and national anti-death penalty work, incorporating their voices and perspectives in support of death penalty reform. MVFR also advocates for effective programs to support and compensate the family members of murder victims and stands against the diversion of financial resources into the costly capital punishment system. Some of the organization's recent accomplishments include:

- **Played a central role** in a successful citizen education campaign that led to the abolition of the death penalty in New Mexico (2009).

- **Crafted** a three-year (2009-2011) strategic plan that established clear programmatic, organizational, and financial goals to propel MVFR forward at the state and national level in the second decade of the 21st century.
- **Built** a national membership base with 600+ murder victims' family members and nearly 4,500 supporters in communities spread across the United States. These numbers represent a 20% increase from early 2008.
- **Established** state-based networks in California, New Mexico, and North Carolina during the last several years. MVFR, working in alliance with the active anti-death penalty groups in those three states, pioneered models for integrating the messages and messengers of MVFR into dynamic organizing activities.
- **Organized** a national speakers network that has connected its members with thousands of people across the nation through presentations to business associations, civic groups, colleges and universities, congregations, and leadership bodies that shape public policy.
- **Developed** a training manual to enhance the leadership and communication skills of murder victims' family members and their allies.

Description of the Project for Which Funding Is Sought:

MVFR seeks general support in the amount of \$75,000 over one year.

Rationale for Recommendation:

This grant would advance the CJF priority area of eliminating harsh punishment, and the goal of involving those who are directly impacted by the criminal justice system in policy reform and advocacy. Specifically, the grant will support MVFR's singular role in the Campaign to End the Death Penalty by 2025 as the original and longest-operating national organization of murder victims' family members who oppose the death penalty.

Prosecutors and tough on crime politicians often cite the rights of murder victims' family members as justification for vengeance and executions. Unfortunately, the public and other politicians are often swayed by this rhetoric. Prosecutors and death penalty proponents understand the enormous political value of murder victims' family members. There is tremendous cultural and systemic pressure placed on murder victims' family members to advocate for executing the identified killer of their loved ones, and prosecutors frequently employ heavy-handed tactics to persuade family members to support a death sentence. The media and public opinion are consistently steered toward the perspective that opposing a death sentence is a sign that a family member does not care deeply about their loss.

Murder victims' family members who speak out against the death penalty counter one of the most poignant arguments propping up the death penalty. Over the last several years, murder victims' family members have emerged as a powerful force in the anti-death penalty movement. For example, Lorry Post, founder and original director of the organization that became New Jerseyans to Abolish the Death Penalty (NJADP), now the Executive Director of MVFR, was a featured spokesperson and organizer in the New Jersey campaign that abolished capital punishment in the Garden State in 2007.

Many other victims' family members were engaged in highly visible public education efforts in New Jersey. Victims' family members testified at crucial public hearings held by the New Jersey legislature. There was a designated slot for an MVFR member on the Death Penalty Study Commission that was filled by MVFR family member, Eddie Hicks. Murder victims' family members played a similarly decisive role in the recent campaign that repealed capital punishment in New Mexico on March 18, 2009. Cathy Ansheles, a member of the MVFR Board of Directors and a founding member of the New Mexico Coalition to Repeal the Death Penalty is a New Mexico resident who assumed a core leadership position as a speaker and organizer of victims' family members in that state. The testimony of murder victims' family members was utilized to convince citizens and politicians to back death penalty repeal. MVFR published a New Mexico version of its powerful booklet, *Not In Our Name*, which featured the stories of local victims' family members and highlighted their opposition to the death penalty. *Not In Our Name—New Mexico* was distributed to New Mexico's citizens, media representatives, and legislators.

The impact of the stories and messages of murder victims' family members was not limited to New Jersey and New Mexico. In 2008 and 2009, murder victims' family members testified before legislative bodies in Colorado, Maryland, Montana, and numerous other states; published opinion editorials in the *Baltimore Sun*, the *Fort Worth Star-Telegram*, and the *Washington Post*; and were featured in print and electronic media stories in communities throughout the United States. This is a unique moment in the history of the movement to abolish the death penalty in the United States and murder victims' family members are playing a key role in advocacy and reform efforts.

Over the next year, MVFR will continue to play central role as a collaborative partner in the anti-death penalty movement. Specifically, MVFR will prioritize the states of California, North Carolina and Texas and six additional target states over the next two years. This work includes increasing the number of murder victims' family members participating in anti-death penalty campaigns; developing the leadership and communications skills of murder victims' family members who are participating in anti-death penalty campaigns; improving the ability of state anti-death penalty campaigns in the priority and target states to effectively incorporate murder victims' family members and their messages into their ongoing organizing and public policy efforts; producing state specific publications; and expanding electronic and print media coverage of murder victims' family members and their messages. To support this work, MVFR will hire additional organizing staff and strengthen its communications capacity to influence national media, public opinion and public policy.

As a key resource to mobilize murder victims' family members, MVFR brings an irrefutable integrity and unquestionable moral authority to the debate about the death penalty. For the above mentioned reasons, the CJF recommends a grant of \$75,000 to MVFR over one year.

<u>Name of Organization:</u>	NAACP Legal Defense and Educational Fund (LDF)
<u>Tax Status:</u>	501(c)(3)
<u>Purpose of Grant:</u>	to raise awareness among federal decision makers about continuing unanswered questions about the administration of the federal death penalty and to get the Obama Administration to perform comprehensive research before proceeding with federal executions.
<u>Previous OSI Support:</u>	\$300,000 Re-entry 2000; \$200,000 Policy & Research/Civil Rights 2003; \$50,000 Policy & Research/Policy Reform 2003; \$200,000 Special Opportunities Fund 2005; \$200,000 Racial Justice Initiative 2005; \$350,000 Progressive Infrastructure Grant 2007; \$200,000 U.S. Justice General Grantmaking 2008; \$25,000 Center on Crime, Community & Culture 1996
<u>Organizational Budget:</u>	\$13,600,000
<u>Project Budget:</u>	\$125,000
<u>Sources of Support:</u>	\$50,000 (Atlantic Philanthropies)
<u>Amount Requested:</u>	\$75,000
<u>Amount Recommended:</u>	\$75,000 (T1: 24027)
<u>Term:</u>	One year (June 2009 – May 2010)
<u>Matching Requirements:</u>	None

Description of Organization:

Founded in 1940 by Thurgood Marshall, the NAACP Legal Defense and Educational Fund (LDF) is a non-profit legal organization with the mission of achieving racial equality for African-Americans and, ultimately, all Americans. LDF has a rich history that includes the landmark 1954 victory before the U.S. Supreme Court in the school desegregation case of *Brown v. Board of Education*. Though the promise of *Brown* remains unfulfilled half a century later, LDF remains committed to the premise that quality education, along with meaningful economic opportunities, the right to vote and fully participate in democracy, and the right to a fair criminal justice system, are fundamental human rights.

In March 2008, John Payton succeeded Theodore Shaw and became the sixth Director-Counsel in LDF's 68-year history. Over the course of his illustrious career, Mr. Payton has worked on a number of important civil rights cases, including *Grutter v. Bollinger*, a 2003 case in which the U.S. Supreme Court upheld the admissions process of the University of Michigan Law School against an affirmative action challenge. Under Payton's visionary leadership, LDF will continue to develop strategic partnerships supporting racial justice and will remain one of the premier civil rights organizations in the country.

Description of the Project for Which Funding Is Sought:

The Campaign for Prisoners Facing Federal Execution, working with a group of defense attorneys and in close coordination with death penalty reform advocates and other advocacy professionals, is a communications and outreach campaign to ensure that the new Obama Administration performs a comprehensive review of the application of the federal death penalty, particularly looking at the issues of race and racial bias in its implementation, before any executions take place. The Campaign members will work with the defense teams of six federal capital defendants, all African-American men, who are next in line for execution by the U.S. Government. If their executions are carried out, eight of the nine people put to death under the modern federal death penalty will have been men of color, the sole exception being Timothy McVeigh. A federal execution rate that is nearly 90% black and Latino is unacceptable for a myriad of reasons, not least of which is the terrible message it sends the states about any need to eradicate racial bias in the administration of capital punishment.

The specific goals of this comprehensive communications campaign are two-fold: (1) raise awareness among federal decision makers about the continuing unanswered questions regarding racial bias in the administration of the federal death penalty, as well its lack of transparency and extraordinary cost, and (2) influence the Obama/Holder Department of Justice (DOJ) to perform comprehensive research about the federal death penalty before proceeding with any federal executions.

The Raben Group will serve as the day-to-day coordinator of the communications campaign. With expertise in both communications and policy advocacy, the Raben Group has strong personal connections to many of the high-level appointees in the new Obama Administration. At the White House these individuals include Melody Barnes, head of the Domestic Policy Council (DPC), and Heather Higginbottom and Tino Cuellar, deputies at DPC. At DOJ, these connections include Attorney General Eric Holder, Deputy Attorney General David Ogden, Associate Attorney General Tom Perrelli, Assistant Attorney General Lanny Breuer (heads of the criminal division), and Assistant Attorney General for Legislative Affairs Ron Weich. These relationships put the Campaign team in the position of communicating directly with primary decision-makers. The Campaign members have been coordinating efforts since early 2008.

Rationale for Recommendation:

The grant supports the Criminal Justice Fund's goal of eliminating harsh punishment by abolishing the death penalty and reducing racial and class disparities in sentencing and incarceration. This comprehensive effort is also integral component of the federal strategy of the Campaign to End the Death Penalty by 2025. The grant would also support the goal of the Transparency and Integrity Fund to promote effective oversight of government institutions, as well as advance the Equality and Opportunity Fund's commitment to prohibit arbitrary and discriminatory government action and to challenge structural racism.

The public and the states often consider the federal death penalty system the "gold standard," where all procedures are administered in a fair, transparent, and accurate manner. Unfortunately, this is far from the case. With a population of 57, federal death row is now bigger than that of half the states with capital punishment. The cases of these men and women are plagued by some of the same problems we see in the states: defendants of color tried by all or mostly white juries; defense lawyers failing to take adequate steps to protect their clients; the ultimate sanction being reserved predominantly for killings where the victims were white. Moreover, DOJ has become increasingly secretive when it comes to disclosure of its protocols and procedures. In 2007, the

Senate Judiciary Subcommittee on the Constitution held a hearing on “Oversight of the Federal Death Penalty,” where numerous senators expressed their frustration with DOJ’s refusal to provide any information on these critical decisions and systems.

As the project team works to protect the lives of the six men most imminently facing the possibility of execution, it has developed this broader campaign to bring attention to these extraordinary racial disparities and to urge greater transparency in and oversight of the federal death penalty generally. For almost a decade, DOJ has failed to answer questions around many aspects of the federal capital system: the role that race plays (intentionally or unintentionally) in charging defendants; other biases or improper influences that may arise in the decision making process for seeking the death penalty; the full cost to the taxpayer that the government expends in federal resources on a capital case; and the qualifications or the training of personnel that carry out these executions through lethal injection.

The last comprehensive research survey conducted on the federal death penalty took place in 2000 under Attorney General Janet Reno, who said she was “sorely troubled” by the results that showed significant racial disparities, particularly at the initial charging stage. Then-Deputy Attorney General Eric Holder said that “no one reading this report can help but be disturbed, troubled, by this disparity.” At the time, DOJ expressed its intent to follow up with a full analysis of the issues identified in the survey, focusing particularly on the initial charging decision, the point at which the greatest disparities appeared and from which the rest of the process flowed. When the Bush Administration took office in 2001, however, that follow-up research was not undertaken. Instead, DOJ relied heavily on a RAND Corporation report released in 2005. The RAND study, purporting to find no evidence of racial bias, included no data on the initial charging decisions and was severely criticized by experts in the field for flawed methodology. Particularly in light of the fact that six African American men could soon be facing execution, it is time for a serious examination of the federal capital process.

In addition to the questions of racial bias and impact, the team will strategically highlight other areas of concern to motivate the new Administration to act in this area. For example, the entire decision making process for seeking the death penalty has been increasingly shrouded in secrecy, as has the role that Central DOJ and the Attorney General play in seeking and authorizing federal charges. Similarly, there are critical concerns around lethal injection and its use in the federal system, and around other aspects of the federal execution protocol thus far hidden from view. Finally, despite repeated requests from the Senate Judiciary Committee for information regarding the amount of federal resources used to prosecute capital cases, DOJ has claimed that it does not track these expenses and therefore cannot offer any concrete data. The team will urge a complete cost analysis of the federal death penalty in order to determine its impact on the DOJ budget and its cost-benefit effectiveness.

With the Obama Administration now coming into place, the project team has a limited window of opportunity before any plans for the federal death penalty, particularly with regard to the six African American men at greatest risk, are finalized or acted upon by the new Administration. While the Raben Group will be responsible for the day-to-day management of the campaign, LDF’s standing in the community makes it singularly well positioned to be an important “messenger” to the new Administration, both through strategically-timed direct communications and public statements, as well as through the statement made by LDF’s role in this project. The organization’s commitment to racial justice is second to none, thus underscoring concerns about these issues in the application of the federal death penalty. For the abovementioned reasons, the Criminal Justice Fund recommends a grant of \$75,000 over one year to the NAACP LDF.

<u>Name of Organization:</u>	National Coalition to Abolish the Death Penalty
<u>Tax Status:</u>	501(c)(3)
<u>Purpose of Grant:</u>	To provide general support
<u>Previous OSI Support:</u>	\$80,000 U.S. Justice Fund 1997; \$10,000 Law & Society 1999; \$50,000 Gideon 2000; \$25,000 Gideon 2002
<u>Organizational Budget:</u>	\$1,345,523
<u>Project Budget:</u>	N/A
<u>Sources of Support:</u>	\$1,100,000 Atlantic Philanthropies; \$120,000 The Royal Embassy of the Netherlands; \$75,000 Tides Funders Against the Death Penalty; \$50,000 Public Welfare Foundation; \$25,000 Edna C. Wardlaw Charitable Trust; \$20,000 Maverick-Lloyd; \$5,000 Elias Foundation
<u>Amount Requested:</u>	\$250,000
<u>Amount Recommended:</u>	\$250,000 (T1: 24027)
<u>Term:</u>	One year (July 2009 – June 2010)
<u>Matching Requirements:</u>	None

Description of Organization:

Founded in 1976, the National Coalition to Abolish the Death Penalty (NCADP) is a network of over 100 groups and local affiliates, including human, civil rights and professional organizations. NCADP is the nation's oldest organization dedicated exclusively to death penalty abolition, and unifies its extensive network of over 100 affiliate organizations, thousands of dedicated advocates and volunteers, murder victim family members, and prominent civil justice organizations in the fight to end the death penalty forever.

As a leading national voice of the movement, NCADP engages in advocacy and public education plans and programs. Headquartered in Washington, D.C., NCADP's full-time staff of five seasoned movement professionals have a wide range of experience in advocating change in public policy and mobilizing institutions and individuals against capital punishment. Executive Director Diann Rust-Tierney has over 20 years of experience as a lawyer and policy advocate on this issue and extensive experience in the legislative advocacy arena, having organized and managed the ACLU Washington legislative office as its Associate Director from 1993 to 2000.

Currently, NCADP is one of only two national anti-death organizations providing important strategic support to advocacy organizations and allies working to abolish the death penalty. NCADP's support includes: 1) specialized leadership training to activists providing instruction on the core elements of designing and executing a campaign to repeal or abolish the death penalty; 2) an annual training conference for advocates and affiliate executive directors; 3) technical assistance to affiliate leaders through bi-weekly conference calls; 4) communications and messaging outreach and support to

affiliate members; 5) fundraising advice; and 4) intensive assistance and on-site support to affiliates leading active repeal or reform campaigns.

During the past year, NCADP provided important technical and strategic support to its affiliate members, activists and leaders of statewide campaigns working to reform death penalty systems. In August 2008, NCADP launched its first Abolitionist Leadership Training Institute, which provided a “train the trainer” opportunity for nearly 60 abolitionist leaders to enhance skills in communications, membership development, and fundraising. Over 300 advocates attended the NCADP annual training conference providing additional opportunities for training in key areas designed to uplift statewide campaigns and build infrastructure of affiliates. Some of the trainings areas were: 1) building member support; 2) working with murder victims’ family members; 3) working with death row family members; 4) utilizing online social networking and e-advocacy; and 5) communication strategies to reach women, people of color and the faith community. Trainings designed specifically for attorneys include: 1) capital defense practice fundamentals; 2) plea negotiation; 3) integrating themes and theories and presenting the penalty phase; and 4) winning a capital trial – jury selection training.

NCADP has also provided intensive assistance to affiliates that were implementing Death Penalty reform campaigns. In 2008 and 2009, NCADP supported the New Mexico Coalition to Repeal the Death Penalty reach its goal of abolition. NCADP offered advice and assistance in determining the skills and background need for their to-be-hired Executive Director. In 2009, NCADP’s Director of Affiliate Support helped Coloradans Against the Death Penalty in their remarkable attempt to end the death penalty. Specifically, NCADP staff provided coaching to the affiliate’s executive director and board of directors and facilitated planning and strategy meetings. NCADP staff also drafted testimony presented to the legislature. NCADP provided support for repeal and reform efforts in Maryland and Pennsylvania.

Description of the Project for Which Funding Is Sought:

NCADP seeks general support in the amount of \$250,000 over one year.

Rationale for Recommendation:

This grant supports the Criminal Justice Fund’s goal of eliminating harsh punishment. Moreover, the grant fully supports the goals of the Campaign to End the Death Penalty by 2025, a coordinated national movement that was developed with OSI support.

During the next year, NCADP will expand its capacity to provide assistance and support to state affiliates thereby building a stronger base of anti-death penalty organizations and advocates pushing for reform or abolition. NCADP will:

- Increase the number of affiliates that have long-term public advocacy plans, such as those in Pennsylvania, Virginia and Texas. As affiliates enhance their own skill sets, NCADP will help states such as Colorado and Arkansas to lay the groundwork for similar activities.
- Increase the number of NCADP affiliates with memberships of at least 3,000 people, to demonstrate the breadth and depth of the pro-repeal movement.
- Increase the number of NCADP affiliates with budgets of \$100,000 or more by providing affiliates with fundraising support including trainings and ensuring that affiliates have strong development plans that include strategies to diversify funding sources. With this financial

- Increase the number of NCADP affiliates with paid, full-time staffs that can provide needed organizing skills on the ground.
- Provide intensive technical assistance to states such as Colorado, Pennsylvania, Virginia, Texas, Alaska and Arkansas, among others. This assistance will include supporting affiliates to develop the infrastructure needed to maintain sophisticated outreach efforts.

During the coming year, NCADP will also deepen its commitment to reach out to murder victims' family members. NCADP is developing a new campaign that will encourage at least 10-12 affiliates to build common ground with all victims of violence. NCADP will ask these local affiliates to identify and connect with organizations that provide direct services to families of victims of homicide and, where possible, families of death row prisoners. Once these connections are made, NCADP will ask affiliates to support these organizations by publicizing their events, participating in vigils and other activities. In exchange, NCADP will provide affiliates with resources and training to launch online fundraising campaigns.

NCADP will also broaden its communications capacity by building a more robust website and by maximizing the use of new media such as Facebook and Twitter. Currently, the organization's website serves as a clearinghouse for data, news and action alerts that allow affiliates and grassroots activists to share information pertinent to the fight for abolition. NCADP expects that these communication mechanisms will help the organization expand its base and serve as a model for affiliates to reach out to a broader and more diverse and politically active constituency.

NCADP will continue to serve as a model for developing partnerships and reaching out to a wide variety of organizations to further the goal of abolition. For the past several years, NCADP has convened the Ad Hoc Working Group, which consists of the leading abolition groups in the country, including Equal Justice USA, the ACLU, Amnesty International, the Death Penalty Information Center, among others. NCADP's executive director has been an integral player in the Campaign to End the Death Penalty by 2025, serving as a Steering Committee Member. Recently, Ms. Rust-Tierney facilitated a session at the Funders Against the Death Penalty meeting in Houston, Texas which helped advocates, funders, and litigators evaluate the Campaign's goals.

Ms. Rust-Tierney's policy acumen is bolstered by the expertise of veteran organizer Abe Bonowitz, a fundamental partner in the success of New Jersey's repeal in 2007. Mr. Bonowitz has provided invaluable, in-person support to states as disparate as Alaska, Missouri and New Mexico, and maintains essential lines of communication with state partners and the Campaign's coordinator.

NCADP empowers its affiliates to achieve homegrown victories, which are necessary to build and maintain in order to weather future attacks, even after repeal has been achieved. Moreover, the organization cultivates and provides strategic support to educated, passionate members that can serve as partners in future criminal justice reform efforts. For the above mentioned reasons, the Criminal Justice Fund recommends a general support grant to NCADP for one year in the amount of \$250,000.

<u>Name of Organization:</u>	Defender Association of Philadelphia (fiscal agent for Pennsylvania Capital Representation Project)
<u>Tax Status:</u>	501(c)(3)
<u>Purpose of Grant:</u>	to provide direct legal representation in state post-conviction proceedings to indigent prisoners sentenced to death in the state courts of Pennsylvania and Delaware
<u>Previous OSI Support:</u>	None
<u>Organizational Budget:</u>	\$12,000,000 (does not apply to this project)
<u>Project Budget:</u>	\$250,000
<u>Sources of Support:</u>	\$100,000 Proteus Action League; \$15,000 individual donors; \$9,000 Philadelphia Bar
<u>Amount Requested:</u>	\$100,000
<u>Amount Recommended:</u>	\$100,000 (T1: 24027)
<u>Term:</u>	One year
<u>Matching Requirements:</u>	None

Description of Organization:

The Defender Association of Philadelphia is the public defender for the City of Philadelphia. It is a 501(c)(3) organization. In addition to providing representation to poor people charged with crime in state courts located in Philadelphia, it has a division which serves as the Federal Public Defender for the United States District Court for the Eastern District of Pennsylvania (FPD). In 1995 the FPD was provided with federal funding to create a Capital Habeas Corpus Unit (CHU). The mandate of the CHU is to provide representation in federal habeas corpus proceedings for poor prisoners who have been convicted and sentenced to death in the state courts of Pennsylvania. The FPD and CHU receive funding from the federal government to fulfill this mission.

In 1998, the CHU created the Pennsylvania Capital Representation Project (PCRP) in response to the complete absence of state funding for capital prisoners to litigate their cases in Pennsylvania state post-conviction proceedings, which is an essential component of any successful challenge to a death sentence. PCRP may not use any of the CHU's federal funds to represent its clients in state court. Thus, PCRP's mission is to raise funds to permit CHU staff to litigate cases in state post-conviction proceedings.

Since the CHU's inception (1995) and PCRP's founding (1998), the projects have achieved unparalleled success in obtaining actual relief (i.e. new trials or new penalty hearings) for dozens of condemned men and women in Pennsylvania. Because of the CHU and PCRP's successes, they have been asked to assume representation outside of Pennsylvania. PCRP currently has cases in Arkansas, Texas, Missouri, Oklahoma, Virginia, Maryland, and Indiana. The Project's achievements were recently recognized when the CHU received the *2009 Outstanding Legal*

Services Award given by the National Coalition to Abolish the Death Penalty at its annual meeting in January, 2009.

In 2006 the CHU's funder (the Administrative Office of the United States Courts) asked the CHU to assist with Federal habeas corpus cases in the neighboring state of Delaware. As in Pennsylvania, Delaware's state post-conviction process is deeply flawed. There is inadequate funding for state post conviction proceedings and the local defense bar is not adequately trained to handle these highly specialized proceedings.

Description of the Project for Which Funding Is Sought:

During the grant period, PCRCP will represent indigent capital prisoners in Pennsylvania and Delaware in state post-conviction proceedings. The CHU receives adequate funds from the federal government to perform its core function of representing capital prisoners in federal habeas corpus (FHC) proceedings. However, there is no governmental (i.e. state or federal) funding for representation of prisoners in state post-conviction proceedings (SPC) and PCRCP may not use any of the CHU federal funds for its state court representation.

Successful post-conviction proceedings are the lynchpin of successful capital defense. Federal habeas corpus cases are governed by complex, demanding and unforgiving procedural rules. Failure to abide by these rules can result in forfeiture of a prisoner's right to have his claims of constitutional error reviewed by the federal courts, with fatal consequences. One of these core rules requires that all constitutional claims that are to be presented to the federal courts must first be presented to the state courts. In capital cases this most often should occur in state post-conviction proceedings, which occur after a prisoner's direct appeal is decided but before federal habeas proceedings are commenced.

Capital defendants have no federal constitutional right to counsel in state post-conviction proceedings and accordingly this part of the process is notoriously under-funded by the states. Pennsylvania and Delaware both inadequately fund this stage of a capital case and each of their systems for state post-conviction review is flawed.

Pennsylvania provides no state funds for counsel, experts or investigations and leaves this critical piece to each county to fund. Pennsylvania's capital post-conviction system and the entire capital defense system have come under intense criticism in a recent report authored by the American Bar Association: *Evaluating Fairness and Accuracy in Death Penalty Systems: The Pennsylvania Death Penalty Assessment Report* (October, 2007). This report found a number of areas in which Pennsylvania's death penalty system "faltered" and for which "reforms" were suggested, including: 1) failure to protect against poor defense lawyering; 2) no state funding of capital indigent defense services; 3) inadequate access to experts and investigators; and 4) significant limitations on post-conviction relief.

PCRCP's more limited experience in Delaware shows that similar deficits are present in its post-conviction system. The primary procedural tool by which claims are litigated in state post-conviction proceeding is to allege that prior counsel were ineffective. The use of this tool is impaired in Delaware due to the small size of the capital defense bar. The same lawyers literally handle all of the cases and often are reluctant to even bring claims of ineffectiveness that might reflect badly on their colleagues. Currently, the statewide public defender's office is not involved in post-conviction proceedings in Delaware. Almost all of these cases are managed by conflict attorneys who are appointed by counties and paid by the state. The public defender's office handles the trial and direct appeals of capital cases and then usually conflicts out on post-

conviction due to the possibility of any ineffectiveness claims. If they are conflicted out at the trial level, that conflict usually precludes representation in post-conviction. As a result of this system, the bulk of Delaware's post-conviction petitioners forego substantive claims for relief with dire results. Additionally, Delaware is currently in the midst of a historic budget deficit and, needless to say, providing adequate funding for counsel to condemned prisoners does not rank high on the state's list of priorities. The lawyers who are assigned are not properly trained or qualified to represent capital petitioners.

Rationale for Recommendation:

This grant would advance the Criminal Justice Fund's goals of eliminating harsh punishment by abolishing the death penalty; reforming indigent defense systems; and eliminating race and class disparities in sentencing and incarceration. The grant also supports the goals of the Campaign to End the Death Penalty by 2025, a national initiative developed with OSI leadership.

There is no other organization with CHU's expertise working in either Pennsylvania or Delaware. PCRCP staff is widely recognized as being among the most skilled capital post-conviction litigators in the country and is regularly involved in national training and court committees on the death penalty. The only alternative to PCRCP's state post-conviction representation are the under-funded and unqualified counsel appointed by county courts.

Pennsylvania has a large death row of 224 inmates and it is riddled with the same striking examples of disproportionate punishment that are seen in the South. Delaware has 20 men on death row and the racial statistics tell the same story of discrimination. Delaware's combined African-American and Latino populations are approximately 20 percent while the state's death row is comprised of 50 percent African Americans and 15 percent Latinos. State post-conviction proceedings are an essential – yet under-funded – component of any successful challenge to a capital conviction and sentence. Thus, PCRCP serves as an integral part of the overall mission of the CHU, which is the premier representation of indigent prisoners convicted and sentenced to die. Since the inception of PCRCP in 1995, there have been no non-volunteer executions in Pennsylvania (three so-called “volunteers” have been executed - 2 in 1995 and 1 in 1999). Since the CHU became involved in Delaware in May 2006, it has forestalled executions based on its lethal injection litigation.

With abolition taking place in neighboring New Jersey, there is a renewed hope that the same can occur in Pennsylvania and Delaware. PCRCP's litigation efforts have strengthened arguments by advocates that Pennsylvania's death penalty system is broken beyond repair. (See e.g. *The Philadelphia Inquirer*, Editorial: *Death Penalty, The State Must End it Now*, March 26, 2009.) These efforts have led Pennsylvanians for Alternatives to the Death Penalty (PADP), a member of the Campaign to End the Death Penalty by 2025, to renew a push for abolition. PCRCP's work in Delaware has led to a *de facto* moratorium for over three years (based on lethal injection litigation) as the Project continues to prepare challenges to death sentences in individual cases.

For the above mentioned reasons, the Criminal Justice Fund recommends a grant of \$100,000 to the Pennsylvania Capital Representation Project.

<u>Name of Organization:</u>	People of Faith Against the Death Penalty
<u>Tax Status:</u>	501(c)(3)
<u>Purpose of Grant:</u>	to support the first interfaith conference on religious organizing for abolition in the United States and the development of a comprehensive plan to sustain the interfaith coalition strategy.
<u>Previous OSI Support:</u>	\$250,000 Gideon Project 2004
<u>Organizational Budget:</u>	\$372,000
<u>Project Budget:</u>	\$147,250
<u>Sources of Support:</u>	\$85,000 Z. Smith Reynolds Foundation; \$75,000 Atlantic Philanthropies; \$20,000 Fund for Nonviolence; \$15,000 Religious Congregations/Church Organizations
<u>Amount Requested:</u>	\$75,000
<u>Amount Recommended:</u>	\$75,000 (T1: 24027)
<u>Term:</u>	15 months (July 2009 – November 2010)
<u>Matching Requirements:</u>	None

Description of Organization:

People of Faith Against the Death Penalty (PFADP) is a statewide, interfaith organization whose mission is to educate and mobilize faith communities to abolish the death penalty in North Carolina. Formed in 1994, today PFADP has more than 5,000 dues-paying members and congregations and roughly 50,000 total members, supporters, and contacts statewide. PFADP's members have engaged in 11 local chapters and have participated in more than 350 events as well as community forums. In June alone, there are two forums scheduled in Asheville and Greensboro, NC, respectively and a walk for abolition through the Eastern part of the state. Members provide the backbone of PFADP's funding and organizing through their monetary investment and participation. PFADP's 250 congregation and organizational (e.g., communities of nuns) members host events and meetings, pass on action alerts, and hold special fundraisers for the movement. PFADP is a leader in the effort to abolish the death penalty in North Carolina. In 2004, the organization expanded its mission to address the paucity of religious organizing for repeal nationally, with a particular focus in the South.

PFADP never holds events involving only Christian leaders - leaders of Jewish and other traditions are always involved, including Buddhist, Bah' ai, Muslim, Native American, Society for Ethical Culture, and Wiccan communities. Additionally, Raleigh, NC events are often held at a local synagogue. The faith-based progressive community acts as a watchdog, monitoring events and making recommendations on outreach and inclusion. Though they do not require members or congregations to identify their faith, PFADP is aware that their membership will be predominately Christian denominations due to their position as a Southern-focused interfaith organization. A specific task of the planning committee for this grant is to increase involvement and membership by other traditions.

Presently, PFADP has three full-time and one part-time staff positions and plan to seek funding for program and communications directors. They are dedicated to developing a diverse Board of Directors; bylaws allow for a board ranging from five – 20 members and the current makeup is of seven dues-paying members, including a death row inmate whose sentence was recently commuted and who participates through a liaison, a brother of a man on death row and the father of a murder victim. Previous directors of PFADP included a Nation of Islam minister and community organizer from Hickory, NC, and two Jewish community leaders.

Description of the Project for Which Funding Is Sought:

PFADP requests \$75,000 in support of a new effort to bolster the abolition movement by growing levels of support among religious communities across the country. The project involves the first interfaith conference on religious organizing for repeal of the death penalty in the United States this century, to be held in Atlanta, Georgia over two or three days in October 2010, with a comprehensive plan to sustain the effort following the event. Sister Helen Prejean is the honorary chair of the conference, and the planning committee includes leaders from throughout the abolition and religious communities.

The goals of the conference are to: 1) bring together the leaders and staff of national, state, and local faith communities for a series of educational workshops designed to help them engage their local communities in the abolition movement; and 2) bring together abolition organizers from across the country to provide them with a fresh and deeper understanding of how to successfully partner with and empower religious leaders to help lead abolition and reform movements. Scholarships will help ensure a diverse participation.

The planned 300 participants will attend plenary sessions and keynote addresses involving national religious figures, workshops and affinity group sessions, a mix of activities that should allow for necessary colleague interaction. The conference will begin with a special interfaith service and celebration at a symbolic landmark in Atlanta such as Dr. King's Ebenezer Baptist Church.

PFADP hopes for involvement from a broad spectrum of the religious communities in the United States. Already, leaders of the New Baptist Covenant are involved, representing an informal alliance of more than 30 racially, geographically, and theologically diverse Baptist organizations from throughout North America that claim more than 20 million members. PFADP staff have made efforts to secure involvement from African-American church leaders, especially leaders from the South. Conference planners are actively seeking to add additional southern religious leaders and organizers to the development committee and subcommittees, with the goal of raising the membership base among interfaith congregations by at least 200.

The conference is intentionally being held in the South, where 95 percent of US executions took place in 2008 and where the abolition movement needs the most support. PFADP will make an effort to involve religious leaders from the region. Given the influence of Southern Baptists and other fundamentalist religious leaders in the South, PFADP will reach out to religious leaders who support the death penalty to educate them about the unavoidable injustices of the criminal system including racism, poverty, inequity of defense counsel and prosecutorial misconduct, all of which can and do lead to innocent people being sentenced to death. Moreover, the conference will provide an opportunity to develop collective goal-setting exercises for religious organizing for three years after the conference.

To support conference outreach, PFADP will utilize web-based marketing and social networking media to disseminate the conference content and video highlights, reach a new network of religious

leaders and abolition organizers, and allow attendees to make connections before, during and after the conference. Staff will encourage attendees to frequent the site in order to become aware of the broader anti-death penalty network and its resources.

After the conference is over, PFADP will continue to sponsor the monthly conference calls initiated in Fall 2009 of the Religious Task Force (RTF), a coalition of abolition activists, religious groups and planning committee members focused on heightening attention to the death penalty by religious groups that is re-engaged yearly for strategizing high-impact organizing activities. Staff will also offer tactical support to short-term projects of state abolition groups. RTF membership includes the National Coalition to Abolish the Death Penalty, an organization recommended in this docket; United Methodist Church's General Board of Church and Society; Religious Action Center of Reformed Judaism; Equal Justice USA, a current grantee included on this docket; Tennessee Coalition Against State Killing; Death Penalty Information Center, a CJF grantee included in this docket; and a former member of the Mennonite Central Committee. Twelve months after the conference PFADP will conduct an evaluation to test the impact of the conference. The results will help PFADP plan for a similar conference in 2013.

Rationale for Recommendation:

This grant supports the Criminal Justice Fund's priority of eliminating harsh punishment. It also advances the goals of the Campaign to End the Death Penalty by 2025, a nationally coordinated campaign developed with OSI leadership and support.

Religious organizing has played a crucial role in the recent successes of the movements for repeal in New Jersey, New Mexico and New York though only a fraction of the human, political, and financial resources of the American religious community has been tapped by the movement. The largest 25 American church denominations have 147 million members. Nine of the largest denominations – most whom have passed repeal statements – received \$36 billion in contributions in 2008. There are 622,727 Christian clergy in America, 378,868 pastors serving congregations, and 339,670 congregations. These figures do not include Jewish, Buddhist, and other faith traditions essential to the movement.

PFADP's leadership understands the dynamics and language of religious communities and the cultures and landscapes of the South. Although most major mainline US Christian denominations and the US Conference of Catholic Bishops have declared policies in favor of abolition, no religious tradition is as committed to the work of repeal of the death penalty as its statements suggest. The proposed interfaith conference is needed now more than ever before to galvanize the support of the diverse faith-based communities in the United States for death penalty reform.

The grant will give PFADP the capacity to organize the religious community in a highly concentrated effort while at the same time providing an opportunity for public education and to gain support for reform and abolition efforts. Leaders of the abolition community are not always adept at engaging the religious community and religious community leaders face competing priorities as local pastors often view the death penalty as a divisive issue. PFADP's interfaith conference will change these dynamics by focusing particular attention and resources to the religious community. Moreover, the conference will help religious leaders and abolition organizers find common ground, combine forces and lay the groundwork for new relationships and partnerships throughout the country. For the above mentioned reasons, the Criminal Justice Fund recommends a two-year grant of \$75,000 to the PFADP.

Name of Organization: Southern Center for Human Rights

Tax Status: 501(c)(3)

Purpose of Grant: To provide general support

Previous OSI Support: \$780,000 Gideon 2007; \$2,500 Gideon 2003; \$400,000 Gideon 2002; \$325,000 Gideon 2000; \$50,000 Law & Society/ Judicial Independence 2000; \$75,000 Law & Society/Criminal Justice 1999; \$50,000 Law & Society/Judicial Independence 1999; \$75,000 Law & Society/Judicial Independence 1998; \$50,000 Center on Crime, Community and Culture 1997.

Organizational Budget: \$2,363,388

Project Budget: N/A

Sources of Support: Individual & Firm Contributions \$ 550,000; Proteus Action League \$ 250,000; Public Welfare Foundation \$ 100,000; Ms. Foundation for Women \$ 60,000; Wallace Global Fund \$ 65,000; Marguerite Casey Foundation \$ 50,000; 1848 Foundation \$ 50,000; Vital Projects Fund \$ 50,000; Georgia Bar Foundation \$ 40,000; The Sapelo Foundation \$ 40,000; The Taconic Foundation \$ 25,000; Reed Foundation \$ 20,000; NACDL Fellowship \$ 80,000; Soros Criminal Justice Fellowship \$ 46,500; Reprieve Fellowship \$ 34,000; Other Grant Income \$ 147,888; Frederick Douglass Dinner \$ 200,000; Atlanta Benefit \$ 50,000; San Francisco Reception \$ 40,000; Program Income/Attorney Fees \$ 95,000

Amount Requested: \$125,000

Amount Recommended: \$125,000 (T1: 24027)

Term: One year (June 2009 – June 2010)

Matching Requirements: None

Description of Organization:

The Southern Center for Human Rights (SCHR), based in Atlanta, Georgia, was formed in 1976 to mount a coordinated response to the Supreme Court’s decision that year to reinstate the death penalty, and to bring class action litigation seeking an end to the horrific conditions in prisons and jails throughout the South. SCHR has undergone a major shift in leadership, with longtime director Stephen Bright passing on the directorship of the organization to Lisa Kung. As a queer woman of color, Lisa Kung brings fresh vision to the work, and is committed to continuing the tradition of diversity among SCHR’s staff and board. With a staff of 26, SCHR works to challenge the targeting of poor people of color by the criminal justice system in the Deep South and, in doing so, to transform the system so that it prevents rather than perpetuates violence.

SCHR has a long history of zealous legal representation and far-reaching impact in its death penalty work. By representing individuals on death row in Georgia and Alabama, SCHR has

established numerous precedents in its death penalty cases which have an impact beyond those it represents. Two of the Center's cases, *Amadeo v. Zant* and *Ford v. Georgia*, resulted in unanimous decisions by the United States Supreme Court setting aside Georgia death sentences because of racial discrimination at capital trials. Another case, *Snyder v. Louisiana*, that was argued at the Supreme Court by SCHR, reinvigorated *Batson* challenges of racial bias in cases where African Americans are struck from the jury.

In July 2008, the organization completed a strategic planning process to revisit and sharpen its vision, mission and goals. As a result of that process the Center has defined its goals for 2008-2013 as follows:

1. Reduce the number people on death row in Alabama and Georgia;
2. Reduce the number of people under criminal justice control in Alabama and Georgia;
3. Secure a fully-funded indigent defense system with competent counsel in Georgia and Alabama; and
4. Reduce the financial incentives of government, the private sector, and individuals that are expanding/driving the criminal justice system in Georgia and Alabama.

To achieve these goals, SCHR utilizes the strategies listed below.

- **Representation of individuals facing the death penalty and assistance with capital litigation.** SCHR represents individuals facing the death penalty in Georgia and Alabama at trial, on appeal, and in the post-conviction review process. SCHR's commitment to tenaciously and fully represent each of its individual clients has set the standard for capital representation and mitigation investigation. SCHR has challenged the atrocious quality of representation by appointed trial attorneys; the cursory nature of mitigation evidence even in cases where the person's life history is stunningly tragic; the use of capital sentencing as a campaign issue for elected judges; and the varieties and prevalence of prosecutorial misconduct.
- **Impact litigation to force systemic changes.** SCHR considers impact litigation, including class actions, one of its most powerful tools for change. SCHR has learned how to work around the restrictions placed on litigation by the Prison Litigation Reform Act of 1996, and has responded to the increasing conservatism of the federal bench by increasingly bringing suit in state courts.
- **Strategic media.** SCHR works closely with reporters, bloggers and others to recast public opinion—and ultimately policymaker opinion—on criminal justice issues. In Alabama, for example, SCHR used its class action litigation against the women's prison as a starting point for changing the conversation from a losing debate about whether the Constitution requires air conditioning in the prison, to what is now the statewide conversation about what it will take to replace prison beds with community-based drug treatment and mental health care.
- **Policy advocacy and lobbying.** SCHR is directly involved in supporting reforms and, more often, opposing harmful changes of sentencing laws. Other legislation with deep impact on the criminal justice system that SCHR has pushed or opposed include protecting the unanimous jury for death sentences, improving eyewitness identification protocols, increasing transparency and accountability of corrections and law enforcement, appropriations bills, and opposition to efforts to expand the privatization of criminal

- **Development of new leaders.** Throughout its history, SCHR has developed new leaders and incubated new organizations. Equal Justice Initiative in Alabama, the Juvenile Justice Project of Louisiana, the Louisiana Capital Assistance Project, and the Georgia Capital Defender Office were all started or initially led by SCHR attorneys. Currently, SCHR is incubating the Alabama Women’s Resource Network, a coalition that grew from SCHR’s representation of a class of women prisoners and which is working to shut down the Julia Tutwiler Prison for Women, and the Southern Public Defender Training Center, a project created and directed by former Soros Justice Fellow Jonathan Rapping to train new public defenders in the South.

Description of the Project for Which Funding Is Sought:

This recommendation seeks general support.

Rationale for Recommendation:

This grant would advance a number of goals of the Criminal Justice Fund including eliminating harsh punishment by abolishing the death penalty, improving indigent defense systems, and ending the over reliance on incarceration. Moreover, SCHR’s work fully supports the goals of the Campaign to End the Death Penalty by 2025, a collaborative initiated with OSI funding. The Center’s focus on the states of Alabama and Georgia is an important resource in the Campaign’s efforts to reduce capital sentencing in Southern states.

SCHR has determined that the organization’s best contribution to fight against the death penalty at this time will be increasing pressure at the direct appeal stage of litigation, immediately following a death sentence. SCHR will increase its efforts during this critical stage. OSI funding will provide SCHR with the support it needs to implement this strategy and to roll back efforts to use capital punishment in selected Southern states and sustain efforts to reform of indigent defense systems. Despite progress in other states that are pushing efforts to reform state death penalty systems, Southern states have increased their use of the death penalty. In 2009, Alabama has had a surge in executions with four men executed since January and a fifth scheduled for execution in June. Moreover, the majority of SCHR’s capital cases are from Alabama, which does not have an appellate defender program and where there are no state-funded attorneys for poor people on death row during direct appeal. Although a capital defender office was established in Georgia by the Indigent Defense Act of 2003, Republican lawmakers are working to dismantle this new defender office.

For years, SCHR has developed a track record of the highest quality legal representation for its clients and served as a zealous advocate for criminal justice reform. General support from OSI will allow SCHR to continue to be a key player in the Southern strategy for death penalty reform and serve as an anchor organization in the Campaign to End the Death Penalty by 2025.

For the above mentioned reasons, the Criminal Justice Fund recommends a one-year grant to SCHR in the amount of \$125,000.

<u>Name of Organization:</u>	Texas Defender Service
<u>Tax Status:</u>	501(c)(3)
<u>Purpose of Grant:</u>	To provide general support.
<u>Previous OSI Support:</u>	\$147,500 JEHT Emergency Fund 2009; \$440,000 Strategic Opportunities Fund 2008; \$300,000 Gideon 2007; \$25,000 General Fund 2007; \$200,000 Gideon 2005; \$100,000 Gideon 2003; \$50,000 Gideon 2001; \$35,000 Gideon 2001
<u>Organizational Budget:</u>	\$2,428,403 (includes revenue for fiscal sponsorship of the Capital Litigation Communications Project)
<u>Project Budget:</u>	N/A
<u>Sources of Support:</u>	\$733,754 Atlantic Philanthropies; \$75,000 Public Welfare
<u>Amount Requested:</u>	\$250,000
<u>Amount Recommended:</u>	\$250,000 (T1: 24027)
<u>Term:</u>	One year (June 2009 – May 2010)
<u>Matching Requirements:</u>	None

Description of Organization:

The Texas Defender Service (TDS) is an 18 person non-profit legal organization with offices in Houston and Austin that addresses the legal needs of indigent prisoners on Texas' death row. The organization is led by executive director Andrea Keilen, formerly a Soros Justice Fellow. The organization is divided into four main departments: 1) post-conviction litigation and consulting; 2) trial litigation and consulting; 3) policy reform, advocacy, research and writing; and 4) administration.

The most recent OSI grants supported TDS's involvement with the development and organizational set-up and protocol for the West Texas Capital Defender Unit, the first-ever capital public defender unit in Texas, in part through an emergency grant made through the JEHT response effort. The Unit will serve as the blueprint for subsequent Texas capital public defender offices. If the newly formed Unit is either poorly-run or overloaded, there would be a missed opportunity to meaningfully improve the quality of capital trial counsel. TDS has been working to ensure that the new office utilizes the strategies and practices proven effective in similar public defender offices across the country, including development of a strategic funding plan that can be put into place once the pilot four-year state funding plan ends, and the participating counties shoulder the financial support of the office.

The organization's two long-range objectives include: 1) the suspension or limitation of the death penalty in Texas; and 2) the establishment of an indigent defense system that works. TDS will achieve this first goal by identifying and exposing inaccuracies, injustices and flaws in Texas' system of capital punishment and supporting policy reforms to limit its application. TDS is actively engaged in enforcing of the U.S. Supreme Court's ban on execution of the mentally

retarded in Texas, and eliminating or ameliorating the use of future dangerousness as a basis for death sentences in the State. TDS will pursue the second goal by improving the quality of defense representation in capital cases through trainings, publications and direct assistance; improving compliance with the Texas Fair Defense Act; reforming pre-trial discovery in criminal cases to provide the defense adequate notice of exculpatory/impeachment evidence; actively pursuing prosecutorial and judicial ethical violations; and reducing the use of “junk science” such as predications of future dangerousness, hair comparison testimony, and other forensic pursuits that are scientifically suspect.

Description of the Project for Which Funding Is Sought:

TDS seeks general support in the amount of \$250,000 over one year.

Rationale for Recommendation:

This grant will advance several of the Criminal Justice Fund’s goals including eliminating harsh punishment by abolishing the death penalty; reforming indigent defense systems; and eliminating race and class disparities in sentencing. The grant also supports the goal of the Campaign to End the Death Penalty by 2025 to reduce capital sentences in Texas and move Texas from a high-use to an ambivalent state. TDS is the only office in the state of Texas devoted to capital representation. Its remarkable success in the face of such a daunting state death system has resulted in the most direct impact on the Campaign’s basic goal to reduce executions nationwide since it targets the system responsible for the heaviest use of the death chamber. TDS has joined with community partners in Texas to implement and defend some of the most progressive policy reforms in the U.S., setting the stage for a further reduction in executions and providing advocates with an opportunity to engage in positive public policy and media coverage.

In 2008, 12 stays of execution were granted in Texas. TDS contributed to or directly litigated 11 of the 12 of cases; Texas was responsible for 49 percent of the Nation’s executions that year with a total of 18. During the past year, the Trial Project was intensely involved in approximately 80 capital trials. While the majority of those cases remain pending, the Trial Project has contributed to more than seventy cases in which death was waived or life verdicts were returned since its inception in 2000, and delivered defense team trainings at capital seminars and continuing legal education programs in Texas and nationally to approximately 3,000 capital defense team members in 2008 alone. This grant will allow TDS to maintain the capacity of the *Baze* litigation team as Texas continues to set a record number of execution dates in order to make up the backlog of cases held under the de facto moratorium during the consideration of the *Baze* lethal injection case. Texas is likely to execute between 25 and 30 inmates this year, having executed 16 between January and June alone – 50 percent of the Nation’s executions – with another 10-15 likely to be scheduled in 2009. In addition, over 40 inmates have recently finished their federal habeas proceedings and are eligible to receive execution dates at any time. The grant will also add capacity to the Trial Project, which is currently staffed by only two attorneys trying to positively influence more than 250 capital cases at the trial level per year, as well as engage the new public defender office in West Texas.

During the next year, TDS will continue to prioritize its litigation and policy advocacy. In particular, TDS staff will continue its post-*Baze* litigation, consult pending cases, train capital defense teams, and work to increase the number of local capital public defender offices. TDS’s primary goal is to suspend or limit the application of the death penalty in Texas. Litigating individual death penalty cases serves several vital interests when these cases are carefully selected: (1) exposing and remedying major flaws in the criminal justice system; (2) increasing leverage in legislative and other policy reform arenas; (3) providing an opportunity to recruit and educate attorneys in private law firm

practice throughout the state, many of whom have important political connections; (4) creating opportunities for public education campaigns; and, (5) delivering direct services to indigent death-sentenced prisoners that will create positive precedent redounding to the benefit of other similarly-situated clients.

To achieve these goals, TDS will engage in “crisis case” intervention – cases with imminent execution dates and viable legal issues which have not been litigated appropriately (or at all) by court-appointed counsel. Additionally, TDS will maintain capacity of the *Baze* litigation team. The end of the *Baze* moratorium has been felt most dramatically in Texas and has resulted in a high backlog of Texas cases in which execution dates could immediately be scheduled. The staggering number of cases in the post-*Baze* backlog far exceeds the TDS capacity for intervention but provides a unique and important opportunity to further catalyze growing concerns about the death penalty.

TDS will continue its case-tracking and screening efforts. TDS case-tracking will include identifying capital defendants and their attorneys at the trial level as soon after indictment as possible to allow for earlier intervention and assistance, as well as case-tracking all capital cases post-conviction to assist in case-consulting efforts and ensure that court-appointed attorneys are not missing filing deadlines in state and federal habeas appeals. TDS case-tracking seeks to identify cases in which impact litigation is viable, as well as identify cases which form the anecdotes necessary to catalyze policy reform through report writing and communications campaigns.

During the next year, TDS will also increase the number of cases for consultation. Some of the effective components of case consultation at the trial level include the ability for TDS staff to help capital defense attorneys develop the theory of the case, present mental health information and evidence, identify legal and factual issues, identify experts and mitigation specialists and develop trial strategy. During this same period, TDS staff will also write a new report on the application of the death penalty in Texas. The report will highlight the inadequacies of court-appointed counsel and will support reforms, including the creation of public defender offices. In tandem with TDS’s work with individual clients in the litigation context, TDS’s research and monitoring efforts will play an essential role in documenting systemic problems in Texas’ criminal justice and indigent defense systems and in generating qualitative and quantitative data that will drive communications campaigns and policy reform efforts.

Precisely because of such high numbers of death sentences in Texas, TDS is situated to play a significant and impressive role in advancing the goals of the Campaign to End the Death Penalty by 2025. With the means to examine significantly more cases and expose a broken system, TDS has the ability to leverage its expertise to gain incremental reforms aimed at reducing death sentences and executions and ensuring additional policy and trial protections are in place for the accused.

For the above reasons, the Criminal Justice Fund recommends a grant of \$250,000 over one-year in general support to TDS.

<u>Name of Organization:</u>	The Moratorium Campaign Education Fund <i>as fiscal agent for</i> Witness to Innocence
<u>Tax Status:</u>	501(c)(3)
<u>Purpose of Grant:</u>	To allow WTI to recruit, train, and support exonerated ex-death row prisoners and their family members to become effective leaders and public spokespersons for the anti-death penalty movement.
<u>Previous OSI Support:</u>	\$50,000 Gideon 2006; \$35,000 Gideon 2008
<u>Organizational Budget:</u>	\$301,764
<u>Project Budget:</u>	\$50,000
<u>Sources of Support:</u>	Atlantic Philanthropies \$50,000; Sheilah's Fund \$50,000; Fund for Nonviolence \$20,000; Catholic Campaign for Human Development \$15,000; Other Foundations \$10,000
<u>Amount Requested:</u>	\$50,000
<u>Amount Recommended:</u>	\$50,000 (T1: 24027)
<u>Term:</u>	One year (July 2009 – June 2010)
<u>Matching Requirements:</u>	None

Description of Organization:

The Moratorium Campaign Education Fund (MCEF) was founded in 1998 by Sister Helen Prejean, activist, author of *Dead Man Walking* and Nobel Peace Prize nominee. The mission of the Moratorium Campaign Education Fund is to facilitate discourse to expose the failure of the death penalty at the grassroots level. MCEF acts as the fiscal agent for Witness to Innocence.

Formed in September 2005, Witness to Innocence (WTI) is the only national organization that is composed of and led by exonerated death row prisoners. WTI organizes, educates, and empowers death row exonerees and their family members to become leaders and spokespersons for the anti-death penalty movement. WTI was incorporated as a non-profit organization in July 2008. Its ten-member Board of Directors is composed of death row exonerees, family members of death row exonerees, and anti-death penalty activists. WTI is the first national organization to consciously promote the innocence issue through mobilization of exonerees and their family members.

During the past three years, WTI has expanded its membership and has collaborated with anti-death penalty organizations in numerous states including Maryland, Montana, Ohio, Nebraska, New Jersey, New York, North Carolina, Pennsylvania and Texas.

Description of the Project for Which Funding Is Sought:

WTI seeks \$50,000 over one year to support its TOOLS (Training, Outreach, Organizing, Leadership, and Speaking) Project, which recruits, trains and supports death row exonerees and their family

members to become spokespersons for the anti-death penalty movement. The TOOLS Project has several components:

Provide Training and Technical Assistance –TOOLS. The organization will hold an annual “TOOLS Gathering” in the fall of 2009. The most recent gathering was held in Austin, Texas at the end of October 2008 and brought together exonerees and family members from across the country for education, team-building, skill development, and camaraderie. The gatherings utilize representatives of the country’s leading anti-death penalty organizations as workshop leaders and TOOLS attendees join with local activists to challenge the death penalty in the host state. WTI will keep members informed about the activities of the organization and relevant events and trends through e-mail, newsletters, telephone support and Internet postings. In the next two years, WTI plans to hold its TOOLS Gatherings in both a Western state and a Southern “death belt” state such as Alabama or Florida. In addition to the TOOLS Gathering, WTI will sponsor at least one other major skills training, political education, or peer support workshop for members each year.

Engage a National Speakers Bureau. WTI operates the only speakers’ bureau in the nation that offers the services of death row exonerees and their family members, which currently includes 25 exonerated ex-death row prisoners and families. Since 2006, WTI members have delivered more than 500 presentations in 27 states and Washington, D.C.² WTI has initiated a public-speaking training program for members. The first workshop was held in Philadelphia on the weekend of March 13-15, 2009, where members participated in a three-day training with nationally acclaimed coach Doug Lipman, President of Story Dynamics. The eight participants reported that they felt more prepared, focused, and organized for their speaking engagements.

Develop Media Outreach Campaign. WTI will upgrade its printed promotional materials, expand its web presence, and implement a strategic communications plan to identify communications goals, target audiences, effective messages, and evaluation methodology.

Develop a Death Belt Organizing Campaign. WTI has concluded that it needs to be present in the South, where the vast majority of state-sanctioned executions are carried out. WTI launched a Southern state campaign with a public action at the Texas State Capitol in October 2008 followed by a major speaking tour across the state. WTI will conduct meetings with leaders in other “death belt” states during the upcoming year to develop state-specific and regional collaborations that will be carried out in 2009-10.

Plan for Organizational Independence. Part of empowering exonerated ex-death row prisoners and family members is to develop the skills and capacity to operate a self-reliant organization. To realize that vision, WTI is implementing a plan for organizational independence and has secured the pro-bono assistance of two attorneys provided by Philadelphia LawWorks. In July 2008, WTI was incorporated as a non-profit organization in Pennsylvania and established a 10-member Board of Directors. WTI is now applying to the IRS for tax-exempt status as a 501(c)(3) organization. The organization’s goal is to be operating as an independent 501(c) (3) entity by January 1, 2010.

Provide Peer-to-Peer Support. WTI provides direct assistance to their members as they deal with their personal struggles as exonerated persons and family members of exonerated persons. This service has been identified in member focus groups as crucial to their individual growth and

² Presentations have been conducted in Arizona, California, Colorado, Delaware, Florida, Georgia, Illinois, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Vermont, Virginia, Washington, D.C., West Virginia, and Wisconsin.

involvement with their communities following exoneration.³ Personal support is provided by peers and by Witness's Director of Communications and Training, exoneree Ray Krone, through individual meetings, telephone, and email support, and regular contact with WTI staff and volunteers. WTI family members have instituted a monthly peer support teleconference and members currently produce and disseminate an internal quarterly newsletter. WTI has developed a concept paper to expand the Peer-to-Peer Support function of the organization with the assistance of a nine-member project development team composed of academics, activists, exonerated ex-death row prisoners, family members, and social workers, which will be presented to the Board of Directors of WTI for review.

Rationale for Recommendation:

This grant advances the CJF's priority area of eliminating harsh punishment. It also supports the goals of the Campaign to End the Death Penalty by 2025, a national movement developed with OSI leadership and support.

This grant would allow WTI to carry out its goals to increase awareness about the broken death penalty system, organize impacted communities, and galvanize support for death penalty reform from unusual allies. Research has shown that the potential for innocent people to be executed is the single most powerful force eroding public support for the death penalty in the United States. Dr. Frank R. Baumgartner of Pennsylvania State University coded more than 3,000 newspaper stories published in *The New York Times* since 1960 and determined that, since 1996, the "innocence frame" has received unprecedented levels of coverage while public opinion has shifted against the death penalty. A March 2008 Harris Poll examining Americans' opinions about the death penalty found that 95 percent of those polled stated that they believe that sometimes innocent people are convicted of murder. Among this group, 58 percent said they would then oppose the death penalty based upon the knowledge that some innocent people are convicted of murder. This represents a dramatic increase since 2000, when only 36 percent said that cases of innocence would lead them to oppose the death penalty.⁴ Innocence is the most common reason cited for opposition to the death penalty.⁵ WIT will work with other anti-death penalty advocates to incorporate this innocence frame into the broader abolition movement.

Exonerees and their family members continue to raise public awareness about innocence, which has driven every successful abolition effort to date, from Illinois (2000), to New Jersey (2007), to New Mexico (2009). In fact, New Mexico's Governor Richardson, a longtime proponent of the death penalty, spoke at length about wrongful convictions and the possibility of executing an innocent person as the primary reasons for his approval of the state legislature's decision to repeal the death penalty. WTI's plan to initiate a targeted campaign in the South could not come at a better time as states such as Texas currently face a tidal wave of executions in the wake of the 2008 U.S. Supreme Court ruling in *Baze v. Rees*, upholding the constitutionality of the lethal-injection protocol.

WTI has succeeded in bringing the voices of some of the most compelling victims of capital punishment to bear on the death penalty debate and served as an invaluable resource to state and national advocates across the country.

³ Focus groups were held in Philadelphia in April, 2007.

⁴ Harris Interactive Poll, March 18, 2008.

⁵ Death Penalty Information Center, Year-End Report, December 2008.

For the aforementioned reasons, the Criminal Justice Fund recommends a one-year grant in the amount of \$50,000 to Witness to Innocence.

Name of Organization: Judge David L. Bazelon Center for Mental Health Law

Tax Status: 501(c)(3) public charity

Purpose of Grant: To convene, and provide technical assistance to local stakeholders in four jurisdictions to develop performance improvement standards for community mental health programs and to establish local pilots for reducing mental health crises that lead to criminal justice involvement of people with serious mental illness

Previous OSI Support: \$2,466,714
(\$450,000 U.S. Justice Fund-2008; \$100,000 U.S. Justice Fund-2007; \$200,000 Constitutional Democracy Initiatives-2007; \$25,000 U.S. Justice Fund-2006; \$303,000 U.S. Justice Fund-2005; \$360,000 U.S. Justice Fund-2004; \$65,000 Criminal Justice Initiative-2003; \$9,000 Criminal Justice Initiative-2002; \$250,000 Criminal Justice Initiative-2001; \$233,866 Project on Death in America-2001; \$80,000 Center on Crime, Communities & Culture-2000; \$81,576 Project on Death in America-2000; \$239,272 Project on Death in America-1998; \$70,000 Center on Crime, Communities & Culture-1997)

Organizational Budget: \$3,263,314

Project Budget: \$1,728,510

Sources of Support: \$300,000 Anonymous Donor; \$150,000 Staunton Farm Foundation; \$150,000 Andrus Family Fund; \$150,000 Judge David L. Bazelon Center for Mental Health Law Endowment, \$90,000 The John D. and Catherine T. MacArthur Foundation; \$90,000 Thomas Scattergood Foundation; \$80,000 U.S. Department of Health and Human Services Center for Mental Health Services

Amount Requested: \$300,000

Amount Recommended: \$300,000 (Criminal Justice Fund, T1: 24027)

Term: 2 years

Matching Requirements: None

Description of Organization:

Based in Washington, D.C., the Judge David L. Bazelon Center for Mental Health Law (Bazelon) is a nonprofit legal advocacy organization with over 30 years of experience advocating for the mentally ill and disabled through litigation and work on federal policy initiatives. Bazelon was founded in 1972 (as the Mental Health Law Project) to translate landmark judicial findings into system reform. Since its founding, the organization’s litigation, policy advocacy, and public education has contributed to a changed landscape in legal protections, including the establishment of legal precedents to outlaw

institutional abuse and the securing of protections against arbitrary confinement for the mentally ill. For selected lawsuits, Bazelon attorneys provide technical support and act as co-counsel with private lawyers, legal services programs, ACLU chapters, and state-based protection and advocacy systems. Bazelon is active in national policy coalitions that work on behalf of children and adults with mental disabilities, and has become an acknowledged leader in the disability community in applying protections for people with disabilities to criminal justice settings.

Bazelon has been an OSI grantee since 1997. In 2008, OSI awarded Bazelon funding to continue impact litigation, policy advocacy, and public education to end the criminalization of people with mental disabilities.

Description of the Project for Which Funding Is Sought:

The Judge David L. Bazelon Center for Mental Health Law requests project funding to convene, and provide technical assistance to local stakeholders in four jurisdictions⁶ to develop performance improvement standards for community mental health programs and to establish local pilots for reducing mental health crises that lead to criminal justice involvement of people with serious mental illness. Specifically, OSI funding will enable Bazelon to:

Establish local performance improvement pilots. To develop and establish local performance improvement pilot projects, Bazelon will create and convene local steering committees consisting of local, county, and state mental health authorities, service providers, consumer and family advocates, police and court representatives, local funders, and other key stakeholders identified by local officials. Bazelon will work with the local steering committees to conduct an inventory of existing data sources within mental health and other public systems; identify scenarios in which people with serious mental illness are vulnerable to police interaction; develop performance improvement interventions to reduce police contacts with individuals with serious mental illness; implement the improvement interventions with community mental health service providers and police departments; and establish specific benchmarks of progress.

Provide ongoing technical assistance. Bazelon will provide ongoing support to local steering committees on developing local performance improvement techniques and consultation around data collection and evaluation. Working with local steering committees, Bazelon will develop a system to gather and aggregate data from mental health, police, and other systems to allow root-cause analysis of mental health emergencies that lead to police intervention; conduct reviews of sample case records and interviews with front-line service providers to identify what services and supports—had they been available in a timely manner—might have likely averted police contact; and analyze opportunities to implement the identified enhancements; and monitor the impact of these enhancements.

Evaluate impact and promote pilot expansion and replication. Bazelon will work with local steering committees to document the project's impact (both within community mental health and across systems), identify barriers to providing additional services, and to enhance and promote replication of the pilot projects, locally. Bazelon will help gather and analyze evaluation data; develop strategies that enable community mental health programs to advocate effectively with other public systems on behalf of people with mental health needs; and develop an advocacy plan targeting key audiences, such as policymakers and the media. To inform its advocacy for effective federal and state policy on behalf of people with mental health needs and to promote

⁶ Bazelon is currently exploring Pittsburgh and Philadelphia, Pennsylvania; Westchester County, New York; Austin, Texas, and Michigan as potential pilot sites.

replication of the pilot in other states, Bazelon will monitor progress across the four pilot sites, and produce reports for local and national stakeholders.

Rationale for Recommendation:

This grant would advance the Criminal Justice Fund's goals of reducing mass incarceration and eliminating harsh punishment by decriminalizing vulnerable populations; expanding access to quality mental health care; and by fostering cross-sector and multi-agency government collaboration and accountability.

Mental health emergencies entailing police involvement are a strategic entry point for addressing policies and practices at the front-end of the criminal justice process that fuel mass incarceration and harsh punishment, affect public perceptions of the system, and jeopardize true public safety. Throughout the country, calls to police about mental illness emergencies are so commonplace that they are widely regarded as routine matters of a city's police operations, putting people with serious mental illness at high risk of involvement with police, often resulting in arrest. Although various localities around the country have undertaken efforts to improve the police's response to such calls, these programs focus largely on the point after which police have been contacted and do not attempt to address the underlying factors leading to such calls. We agree with Bazelon's assessment: to reduce and, ideally, prevent the unnecessary criminal justice involvement of people with mental illness, mental health systems must revise their reactive approach to psychiatric emergencies and regard them as problems resulting largely from mental health service delivery rather than the immutable manifestations of serious mental illnesses of people with unaddressed health needs.

Given the current diffusion of responsibility across local agencies for responding to the needs of people suffering with serious mental illnesses, Bazelon's local pilot projects are an important first step toward empowering community mental health programs to improve their own services and to advocate with other public systems on behalf of their clients. In 2008, with federal funding,⁷ Bazelon convened a panel of distinguished experts to discuss best practices by mental health, criminal justice, and other systems in response to psychiatric emergencies. The panel affirmed that psychiatric crises are recurrent among people with serious mental illnesses largely due to uncoordinated and inaccessible public services. Among its recommendations for reducing and preventing psychiatric crises,⁸ the panel urged providers and agencies responsible for dealing with mental health crises to make use of performance improvement processes that reveal gaps in service delivery by investigating where the system failed in preventing emergencies and developing, implementing, and tracking corrective measures. While such processes are usually applied to a specific facility or agency, Bazelon's project will apply them across agencies to address ways in which practitioners may be working at cross-purposes and to reduce the reliance on police as first responders.

With past OSI funding, Bazelon has established itself as a national leader in efforts to decriminalize people with mental disabilities through its strategic litigation, policy analysis and advocacy on the state and federal level, research, technical assistance, and public education efforts. Its strong reputation as an expert on the overlap of the mental health and criminal justice systems has helped it forge broad coalitions, making Bazelon an ideal partner with community

⁷ Bazelon received a grant from the U.S. Department of Health and Human Services' Substance Abuse and Mental Health Services Administration, the federal agency responsible for promoting quality mental health services.

⁸ U.S. Department of Health and Human Services. *Practice Guidelines: Core Elements in Responding to Mental Health Crises*. Rockville, MD: US Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Mental Health Services, National Institute of Health, National Institute of Mental Health, 2009.

mental health. This grant would leverage OSI's investment in Bazelon's ongoing efforts to ensure states' compliance with the Supreme Court's 1999 *Olmstead v. L.C.* decision, stipulating that under the Americans with Disability Act (ADA), people with mental or physical disabilities be entitled to receive community-based services rather than institutional placements.

For these reasons, Criminal Justice Fund staff recommends project funding of \$300,000 over two years to the Judge David L. Bazelon Center for Mental Health Law.

Name of Organization: Families Against Mandatory Minimums

Tax Status: 501(c)(3) public charity

Purpose of Grant: To provide general support

Previous OSI Support: \$1,936,000
(\$200,000 U.S. Justice Fund-2008; \$400,000 U.S. Justice Fund-2007; \$100,000 U.S. Justice Fund-2005; \$400,000 U.S. Justice Fund-2004; \$400,000 U.S. Justice Fund-2002; \$56,000 Criminal Justice Initiative-2001; \$200,000 Center on Crime, Communities & Culture-2000; \$100,000 Lindesmith Center-1999; \$15,000 Center on Crime, Communities & Culture-1999; \$40,000 Center on Crime, Communities & Culture-1997; \$25,000 Lindesmith Center-1995)

Organizational Budget: \$1,380,409

Project Budget: Not applicable

Sources of Support: \$830,000 Individual Donations; \$200,000 Public Welfare Foundation; \$115,000 Wallace Global Fund; \$50,000 Gimbel Foundation; \$50,000 Apple Pickers Foundation; \$14,000 Investment Income

Amount Requested: \$450,000

Amount Recommended: \$450,000
(\$200,000 Criminal Justice Fund, T1: 24027)
(\$250,000 JEHT Response Grantmaking, T1: 59959)

Term: 2 years

Matching Requirements: None

Description of Organization:

Founded in 1991, Families Against Mandatory Minimums (FAMM) is a national organization that challenges the inflexible and excessive penalties of mandatory minimum sentencing through federal and state advocacy, litigation, media outreach, membership development, grassroots organizing, and coalition building with likely and unlikely allies. FAMM has 20,000 members and 46 chapters in 28 states and the District of Columbia, and its broad-based constituency includes incarcerated people and their families, criminal justice and sentencing professionals, community organizations, state and national civil rights leaders, treatment and mental health providers, and citizens concerned about human and fiscal costs of sentencing policies. The organization's public education, litigation, advocacy and grassroots organizing and mobilization has promoted FAMM as a national leader in efforts to promote fair and proportionate sentencing policies and to eliminate mandatory minimum sentencing. Over the next two years, FAMM will continue its three core programs:

Federal Advocacy Campaign: To eliminate or limit the reach of federal mandatory minimum sentencing laws, FAMM encourages the White House and the Department of Justice to preserve and increase judicial discretion, expand the use of the clemency power, and prevent restoration of mandatory guidelines. Working with the U.S. Sentencing Commission, its staff, and allied organizations, FAMM advocates for lower sentences in every drug sentencing guideline and retroactive relief to people incarcerated under onerous sentencing laws. In collaboration with pro bono partners and members of FAMM’s Litigation for Justice Advisory Board, FAMM supports petitions for certiorari and files *amicus* briefs in appellate cases that challenge the interpretation of particular sentencing laws in the federal courts and the Supreme Court.

State Advocacy Campaign: FAMM will continue its state-level sentencing reform campaigns in Michigan, Massachusetts, Nevada, and New Jersey, by coordinating coalition efforts with likely and unlikely allies, providing non-partisan technical assistance and educational material to state legislators, and increasing FAMM’s membership and grassroots support in these states. State-based issue campaigns include reforming mandatory minimum for drug free school-zone convictions, consecutive sentences for multiple convictions for the same crime, and mandatory minimum for repeat burglaries and repeat. Over the next two years, FAMM will open a new office in Florida and explore other states⁹ for possible campaigns based on a combination of factors including, chiefly, where FAMM’s work can have the greatest impact (i.e., the number of people serving state mandatory minimum sentences), where FAMM’s work would not duplicate efforts of other advocates, and where public opinion reveals opportunities for advocacy campaigns to succeed.

Communications: FAMM works with the media to publicize the injustices of both federal and state mandatory sentencing laws by creating and distributing press releases, editorials and action alerts. To put human faces to sentencing in media outreach and advocacy efforts, FAMM identifies individuals with compelling stories in its “Profiles of Injustice.” FAMM’s newsletter, the *FAMMGram*, published three times a year, includes updates about advocacy opportunities around the country and provides incarcerated people and their families with information they need to understand their sentences and the laws that affect them. Over the next two years, FAMM will complete the redesign of its website with enhancements such as a new navigation system and RSS; use social networking platforms such as Facebook and Twitter to communicate FAMM’s message to a wider audience and to expand FAMM’s membership base; and collaborate with media professionals to develop documentary films about the impact of mandatory minimum laws.

Description of Project for Which Funding is Sought

FAMM requests general support funding.

Rationale for Recommendation

This renewal grant would advance the Criminal Justice Fund’s goals of reducing mass incarceration and eliminating harsh punishment by eliminating race and class disparities in sentencing and incarceration, promoting judicial discretion in sentencing, and reducing the length and harshness of sentencing. This grant also advances our interest in expanding the civic engagement, participation, and leadership in advocacy of people directly impacted by criminal justice policy. A portion of this general support grant, recommended for funding from OSI’s JEHT Response Grantmaking budget, would fill a gap of \$250,000 in FAMM’s 2009 budget

⁹ FAMM is researching information about Arizona, California, Colorado, Delaware, Hawaii, Kansas, Maryland, Minnesota, Mississippi, Montana, Nevada, New Mexico, Pennsylvania, Utah, and Virginia, among others.

resulting from the collapse of the JEHT Foundation and there is no guarantee of expanded funding beyond this grant. In addition, we recommend \$200,000 in general support over one year, beginning January 1, 2010, from the Criminal Justice Fund Grantmaking budget, to renew OSI's current general support grant to FAMM, which closes at the end of 2009.

Mandatory minimum sentences have contributed to the growing U.S. prison population despite declining crime rates. The strain on budgets and prison overcrowding, as well as the resulting divestment for education, healthcare, and other public services, has created the political will for sentencing reform in some states. In 2008, FAMM commissioned a public opinion poll regarding mandatory minimums. Conducted by an independent market research firm StrategyOne, the poll results suggest that a majority of Americans are open to re-examining mandatory minimum sentencing: 78 percent of the poll participants agree that courts—not Congress—should determine an individual's prison sentence; 59 percent oppose mandatory minimum sentences for nonviolent crimes, and 57 percent would likely vote for a candidate for Congress who would eliminate all mandatory minimums for nonviolent crimes. Continued general support funding would provide flexibility to FAMM to respond to and take advantage of current and changing political climate both nationally and locally.

Indeed, FAMM is poised to replicate its successful reform efforts in Michigan, which previously mandated a life sentence without parole for people convicted of possessing, delivering, or intending to deliver over 650 grams of cocaine or heroin. In 2008, FAMM's ongoing work in Michigan helped secure sentence commutations for 11 individuals, who had been convicted for nonviolent drug offenses, and many of whom had served sentences of 15 years or more. Other state-based advocacy campaigns over the past two years achieved significant accomplishments. FAMM opened a new state office in Massachusetts in 2008 and doubled its membership to more than 600 members in just one year. The state's political leadership seems ready to move from merely recognizing the social and fiscal costs of harsh drug sentencing laws to enacting reform measures. Massachusetts Governor Deval Patrick expressed his general support for repealing mandatory minimums during town hall meetings convened by his office.

Despite its successes, FAMM is projecting a total budget shortfall of \$500,000 due to the closing of the JEHT Foundation and decreased funding from individual donors.

With OSI funding since 1995 and JEHT funding since 2002, FAMM has established itself as an authoritative advocate in challenging mandatory sentencing policies on the national and state level. FAMM's unique ability to work across the stereotypic "liberal" versus "conservative" political spectrum enables it to build broad coalitions and bridge the gap between grassroots advocacy and policy makers. Its strategy of coordinating reform efforts with unlikely allies includes strengthening relationships with the Heritage Foundation, prosecutors, law enforcement groups, and gun right advocates. Julie Stewart, FAMM's President and Founder, was the director of public affairs at the libertarian Cato Institute prior to founding FAMM in 1991 after her brother was convicted of growing marijuana and sentenced to five years in federal prison.

Beyond its state and federal advocacy, FAMM has established itself as a respected resource on sentencing issues by engaging people who are directly affected by mandatory sentencing. One of its current board members, Alfreda Robinson-Dawkins, served a 10-year mandatory minimum sentence for her minor role in a drug conspiracy. Her son is still serving a 45-year mandatory sentence for the same conspiracy. For the past 10 years, FAMM staff member Karen Garrison has been advocating for the release of her twin sons, who are serving mandatory minimum sentences for non-violent crack cocaine convictions.

For these reasons, we recommend general support funding to Families Against Mandatory Minimums in the amount of \$450,000 over two years from the JEHT Response and Criminal Justice Fund grantmaking budgets.

Name of Organization: Harm Reduction Coalition

Tax Status: 501(c)(3) public charity

Purpose of Grant: To provide general support

Previous OSI Support: \$2,968,180
(\$13,520 International Harm Reduction Program-2009; \$200,000 U.S. Justice Fund-2008; \$200,000 U.S. Justice Fund-2007; \$230,000 U.S. Programs-2001; \$520,000 U.S. Programs-2000; \$230,000 U.S. Programs-1999; \$5,000 U.S. Programs-1999; \$55,500 U.S. Programs-1999; \$260,000 Lindesmith Center-1999; \$65,000 Lindesmith Center-1999; \$230,000 Lindesmith Center-1998; \$24,000 Lindesmith Center-1998; \$260,000 Lindesmith Center-1998; \$130,000 Lindesmith Center-1998; \$25,160 Lindesmith Center-1997; \$260,000 Lindesmith Center-1997; \$260,000 Lindesmith Center-1996)

Organizational Budget: \$2,583,000

Project Budget: Not Applicable

Sources of Support: 1,188,611 Government Contracts and Grants; \$150,000 Comer Foundation; \$150,000 Mac-AIDS Fund; \$150,000 Drug Policy Alliance; \$101,264 Training Income; \$75,000 H. van Ameringen Foundation; \$75,000 Ford Foundation; \$60,000 Irene Diamond Fund; \$50,000 California Endowment; \$40,000 New York City AIDS Fund; \$26,496 Columbia University Consultation Fee; \$22,000 Pangea Global AIDS Fund; \$15,000 Educational Materials; \$3,054 Interest Income; \$2,331 Individual Contributions/Membership

Amount Requested: \$200,000

Amount Recommended: \$200,000 (Criminal Justice Fund, T1: 24027)

Term: 1 year

Matching Requirements: None

Description of Organization:

Founded in 1993 and incorporated in 1994 by a working group consisting of needle exchange providers, advocates, and drug users, the Harm Reduction Coalition (HRC) is a national advocacy and capacity-building organization that promotes the health and dignity of individuals and communities impacted by drug use, addiction, and the “War on Drugs.” HRC has educated and mobilized tens of thousands of people across the country, cultivated broad networks with deep commitments to harm reduction principles, and has brought the harm reduction philosophy into the mainstream across several fields and disciplines. Its membership is a diverse network of

community-based organizations, service providers, researchers, policy-makers, academics, and activists that challenge the persistent stigma placed on people who use drugs and advance policies and programs that help people address and reduce the adverse effects of drug use, including overdose, addiction, and incarceration.

HRC prioritizes its advocacy efforts on areas where structural inequalities and social injustice magnify drug-related harm. Its core programs advance the organization's mission through: 1) technical assistance, training, and capacity building on expanding syringe access, overdose prevention and education, hepatitis C prevention and treatment, and HIV prevention in communities of color; 2) policy analysis and advocacy on drug user health issues locally, regionally, and nationally; 3) publications, reports, and topical materials; 4) national and regional conferences, community forums, and coalition-building; and 5) extensive education and training on harm reduction principles and practice through its Harm Reduction Training Institute. HRC's core programs integrate a particular focus on the most at-risk communities, concentrating on environmental factors that contribute to the communities' vulnerability to drug-related harm. Within this context, HRC's core programs have a unique understanding of how structural forces hinder the health and well-being of drug users. Harm Reduction Coalition's core programs include:

The *African-American Capacity Building Initiative* (AACBI), which provides capacity building assistance to Centers for Disease Control-funded community based organizations and health departments targeting African Americans in the United States. AACBI is the national master trainer for two of the current effective behavioral interventions (Safety Counts and VOICES/VOCES), and the program's capacity building assistance activities include information and technology transfer, technical consultation and assistance, and skills building.

The *Brick Rebuilding Project* (Brick), which conducts research and public education on the use of harm reduction-based strategies to serve youth at-risk for substance abuse and HIV/AIDS.

The *Hepatitis C Harm Reduction Project* (HCHRP), which—with full funding from the New York City Department of Health and Mental Hygiene—provides hepatitis C capacity building services to New York City's syringe exchange programs, including developing and implementing hepatitis C programs; providing technical assistance and training around hepatitis C counseling and testing and hepatitis A and B vaccinations; and working with healthcare providers to increase access to medical care, psychiatric treatment, and drug treatment for syringe exchange participants living with hepatitis C.

The *Harm Reduction Training Institute* (HRTI), the first national training center focused exclusively on harm reduction, provides trainings, in-services, and workshops to service providers and the public on harm reduction issues and provides a regular quarterly series of skills building trainings to providers working with drug-using populations in New York and Oakland, California. Since 2002, the NYS Department of Health AIDS Institute has designated HRTI as a Center of Expertise and has funded it to provide statewide training and education on harm reduction.

The *Policy Department* works for the adoption of harm reduction approaches to improve the health of drug users and their communities on the local, state, national, and international levels through public education, policy analysis and development, direct advocacy with policy makers, and coalition-building.

The *Syringe Access Expansion Project* (SAEP) works with the Injection Drug Users Health Alliance, community-based organizations, the New York City Department Health and Mental Hygiene (NYC DOHMH), and New York State AIDS Institute to stimulate and support the expansion of syringe access for injection-drug users through needle exchange and Expanded Syringe Access Provider (ESAP). Through a combination of outreach, needs assessment, education and training, and technical assistance, SAEP identifies and assists community-based organizations in implementing syringe exchange and ESAP programs to increase the availability of sterile syringes.

HRC's *Opiate Overdose Prevention Projects* provide overdose education in shelters, jails, treatment programs, and single room occupancy hotels and supportive housing units; training to heroin users on overdose prevention and on the use of naloxone kits; capacity-building support to programs looking to incorporate opiate overdose prevention programming; and training and technical assistance for staff of local community based organizations. HRC is under contract with the NYC DOHMH to address the gap in buprenorphine prescriptions by developing and implementing an expansive training curriculum for health care providers and is fully funded by the California State Office of AIDS to provide assistance to local health jurisdictions and community-based agencies to stabilize existing syringe exchange programs to start syringe exchange programs where they currently do not exist.

In addition to these programs, HRC sponsors and organizes *regional conferences* and, bi-annually, the only *national harm reduction conference* in the United States, which focuses on key public health issues and target geographic regions, disciplines, and specific populations. Its conferences provide a critical and unique forum for the exploration and development of harm reduction practice, theory, and policy, and serve as crucial networking mechanisms for individuals working in harm reduction. HRC engages in *coalition building* with other national and local organizations committed to progressive social change and its *publications* include brochures, manuals, bulletins, online materials, and other resources, and provide state-of-the-art information on methods for reducing drug related harm and current information on regional and national activities.

In 2008, government funding freezes and cut backs in New York and California required HRC to put on hold several local pilot and policy development initiatives, allowing the organization to refocus capacity to respond to national and international opportunities that emerged during the build up to the elections and the change in administration. For the first time, HRC was invited into international drug policy dialogues and quickly emerged as a leading and influential voice. Over the next year, HRC will expand its role as a leading US-based advocate calling for sound drug policy in the international arena.

HRC has been an OSI grantee since 1996.

Description of the Project for Which Funding Is Sought:

The Harm Reduction Coalition requests general support for one year.

Rationale for Recommendation:

This renewal grant would advance the Criminal Justice Fund's goals of reducing mass incarceration and eliminating harsh punishment by decriminalizing drug use by reframing and linking drug policy debate to public health and harm reduction approaches, pressing the public health benefits nationally and internationally of lifting the ban on needle exchange, and by

building partnerships and collaborations for drug policy reform across communities, sectors, and issues.

Through its leadership in public education, community mobilization, and advocacy, and under the direction of Allan Clear, Harm Reduction Coalition has played an important role in bringing harm reduction from the margins to the mainstream of policy discussions. Ten years ago, the harm reduction approach was on the fringe of the debate about the appropriate and effective policy responses to drugs and drug abuse and media coverage of syringe exchange programs tended to suggest that the availability of clean needles would encourage drug use and disorder. Only a few organizations were running experimental needle exchange programs and policymakers who embraced the strategy or promoted related policy implementations were criticized by their rivals and the press. Even leading HIV/AIDS prevention and service providers that relied on the movement's innovations were reluctant to acknowledge harm reduction approaches to their public and private funders. Today, largely as a result of HRC's work, there are now over 180 needle exchange programs operating in 36 states and jurisdictions across the U.S.; most organizations, local health departments, and state agencies that serve people affected by HIV and hepatitis C embrace harm reduction models; media coverage largely highlights the effectiveness of making clean needles available to users in preventing the spread of disease and enhancing public safety and, although President Obama recently back-pedaled on the issue, the leading candidates in the 2008 presidential election pledged to lift the ban on federal funding for needle exchange programs.

The increasing role of harm reduction strategies as effective and politically acceptable health interventions for people who use drugs and for improving public safety, their increasing acceptance in mainstream public health practice and policymaking, and HRC's authority at the city, regional, national, and international levels demonstrates the organization's importance and stature. HRC is an influential force in national policymaking and an important resource and information clearinghouse for service providers, researchers, policymakers, academics, and advocates across the country. Its experience with, and in-depth expertise in, syringe access expansion in New York and California have generated strategies, documents, and program models that have proved successful in other regions of the country, thus changing the public perception and providing political space for elected officials to implement harm reduction strategies. In 2008, HRC was catapulted into the international arena through its participation in a yearlong governmental review and evaluation of policies set forth during the 1998 United Nations General Assembly Special Session on Drugs. This formal evaluation process incorporated government and non-governmental organization participation in the development of a Political Declaration during the March 2009 52nd Commission on Narcotic Drugs meeting. HRC's well-honed policy development and advocacy practices readily translated to this international forum and resulted in HRC playing both a collaborative and leadership role in engaging progressive US-based organizations and independent advocates in these international advocacy efforts.

Over the next year, HRC's state and local focus will be on: 1) expanding syringe access locally and regionally through advocacy and community organizing; 2) providing training, capacity building and support to existing syringe exchange programs and new organizations interested in expanding syringe access; 3) pushing for syringe decriminalization in New York and California; 4) establishing state funding streams for hepatitis C prevention, education, and care; and 5) establishing amnesty for 911 calls responding to overdose emergencies in California. On the national level, HRC is focusing its efforts on: 1) expanding syringe access nationwide through lifting the federal ban on syringe exchange funding; 2) increasing the scope of drug treatment by increasing access to buprenorphine, especially in low-income communities of color; 3) increasing the federal government's responsibility for, and investment in, overdose prevention; 4)

monitoring national HIV policies to ensure drug users have equal access to treatment and care, in an effort to curb higher rates of AIDS-related deaths; and 5) advocating for national hepatitis C policies and funding focused on treatment options for people who use drugs and/or are co-infected with HIV.

A longtime OSI partner, HRC has been a steady U.S. Programs' grantee since 1996 and received a small International Harm Reduction Program grant this past January. Through our assessment of U.S. Programs' drug policy reform work and our program planning process, Criminal Justice Fund staff has prioritized the decriminalization of drug use by reframing and linking the drug policy debate to public health and harm reduction approaches. As a result, we strongly believe continued OSI support for this key partner is appropriate and, therefore, recommends general support funding to the Harm Reduction Coalition in the amount of \$200,000 over one year.

<u>Name of Organization:</u>	Justice Policy Institute (JPI)
<u>Tax Status:</u>	501(c)(3)
<u>Purpose of Grant:</u>	To provide general support; to support an emerging network of criminal justice advocates in Maryland to significantly advance policy reforms; and to develop a policy report which contextualizes and compares incarceration rates and social structures of the United States with other Western democracies to encourage reform that reduces incarceration rates.
<u>Previous OSI Support:</u>	\$176,000 Policy & Research 2003; \$100,000 OSI Baltimore 2004; \$5,000 Re-entry 2003; \$100,000 OSI Baltimore 2005; \$200,000 Special Opportunities Fund 2005; \$100,000 OSI Baltimore 2006; \$125,000 Sentencing & Incarceration Alternatives 2006; \$100,000 OSI Baltimore 2007; \$125,000 OSI Baltimore 2008; \$175,000 Sentencing & Incarceration Alternatives 2008
<u>Organizational Budget:</u>	\$1,100,000
<u>Project Budget:</u>	\$215,000
<u>Sources of Support:</u>	\$200,000 Public Welfare; \$100,000 OSI Baltimore; \$500,000 MacArthur Foundation; \$125,000 Annie E. Casey Foundation; \$95,000 State of Hawaii; \$20,000 Fund for Nonviolence; \$10,000 Individual donations
<u>Amount Requested:</u>	\$340,000
<u>Amount Recommended:</u>	\$340,000 \$175,000 (T1: 24027) \$165,000 (T1: 21079)
<u>Term:</u>	2 years (July 2009 – June 2011)
<u>Matching Requirements:</u>	None

Description of Organization:

The Justice Policy Institute is a non-profit research and public policy organization dedicated to ending society's reliance on incarceration and promoting effective and just solutions to social problems. A general support grant from the Open Society Institute in 1997 enabled JPI to hire its first staff person. In the past twelve years, JPI has grown from two part-time staff to a full capacity of seven full-time staff, one part-time staff member, a half-dozen research and communications consultants and associates, and a dozen volunteer research and communications interns. In 2002, JPI spun off from the Center on Juvenile and Criminal Justice (CJ CJ), and became an independent 501(c)(3) in January 2004. In January 2009, the Justice Policy Institute welcomed Tracy Velázquez as executive director.

JPI has evolved into one of the Nation's most thoughtful and progressive voices for crafting workable solutions to problems plaguing our juvenile and criminal justice systems. FAIR

magazine has ranked JPI as one of the 25 most quoted think tanks in the country, and its research is frequently cited by policy makers and in America's leading print and electronic media, including *The New York Times*, *The Washington Post* and *The Wall Street Journal*.

Between March 2008 and April 2009, JPI released several studies to help promote positive public policy formation, and provide key information and analysis to legislators, system stakeholders, organizers and community-organizations working to reduce the use of incarceration. This research was national in scope and through strategic collaborations with key government, stakeholder and advocacy organizations, was disseminated to help achieve policy reform goals. Some of these reports include: 1) *Release Valve: Parole in Maryland*; 2) *Bearing Witness: Baltimore City's Residents Give Voice to What's Needed to Fix the Criminal Justice System*; 3) *Jailing Communities: The Impact of Jail Expansion on Individuals and Localities, and Effective Alternatives to Growing Jail Populations*; 4) *Moving Target: A Decade of Resistance to the Prison Industrial Complex*; 5) *Registering Harm* (bringing attention to the issue of youth on sex offense registries); and 6) *The Cost of Confinement and Pruning Prisons*. *Release Valve* and *Bearing Witness* were prepared with support from OSI-Baltimore. JPI has also provided key communications and rapid response support to leading criminal justice advocacy organizations including media strategy support, and developing op-eds and fact sheets in response to current events and developments in the criminal justice field.

JPI's research and communications efforts have been frequently tied to campaigns run by organizations grounded in the African-American and Latino communities, the families of people incarcerated in juvenile and adult facilities, and organizations led by ex-prisoners. One such example is *Justice in Jena*, a campaign effort led in coordination with the Juvenile Justice Project of Louisiana, a CJF grantee included in this docket, to help inform the public about the latest Jena 6 legal proceedings. JPI was also asked to do media work for the National Juvenile Justice Network's *Advances in Juvenile Reforms* in 2008, which catalogued the most current juvenile justice system reforms nationwide. In the last year, with support from OSI-Baltimore, JPI worked closely with affected communities in Baltimore City to elevate the voices of people not typically heard from in policy or media discussions about the criminal justice system. JPI is currently working closely with the states of Alabama and Hawaii to provide research to reduce the number of women in the prison system, and reduce the disproportionate representation of Native Hawaiians in the criminal justice system, respectively.

Description of the Project for Which Funding Is Sought:

JPI seeks \$165,000 in project support for federal policy reform through OSI's Seize the Day initiative over two years in addition to \$175,000 in general support over the same time period. The two specific federal policy reform projects are described below.

The emergence of the Obama Administration has created a new policy agenda in Washington, encouraging policymakers at federal and local jurisdictions to "Seize the Day" and initiate the reform efforts that were not possible under the previous presidential administration. JPI will take advantage of this national tone by initiating two new projects. One such effort is located in Maryland; JPI will work with OSI-Baltimore to provide strategic public education, policy advocacy and communications support to an emerging network of criminal justice advocates in the State to significantly advance policy reforms at the state and national levels. JPI's other "Seize the Day" effort will advance criminal justice reform on the federal level. JPI will work collaboratively with experts in the field to develop a policy report which contextualizes and compares incarceration rates and social structures of the United States with other Western democracies to identify realistic opportunities for policy change. The report could help to educate

federal policymakers about the need for policy reform that reduces incarceration rates and begins to change the debate about how the U.S. addresses social problems. Specifically, JPI's activities designed to impact federal policy are described in detailed below.

Policy Reform in Maryland Project:

Strategic Policy Advocacy and Communications Assistance to Maryland Criminal Justice Advocates

Twenty-three Baltimore-based criminal justice advocates and organizations contributed to *Bearing Witness*, a report examining the criminal justice system in Maryland. JPI will work collaboratively with these groups and advocates to create strategies for addressing the five issues outlined in the report which include: 1) women have unique needs which are often unmet by the current system; 2) parole and probation are a "revolving door" that needs to be closed through meaningful reforms; 3) drug use and addiction should be handled through a public health approach; 4) Maryland should invest more in education and employment training, which strengthens communities and preserves public safety; and 5) restorative justice programs should be embraced as a way to heal the harm caused by violence. JPI will work with these organizations and advocates to create policy agendas, develop plans for advancing them, and identify potential allies; determine the most effective mix of grassroots activism, media advocacy and policymaker engagement to realize agenda goals; and develop messages that are likely to persuade policymakers to take action. In addition, JPI will work with administrators and policymakers to find opportunities for systemic changes that will have a meaningful impact on incarceration rates and services available to formerly incarcerated people in Baltimore and statewide.

Public Education and Community Engagement Activities to Promote Criminal Justice Reform

JPI will increase public and policymaker awareness of the five issues reported in *Bearing Witness* by working with Maryland advocates to organize community forums. Participants will include community members, advocates, researchers, practitioners, heads of Maryland agencies, and policymakers. The diverse audience will provide an opportunity for the people who make the decisions in criminal justice in Maryland to hear from speakers who are directly affected by those decisions, particularly individuals with criminal convictions. JPI will identify and invite these speakers, help the speakers to determine the content of their presentation, and ensure that they have transportation to the event. JPI will ensure a diverse audience by contacting policymakers, practitioners, advocates, community members, and other interested groups. JPI anticipates these forums will facilitate dialogue and give community members a stronger voice in the policy-making process. In cases where a community forum may not be the appropriate vehicle for a specific topic area, JPI will work with Maryland advocates to identify other ways to increase support for the policy goal. This may include a targeted media campaign, a series of meetings between key policymakers and advocates, or other pro-active ways to bring together those directly affected by criminal justice policies with those who can create change.

National Dissemination of Lessons Learned in Maryland

JPI will share the lessons learned from the work of Maryland's criminal justice advocates; new policies and procedures that are implemented in Maryland as a result of advocacy may provide new data on "what works" as it relates to alternatives to incarceration, effective re-entry, and reallocation of incarceration costs to the community. Maryland's grassroots organizing and advocacy techniques may also serve as a model for effective collaborations with people who are directly affected by criminal justice policies.

JPI will document the efforts of Maryland advocates in a companion report to *Bearing Witness*. It will develop and implement a communications plan for the dissemination of the report, which

may include the use of the media, the Internet and advocacy organizations – both national and grassroots – engaged in criminal justice reform work.

Comparative Policy Report – Use of Incarceration in the U.S. and other Western Democracies:

JPI will develop a comparative policy reporting analyzing incarceration rates of the U.S. and other Western democracies to educate policymakers on the need for policy reform aimed at reducing incarceration rates.

The United States leads the world in incarceration rates despite dropping crime rates and evidence that incarceration is not the most effective or efficient way to preserve public safety. While the U.S. has experienced rapid growth in incarceration rates, the majority of other nations have not. Many of these other nations, particularly western democracies, have long utilized alternatives to incarceration. However, these alternatives exist within a social environment that, in many ways, differs from that of the U.S. Such differences pose a challenge when U.S. policymakers or advocates look to other nations for potential solutions to rising incarceration rates.

The U.S. federal government and states alike are looking to save scarce resources by significantly reducing incarceration rates. Policymakers like Senator James Webb (D-VA) and Congressman Robert Scott (D-VA) frequently compare the U.S. to other countries to show the stark differences in incarceration and demonstrate that other nations have protected public safety and managed social issues differently. In many Western democracies, alternatives both to incarceration and crime prevention strategies broadly defined have been implemented in ways suited to their nations' individual cultural and social environment.

The difficulty in convincing policymakers to look at other Western democracies as potential models for social policy is the perception that such countries are fundamentally different than the U.S., whether it be in terms of size, racial and ethnic make-up, social welfare programs, or the political economics of the country. In a recent report, Tapio Lappi-Seppälä, Director of the Finnish National Research Institute of Public Policy, notes that criminal justice policies and practices do not exist within a social vacuum, but rather are part of larger social systems that are not mutually exclusive. In the U.S., for example, there is neither a robust safety net to reduce the incidence of crime borne out of desperation, nor the inclusive entitlements to such goods as health care and higher education that diminish the creation of an “us” and a “them” (a condition, Lappi-Seppälä suggests, tends to increase the use of more punitive policies).

It would be ill advised for any policy organization to insist the U.S. must become more like other Western democracies in order to reduce incarceration rates. However, there are similarities between the U.S. and Western democracies that could be drawn upon to make policy recommendations. Data gathered by the University of Maryland has already identified several indicators of difference and similarities in U.S. and Western democracy social structures. By providing a social context for these alternatives on the international stage, JPI will identify opportunities for policy change that can be taken as viable alternatives to incarceration in the U.S.

Rationale for Recommendation:

This grant would advance the Seize the Day Fund's goal of advancing the hardest issues, including criminal justice reform, as part of the federal policy agenda, by providing policy makers with lessons learned from concrete successful state strategies that can be implemented nationally, and by exposing them to approaches of other democratic societies as they struggle with how to address the United States' excessive and costly use of incarceration.

With the advent of a new Obama Administration, the justice community has high hopes that there will be a shift towards policies that reduce over-incarceration, diminish racial disparities in the adult and juvenile systems, and address some of the social problems that underlie our nation's expanding correctional systems. JPI's two projects aiming to "Seize the Day" and take advantage of the new national tone set by the Obama Administration will provide federal policymakers with the information and resources needed to make informed decisions about sentencing and incarceration alternatives. One project will provide national dissemination of lessons learned from the work of Maryland's criminal justice advocates while the other will provide federal policymakers with an analysis of sentencing and incarceration policies of other Western democracies.

A general support grant from OSI will allow JPI to continue address a number of CJF's goals, including reducing mass incarceration, eliminating harsh punishment and eliminating racial disparities and improving access to justice. JPI fills a distinct niche in the field: the production of timely research and communications materials to help reframe the debate around juvenile and criminal justice policy and identify areas in which no other organizations are working. JPI is often the first to identify emerging and sometimes difficult criminal justice issues and then provide rapid, quality research and communications tools to describe, challenge, or support whatever issue is at hand. In years past, JPI contextualized gang crime in the face of the media hype and addressed fears of rising crime. The organization has also played an instrumental role in public education on the cost of confinement and downsizing prisons. One of JPI's policy reports demonstrates the expense of the criminal and juvenile justice systems to states and the potential cost-saving reforms. Another related policy brief demonstrates the costs of sending youth to state-run residential placement facilities while giving examples of practices for shifting funding priorities in states to focus on evidence-based community alternatives.

Despite opportunities to impact local, state and federal policies, demands on the limited resources of advocacy organizations are high and there continues to be a host of vested interests which actively work to maintain and expand the prison industrial complex. To address some of these challenges, JPI plans to produce a series of in-depth reports targeting advocates and policymakers. In one such report, JPI will examine how companies that own private prisons and juvenile facilities influence policy at the federal, state and local levels. In a second report, JPI will examine the extent to which drug courts have been effective in helping individuals with addictions keep communities safe and reduce the number of people being incarcerated. In a third report, JPI will examine the problems associated with the growing erosion of privacy of juvenile records. JPI will also examine cost issues related to correctional institutions, policies that reduce incarceration, sentencing policies, crime statistics, and re-entry services. Finally, if Senator Webb's proposed crime commission is approved, JPI will work to ensure that the commission's recommendations are evaluated for their potential impacts.

Overall, support from OSI will make it possible for JPI to dedicate resources to the development of accessible research and analysis, and its timely dissemination to the media, advocates and policymakers. By designing research and communications strategies with allied organizations, and crafting its work to meet a specific need, JPI's work impacts the communities most affected by punitive measures and the criminal justice system. For the aforementioned reasons, the Criminal Justice Fund recommends a grant of \$340,000 over two years including \$165,000 for project support from OSI's "Seize the Day Fund" and \$175,000 for general support.

Name of Organization: Fund for the City of New York, Inc. (*as fiscal agent for Immigrant Defense Project*)

Tax Status: 501(c)(3)

Purpose of Grant: To support the Immigrant Defense Project’s work to protect the legal, constitutional rights of immigrants facing deportation and detention as a result of interactions with the criminal justice system.

Previous OSI Support: \$50,000 Strategic Opportunity Fund 2004; \$50,000 Gideon 2005; \$25,000 Re-Entry 2000; \$3,600,000 Youth Development Grants 1998; \$316,000 Re-Entry 1998; \$300,000 Law & Society 1998; \$100,000 New Urban Initiatives 1998; \$75,000 Law & Society 2000; \$75,000 Community Grants 1998

Organizational Budget: \$31,490,680

Project Budget: \$317,657

Sources of Support: \$140,000 Ford Foundation; Defending Immigrants Partnership; \$75,000 New York City Council; \$64,000; \$30,000 New York Community Trust; \$10,000 Individual Contributions

Amount Requested: \$400,000

Amount Recommended: \$400,000
\$200,000 CJF (T1: 24027)
\$200,000 EOF (T1: 24023)

Term: Two years (June 2009 – May 2011)

Matching Requirements: None

Description of Organization:

The Immigrant Defense Project (IDP) is a regional and national leader in advancing the legal rights of immigrants facing criminal accusations, and is among a handful of nonprofit legal organizations across the country that has deep, specialized expertise at the intersection between criminal and immigration law. IDP is the only organization that focuses exclusively on criminal-immigration issues.

IDP was launched at the New York State Defenders Association (NYSDA) in 1997 in order to respond to the devastating immigration laws of 1996 that placed hundreds of thousands of immigrants at risk of mandatory detention and deportation for virtually any interaction with the criminal justice system. At its inception, IDP focused on raising awareness among the New York State criminal defense bar of the impact of the 1996 laws on immigrants accused of crimes. IDP was the first organization in the country to create resources and training programs tailored to criminal defense attorneys who represent immigrants subject to the new mandatory detention and deportation rules for conviction of even minor crimes. Since then, IDP resources and its in-house expert model for defense attorneys have been replicated nationwide and serve as inspiration to

others to expand their advocacy at the criminal-immigration intersection, reflected in the establishment of in-house immigration experts at various defender organizations, such as the Washington Defender Association, Bronx Defenders and Neighborhood Defender Service of Harlem. Representing Immigrant Defendants in New York, IDP's comprehensive manual for criminal defense attorneys about immigration consequences of convictions and cutting-edge strategies to minimize them, is in its fourth edition and widely used across New York State. The organization's advisories for criminal defense attorneys are accessed by defenders across the country.

Over time, IDP has expanded its mission and activities to advance the rights of immigrants accused of crimes in the immigration and criminal justice systems. In 2002, IDP joined the Immigrant Legal Resource Center, National Immigration Project of the National Lawyers Guild and National Legal Aid and Defender Association to form the Defending Immigrants Partnership. The goal of DIP is to transform criminal defense practice on a national level so that indigent defenders can adequately inform and effectively represent their immigrant clients. In the last six years, the Defending Immigrants Partnership has trained dozens of public defenders to be in-house immigration experts, created a national manual of immigration consequences of convictions for defenders (modeled after and incorporating several sections of IDP's New York manual) and created or advised in the creation of 20 state-specific charts of the immigration consequences of state and federal offenses (modeled after IDP's New York chart).

IDP has engaged in aggressive impact litigation in federal courts, including the Supreme Court, and has conducted community education, policy analysis and advocacy in order to reform the deportation system. One of IDP's most innovative and effective training programs is the Deportation 101 curriculum. The program is a free, daylong seminar on the criminal-immigration system, accompanied by a 150+-page curriculum developed jointly in 2005 by IDP and Families for Freedom, a multiethnic network of and for immigrants facing deportation.

In January 2009, IDP transitioned from a project of NYSDA to its current status as an independent organization fiscally sponsored by the Fund for the City of New York (the Fund), which was established by the Ford Foundation in 1968 with the mandate to improve the quality of life for all New Yorkers. In partnership with government agencies, nonprofit institutions and foundations, the Fund has developed and helped to implement innovations in policy, programs, practices and technology to advance the functioning of government and nonprofit organizations in New York City and beyond. IDP's transition to an independent organization will provide IDP with greater flexibility allowing the organization to transform criminal defense practice on a national level so that indigent defenders can adequately inform and effectively represent their immigrant clients.

Description of the Project for Which Funding Is Sought:

OSI funding will support IDP as an innovator of strategies to scale back the worst of the impact of the 1996 laws on immigrants caught at this intersection. Recent Supreme Court and other federal court developments, the 2008 presidential elections that resulted in a new administration and the possibility of immigration reform legislation in 2009 present new opportunities for IDP to enhance its national focus and advance its long-term goals of rolling back the criminal grounds of deportation and restoring proportionality, fairness and judicial discretion in deportation determinations. The organization's goals during the grant period include:

- 1) Scale back egregious overreaching government interpretations of current criminal-immigration deportation laws through impact litigation and communications work;

- 2) Support reform of the current mandatory deportation system through policy analysis and administrative advocacy focusing on the criminal-immigration intersection;
- 3) Build the capacity of community groups to respond to immigration enforcement and support community-based advocacy efforts through community education; and
- 4) Establish models for systemic change in the criminal justice system such as the first model protocol for implementing effective immigration service plans at defender offices.

Rationale for Recommendation:

This grant advances Criminal Justice Funds’ goal of promoting sentencing practices that reduce the use of incarceration and reduce the negative consequences of harsh immigration enforcement policies including mandatory deportation. Similarly, the grant advances the Equality and Opportunity Fund’s goal of supporting immigration reform.

Over the last several years, IDP’s impact litigation program has helped secure key legal decisions beneficial to thousands of immigrants in or at risk of detention and deportation. IDP has provided legal support in high-impact immigration cases on agency appellate or federal court review and has become a leader in litigation efforts at the intersection of criminal and immigration law.

IDP submitted an *amicus* brief cited and relied upon by the U.S. Supreme Court in its 2001 decision in *Immigration and Naturalization Service v. St. Cyr*, in which the Court struck down the government’s retroactive application of 1996 deportation laws that eliminated the possibility of discretionary relief from deportation for thousands of immigrants who were or may later be charged with deportation based on their old, pre-1996 guilty plea convictions. In 2004, IDP recruited counsel and *amici* to submit briefs in *Leocal v. Ashcroft*, in which the Supreme Court ruled unanimously to reject a broad government reading of the “crime of violence” aggravated felony category. That decision provided new strategies for attacking broad government interpretations of other categories of the aggravated felony term, including the “drug trafficking” aggravated felony category.

IDP, together with its partner the National Immigration Project, mounted its most aggressive Supreme Court litigation effort to date, to urge the Supreme Court, through a national *amicus* strategy that required a broad range of recruited allies and numerous *amicus* briefs, to apply only the ordinary, common sense meaning of the term “drug trafficking crime” – one that would be limited to *felony* drug offenses involving *trafficking*, and not be extended to misdemeanor or simple possession drug offenses. (*Lopez v. Gonzalez* and *Toledo-Flores v. United States*, consolidated cases decided on December 5, 2006.) At the same time, IDP engaged in an aggressive, targeted communications effort to be heard on the first oral argument day of the Roberts Supreme Court. This effort resulted in positive coverage of the case, including several national stories on the effect of deportation on lawful permanent residents and a positive editorial in the *New York Times*¹⁰. The coordinated litigation and communications effort culminated in a Supreme Court victory that should allow some thousands of immigrants a year to seek discretionary relief from deportation proceedings rather than face mandatory deportation. Since this decision, IDP has continued to consolidate and expand its reach.

For the above mentioned reasons, the Criminal Justice Fund and the Equality and Opportunity Fund, recommend a general support grant to IDP in the amount of \$400,000 over two years.

¹⁰ “Justice for Immigrants,” *New York Times*; EDITORIAL Section, October 3, 2006.

Name of Organization: Juvenile Justice Project of Louisiana

Tax Status: 501(c)(3)

Purpose of Grant: General support

Previous OSI Support: \$208,000 Gideon 2006; \$200,000 Gideon 2004; \$100,000 Sentencing & Incarceration 2002; \$100,000 Policy and Research 2002; \$100,000 Policy & Research/Juvenile Justice 2003; \$25,000 Litigation Fund 2007; Re-entry \$75,000 (2000)

Organizational Budget: \$1,064,672.68

Project Budget: N/A

Sources of Support: \$75,000 Open Society Institute; \$100,000 Vanguard Charitable Trust; \$177,500 Ford Foundation; \$100,000 MacArthur Foundation; \$150,000 Marguerite Casey Foundation; \$50,000 US Human Rights Fund; \$47,377.60 Academy of Educational Development

Amount Requested: \$300,000
\$200,000 General support
\$100,000 JEHT Emergency Grantmaking

Amount Recommended: \$300,000
\$200,000 (T1: 24420)
\$100,000 (T1: 59959)

Term: 2 years (June 2009 – May 2011)

Matching Requirements: None

Description of Organization:

Established in 1997, the Juvenile Justice Project of Louisiana (JJPL) is a non-profit advocacy organization based in New Orleans that aims to reform Louisiana’s broken juvenile justice system. JJPL is working to transform the state’s system into one that builds on the strengths of young people, families, and communities to ensure that children are provided the greatest opportunities to grow and thrive. Dana Kaplan is currently the executive director of JJPL. Prior to joining the organization, Kaplan was a Soros Justice Fellow at the Center for Constitutional Rights in New York City, working on detention reform.

Through a strategic combination of class action litigation, media outreach, and grassroots advocacy, JJPL and its partners succeeded in closing down Louisiana’s two most brutal juvenile prison facilities – the Jena Juvenile Justice Center, which shut its doors in 2000, and the Tallulah Correctional Center for Youth, which shut its doors in 2004. JJPL has also negotiated settlement agreements that have improved conditions in Louisiana’s juvenile prisons, required the state to fund post-disposition juvenile representation, and driven private, for-profit juvenile prison providers out of Louisiana. OSI has been funding JJPL since 2000. JJPL’s organizational goals include the following:

- **Reduce the number of youth incarcerated in Louisiana** by reducing the number of status offenders in the juvenile justice system and the number of non-violent offenders held in secure care;
- **Improve conditions of confinement in youth detention centers and secure care facilities** by ensuring the full implementation of the Missouri Model in secure care facilities, establishing detention standards state-wide, and targeting facilities with particularly egregious conditions such as Youth Study Center with campaigns for reform;
- **Increase support for evidence-based alternatives to incarceration** by increasing the amount of state and local funding going towards evidence-based alternatives to incarceration and detention, fighting proposed budget cuts at the state-level that threaten community based funding, and ensuring that state contracts for community based programs are performance based;
- **Ensure that all children have access to effective counsel at all relevant stages in the court process** by training public defenders to represent children post-disposition, advocating for increased funding for Public Defenders to ensure adequate staffing for such representation, and passing a Children’s Bill of Rights to increase communication between defenders, detention centers and the Office of Juvenile Justice regarding conditions complaints;
- **Reduce the number of school suspensions, expulsions and push-outs** by ensuring the full implementation of the newly revised School Discipline Code in Orleans Parish to reduce the suspension and expulsion rate in Orleans Parish, increasing the capacity for educational advocacy in Orleans Parish, and establishing a state-wide Commission to gather data, develop and implement policy recommendations to reduce the number of suspensions and expulsions state-wide; and
- **End the practice of sentencing children to life without parole** by abolishing the possible sentencing of children transferred to adult court to a term of life without parole review.

Description of the Project for Which Funding Is Sought:

This recommendation seeks general support in the amount of \$300,000 over two years.

Rationale for Recommendation:

This grant advances several of the goals of the Criminal Justice Funds including reforming the juvenile and adult indigent defense systems; encouraging incarceration alternatives that emphasize rehabilitation and treatment; and eliminating class and race disparities in sentencing. This grant also advances the Strategic and Opportunity Fund’s goal of increasing resources in the Gulf region post-Katrina in an effort to rebuilt more just and equitable communities. A portion of this general support grant, recommended for funding from OSI’s JEHT Response Grantmaking budget, would fill a gap of \$100,000 in JJPL’s 2009 budget resulting from the collapse of the JEHT Foundation and there is no guarantee of expanded funding beyond this grant.

Major strides have been made in juvenile justice reform in the state of Louisiana since JJPL’s inception 11 years ago. As a direct result of JJPL’s advocacy, the State has become a site of both MacArthur’s Models for Change and Annie E. Casey Foundation’s Juvenile Detention Alternatives Initiative, and is working with Mark Steward and Missouri Youth Services Institute to implement the “Missouri Model” in state facilities. There is broad recognition among all stakeholders – including judges, DA’s, Defenders, and the Legislature – that the “old way” of warehousing primarily non-violent juvenile offenders in brutal prisons both destroyed lives and impeded public safety. The public defender system is now led by a board that is committed to

providing quality juvenile defense over political patronage, and the number of children in secure care has reduced from close to 2000 children in 1998 to approximately 650 today.

Six years after the passage of the sweeping Juvenile Justice Reform Act of 2003, the state is far from reaching the goals outlined in the broad mandate of the original legislation. Close to fifty percent of the children in secure care are there for non-violent offenses. There remain significant reports of harassment and violence by guards. The therapeutic, group-based philosophy outlined by the Missouri Model and translated locally as “LaMod” (Louisiana Model) has only been partially adopted within facilities and has been met with consistent backlash from staff. Local detention centers have largely fallen outside of the reforms, with partial exception to the five parishes in which JDAI is operating, and no state-wide standards for facility operation exists. Even with an increase in funding for community programs there is a severe lack of local services to serve youth throughout the state, leaving Judges and DA’s with the feeling that there are few viable alternatives for youth beyond secure care. Public defenders continue to be under-resourced, and provide little representation to children post-disposition. Finally, an increasing number of children are being charged as adults, transferred into and/or held in the adult criminal justice system, which has been reported as a backlash by some District Attorney’s against the impact of juvenile justice reform.

The pace of reform has not matched what was initially hoped for. The devastation of Hurricanes Katrina, Rita, and later Ike and Gustav have slowed the pace of reform, redirecting the priorities of government towards meeting basic needs over implementing ambitious reform goals. More challenging has been the difficulty of transforming the culture of state institutions and maintaining reforms during political shifts. Currently, there is a lack of real political leadership in implementing reform – from the Governor’s office, the Office of Juvenile Justice, and the City of New Orleans – that is undermined even further by backlash at the local level from line staff, District Attorney’s, or the Sheriff’s Association, which hold a disproportionate sway over the politics of the state. In a Deep South state such as Louisiana, where racial inequality is particularly brutal and pervasive and political patronage runs deep, the challenge of criminal justice reform is especially great.

In such a climate, the continued need for an advocacy organization like the JJPL is clear. While systems-targeted efforts such as JDAI, Models for Change, and Missouri Consulting are essential to moving systems towards change, they are effective only when the community is at the table, and when lawmakers, the public and the media are continuously educated on the critical need for reform. This was clear with the transition to the Jindal Administration, when backsliding in reform caused some foundations to consider quiet departure from Louisiana, until aggressive media advocacy and rallies on the steps of the Capitol forced the state to publicly re-commit to juvenile justice reform and the Head of the Office of Youth Development to resign. The need for continued media messaging is also apparent, as high profile cases involving juveniles continue to produce reactionary responses from the public and elected officials alike, as was evidenced by the local media’s negative response to a recent increase in juvenile crime in New Orleans. JJPL reframed the popular dialogue about juvenile predators to one concerned more with the need to invest in community based alternatives to incarceration and front-end programs. Finally, the political power that groups such as the District Attorneys and Sheriffs possess in Louisiana perpetuates rather than challenges the history of racism that plagues the criminal justice system. JJPL will continue to work with stakeholders to frame the need for reform, articulate the real solutions to public safety, and ensure that community partners play an integral role in the debate.

For the above mentioned reasons, the Criminal Justice Fund recommends a grant of \$300,000 to the Juvenile Justice Project of Louisiana over two years.

<u>Name of Organization:</u>	New York State Defenders Association
<u>Tax Status:</u>	501(c)(3)
<u>Purpose of Grant:</u>	To provide general support
<u>Previous OSI Support:</u>	\$100,000 Gideon 2006; \$35,000 Strategic Opportunities Fund 2005; \$75,000 U.S. Justice Fund \$80,000 Gideon 2001; \$80,000 U.S. Programs General Fund 1997
<u>Organizational Budget:</u>	\$2,547,355
<u>Project Budget:</u>	N/A
<u>Sources of Support:</u>	\$1,362,180 New York State Appropriation; \$128,357 New York City Division of Youth & Community Development; \$160,000 New York Community Trust; \$49,724 Defending Immigrants Partnership Grant; \$114,646 Ford Foundation
<u>Amount Requested:</u>	\$200,000
<u>Amount Recommended:</u>	\$200,000 (T1: 24420)
<u>Term:</u>	2 years (July 2009 – June 2011)
<u>Matching Requirements:</u>	None

Description of Organization:

The New York State Defenders Association (NYSDA) was established in 1967 to implement the Supreme Court’s 1963 mandate in *Gideon v. Wainwright* that the state provide competent counsel to poor persons accused of crimes. For the past 42 years, NYSDA, a 501(c)(3) public charity, has strived to improve the quality and scope of publicly supported legal representation to indigent criminal defendants. By state contract, NYSDA is responsible for identifying problem areas in the state’s public defender system and proposing solutions in the form of specific recommendations to the state’s executive, legislative, and judicial branches. NYSDA is now New York State’s largest criminal defense bar association.

With funding from the New York State Division of Criminal Justice Services, NYSDA provides back-up services to more than 100 county-based public defense offices and to more than 5,000 private defense attorneys assigned to represent indigent defendants. Its staff of 18 engages in impact litigation; writes amicus briefs; provides defenders with case consultations, legal research, technical assistance, and referrals to experts; convenes defenders for trainings, joint strategizing sessions, and moot courts; publishes training materials; monitors state legislation; and designs innovative programs to improve the quality of public defense representation. OSI also provided NYSDA with a small amount of funding through a grant to the Immigrant Legal Resource Center for the Defending Immigrants Project (DIP). NYSDA’s participation in DIP includes training defenders to understand the immigration consequences of criminal case convictions.

Some of organization’s activities and accomplishments have included: 1) establishing a model Immigrant Defense Project, which at the end of 2008 became a separate entity in New York City,

funded, in part, by OSI grant support; 2) designing, implementing and supporting a public defense case management system; 3) developing the first statewide standards for public defense representation in New York with the New York State Chief Defenders; and 4) advocating for reform to improve public defender services in New York state. NYSDA has also increased its support for public defense lawyers who represent adult respondents in family court cases. Clients in these matters frequently have criminal cases and offices that provide both types of representation face a heightened need for efficient methods of identifying and dealing with conflicts of interest.

Description of the Project for Which Funding Is Sought:

This recommendation seeks general support in the amount of \$200,000 over two years.

Rationale for Recommendation:

This grant furthers the Criminal Justice Fund's goals of reforming indigent defense systems to ensure that the poorest citizens are able to receive fair and competent legal representation.

After nearly 45 years in operation, New York's disparate and inequitable public defense system is on the verge of collapse. The "system" is, in reality, a collection of more than 100 under-funded individual programs operating in 62 counties that are fiscally burdened by an unfunded State mandate. These programs operate at the local level without oversight and fail to comply with minimal national standards while handling excessive caseloads. The ongoing public defense crisis was recognized in 2006 by the Commission on the Future of Indigent Defense Services appointed by then-Chief Judge Judith S. Kaye, following hearings and the most comprehensive study ever conducted of the state's public defense system. The next year, the New York Civil Liberties Union (NYCLU) sued New York State for failing to provide a constitutionally-required level of representation in five counties that were subsequently added as defendants. That suit is still pending. In 2007 and 2008, with funding support from OSI, NYSDA in cooperation with the National Legal Aid and Defender Association released studies showing that ten counties in New York State, including four of the counties named in the NYCLU lawsuit, failed to meet national standards for providing public defense. The human cost that the deficiencies of New York's system impose on individual clients is devastating.

While some counties have improved their indigent defense systems under the management of a Chief Defender, County Executive, or other leader who understands the importance and practicality of doing so, representation statewide remains deficient. Counties may see the quality of representation decline when revenues drop, a powerful District Attorney overrides efforts to provide additional resources to the defense, or a particularly unpopular client is seen as having received overly zealous representation. Given the widespread need for reform, NYSDA has called for the creation of the Independent Public Defense Commission.

Making the strongest case possible to improve indigent defense services in New York State requires a considerable investment in research, specialized staff and the infrastructure capable of handling complex data. OSI funding will allow NYSDA to continue to take on this responsibility and to serve as a main catalyst for systemic reform. OSI support will also allow NYSDA to continue providing the highest quality consultation, training and technical assistance to public defense lawyers and public defender offices in the face of recent state budget cuts.

For the above mentioned reasons, the Criminal Justice Fund recommends a grant to NYSDA in the amount of \$200,000 over two years.

<u>Name of Organization:</u>	Community Studies of New York, Inc. (fiscal agent for Racial Bias in the U.S. Marijuana Possession Arrests Project)
<u>Tax Status:</u>	501(c)(3)
<u>Purpose of Grant:</u>	To provide project support to examine racially disparate marijuana possession arrest practices in New York City and other large U.S. cities, the negative consequences of these arrests on the largely young minority male populations at which they are targeted, how federal grants to police departments fund many of these arrests and to recommend policy changes at the federal level that could substantially reduce marijuana arrests.
<u>Previous OSI Support:</u>	\$180,000 Sentencing and Incarceration Alternatives (2006)
<u>Organizational Budget:</u>	\$129,717
<u>Project Budget:</u>	\$89,000
<u>Sources of Support:</u>	None
<u>Amount Requested:</u>	\$89,000
<u>Amount Recommended:</u>	\$89,000 (T1: 24027)
<u>Term:</u>	1 year (August 2009 – July 2010)
<u>Matching Requirements:</u>	None

Description of Organization:

Community Studies of New York, Inc. (CSNY), is a 501(c)(3) founded in 1993 to establish and oversee the Infoshare Community Information System. Infoshare is a project of the Department of Urban Studies at Queens College/CUNY developed in 1988 to provide public, neighborhood-level information using a full range of demographic and health data as well as public assistance, immigration, employment, housing, crime, child care, public school, land use, business pattern, and other information on the communities and boroughs of New York City. Another principal project of CSNY is the New York City Nonprofits Project, which has conducted a series of extensive surveys of the nonprofit sector in New York City.

The Racial Bias in the U.S. Marijuana Possession Arrests project is directed by sociologist, Dr. Harry G. Levine. Loren Seigel, the former long-time director of public education at the American Civil Liberties Union (ACLU) and a current advisor to the New York Civil Liberties Union (NYCLU), will work with Levine on outreach and advocacy. Jon B. Gettman, the key consultant for data collection and analysis, is the leading researcher and expert on national trends in marijuana arrests. For several decades, Dr. Levine has been engaged in research, writing and advocacy regarding U.S. drug policy and its racial bias. Beginning in 1986, he and Craig Reinerman began researching and writing about crack cocaine. They published the first critical journalistic and scholarly accounts of the new U.S. crack policies and of the political and media hysteria which helped create those policies.

In 2005, Levine first began researching and advocating regarding racially-biased marijuana possession arrests in New York City and nationwide. From July 2006 to July 2007, Levine and Deborah Small produced a report about New York City's epidemic of marijuana arrests. The 100-page report, *Marijuana Arrest Crusade: Racial Bias and Police Policy in New York City, 1997-2007*, funded by OSI and released in April 2008, was covered by national print and broadcast media.

Description of the Project for Which Funding Is Sought:

This project builds upon the substantial knowledge, networks, and resources developed in the project that culminated in Levine and Small's 2008 report - *Marijuana Arrest Crusade: Racial Bias and Police Policy in New York City, 1997-2007*. The current project will build upon the previous advocacy efforts to include data on marijuana possession arrests in other large U.S. cities. The project team will examine how federal grants to police departments fund many of these arrests, and offer policy changes at the federal level that could substantially reduce marijuana arrests.

A description of each of the project's four components is described in more detail below.

New York City's Racially Biased Marijuana Possession Arrest Crusade

Levine will update the 2008 *Marijuana Arrest Crusade* report to include the most recent data. The project team will develop a public awareness campaign by engaging in meetings with stakeholders from civil rights groups, advocacy organizations, attorney associations, New York City Council members, and other lawmakers. The public education campaign will include op-eds, slide presentations, and magazine articles.

Racially-Biased Marijuana Possession Arrests in Major American Cities

The second project component will build upon the New York City-focused *Marijuana Arrest Crusade* report by analyzing and incorporating data from approximately 25-30 cities. The project team will obtain the most recent Uniform Crime Report (UCR) data (currently up to 2007). Some of the cities that may be included in the analysis are Atlanta, Baltimore, Philadelphia, Cleveland, Indianapolis, Pittsburg, Minneapolis, Phoenix, Houston, or San Antonio. This research will also incorporate interviews with police officers and public defenders.

Court Summonses and Arrest Warrants in Poor, Black and Latino New York City Neighborhoods

The third project component will analyze court summonses and arrest warrants in African-American and Latino neighborhoods in New York City. Along with its marijuana and other misdemeanor arrests, the New York City Police Department issues a great many summonses to poor, African-American and Latino young people. Getting arrested for failure to pay the summons fine produces the same permanent, life-long criminal record as a marijuana or other drug possession arrest. The project team will produce compelling maps demonstrating which New York City's police precincts issue summonses at high rates. The team will work with NYCLU to raise the issue in the media and with the New York City Council.

U.S. Department of Justice Byrne Grants

The fourth project component will include advocacy to engage civil rights and justice organizations to exclude or disallow misdemeanor drug arrests, especially misdemeanor marijuana possession arrests, from use as "performance indicators" under Byrne grant

regulations. The racially-biased misdemeanor arrests for possession of marijuana and other drugs have been subsidized and even directly funded by the U.S. government, mainly through the Byrne Grant program. The project team will make a compelling argument to the U.S. Department of Justice to change policies governing Byrne Grants. If the U.S. government withdrew even partially from supporting these stigmatizing misdemeanor drug arrests, it could have an impact greater than local reform and advocacy efforts.

Rationale for Recommendation:

This grant would advance the Criminal Justice Fund goals of eliminating race and class disparities in sentencing and incarceration, combating racial profiling in law enforcement, and shifting the reliance from a war on drugs approach to drug policy involving a reliance on law enforcement to a public health approach.

This project will convincingly demonstrate the impact of racially biased marijuana arrests more as central to the debate and decisions about misdemeanor policing in the United States. In New York State and City alone, misdemeanors constitute 69 percent of all arrests. In California African Americans are only 6.7 percent of the population but in 2006 they constituted 21 percent of misdemeanor arrestees for trespassing, 22 percent for disturbing the peace, 33 percent for lewd conduct, 16 percent for indecent exposure, and 19 percent for marijuana possession. In New York City, drug arrests constitute a third of all misdemeanors. Over 83 percent of New York City's misdemeanor drug arrests are of African Americans and Latinos. This racially skewed misdemeanor arrest pattern for marijuana and other drugs occurs throughout the country. Marijuana arrests are also on the rise, expensive, and skewed in terms of age and gender with the majority of marijuana possession arrestees under 25 years of age.

These arrests stigmatize arrestees with permanent criminal records. Although professionals and other advocates whose lives touch the criminal justice might be familiar with these facts, the public is generally unaware of the ever-growing role of marijuana possession arrests and other misdemeanor offenses in the criminalization of low-income teenagers and young adults, especially black and Latino young people in large cities.

The ongoing effect of the current U.S. criminal justice policy – with policing tactics as a driving force – is the creation of a new kind of Jim Crow which uses criminal records instead of segregation laws to exclude young people of color from jobs, housing, schools and even from voting. The U.S. government and a growing number of states are permanently including DNA from misdemeanor cases in CODIS, the U.S national criminal DNA database, and in other criminal DNA databases. In this age of computers and the Internet, criminal records are easily accessible and nearly impossible to expunge.

This project will play a pivotal role in advocating for policy reform and informing advocates, policymakers, and the public about the racially biased and stigmatizing impact of marijuana possession and other misdemeanor arrests, particularly for poor, communities of color. For the above mentioned reasons, the Criminal Justice Fund recommends a grant of \$89,000 over one year to Community Studies of New York.

Name of Organization: Texas Fair Defense Project

Tax Status: 501(c)(3)

Purpose of Grant: To provide general support.

Previous OSI Support: \$50,000 Gideon Project (2007); \$50,000 Litigation Fund (2007) (through *fiscal agent* Texas Defender Service)

Organizational Budget: \$310,692

Project Budget: N/A

Sources of Support: \$110,711 Atlantic Philanthropies; \$20,000 Public Welfare; \$27,500 individual donations; \$7,000 Law Firm donations; \$5,000 SBOT Grant

Amount Requested: \$125,000

Amount Recommended: \$125,000
\$25,000 (T1: 24027)
\$100,000 (T1: 24420)

Term: Two years (August 2009 – July 2011)

Matching Requirements: None

Description of Organization:

The Texas Fair Defense Project (TFDP) works with criminal justice stakeholders, bar associations, advocacy organizations, and persons accused of crimes and their families to ensure that indigent defendants are provided with access to counsel and to improve the quality of indigent defense representation in Texas. TFDP was founded in 2004 as the Soros Justice Fellowship project of Andrea Marsh, who serves as the organization’s Executive Director. In 2008, TFDP was fully incorporated as an independent 501(c)(3) organization.

TFDP recently settled *Rothgery v. Gillespie County* for \$40,000 in April 2009. TFDP represented Mr. Rothgery in the landmark federal civil rights lawsuit challenging the common Texas practice of delaying appointment of counsel to defendants who are able to post bond. Mr. Rothgery was erroneously identified as a felon and arrested for being in possession of a firearm. The three weeks he spent in jail could have been avoided if the County had not waited six months to appoint counsel after his initial request.

TFDP has strong partnerships with a coalition of advocacy organizations in the field, including OSI grantees Texas Defender Service and Texas Criminal Justice Coalition (TCJC) and other organizations such as the Justice Project, StandDown Texas and the Texas Innocence Network. These strategic partnerships allow the organizations to leverage limited resources, eliminate duplication, and enact broad-based criminal justice reforms that cross the boundaries of each group’s core program areas. TFDP also accepts case referrals from organizations such as the Texas ACLU.

TFDP's four goals are to : 1) ensure that all eligible defendants who want the assistance of court-appointed counsel receive access to counsel; 2) support the development of a public defense system in Texas that operates in a manner consistent with the ABA's Ten Principles of a Public Defense Delivery System; 3) support the development of a criminal justice system in Texas that diverts appropriate individuals and seeks to minimize the financial burdens and collateral consequences of criminal convictions; and 4) develop a sustainable organizational model to support TFDP's mission to improve the fairness and accuracy of the criminal justice system in Texas.

Description of the Project for Which Funding Is Sought:

TFDP seeks general support in the amount of \$125,000 over two years.

Rationale for Recommendation:

This grant supports the Criminal Justice Fund's goal of reforming and improving adult and juvenile indigent defense systems; eliminating race and class disparities in sentencing and incarceration; reducing the length of criminal sentences and promoting sentencing discretion; and reducing racial disparities in criminal prosecutions.

This grant will provide TFDP with resources needed to improve and reform Texas' broken indigent defense system. A vast majority of people accused of crime in Texas are charged with misdemeanor offenses but fewer than 10 percent of defendants charged with jailable misdemeanors in most counties have received appointed attorneys in each year for which data is available. Approximately 90 percent of misdemeanor defendants, hundreds of people each week in certain counties, are left to navigate a complicated legal system all on their own. Indigent felony defendants released on bond in Texas also are denied access to counsel for months at a time, due to widely held assumptions that felony defendants do not need lawyers until an indictment is filed and that defendants released on bond have income sufficient to hire a lawyer. African Americans represent only 12 percent of the Texas population yet they comprise 44 percent of the state's total prison and jail population and are incarcerated at five times the rate of white Texans. Latinos also are disproportionately represented.

During the next two years, TFDP will continue its groundbreaking role as the leading advocacy organization working on indigent defense issues in the state and the only organization litigating systemic indigent defense issues in Texas. TFDP will prioritize the activities described below.

Improve Access to Counsel

TFDP will write a report on best practices for the delivery of indigent defense in misdemeanor court to be released in fall 2009. The report will be a companion to a monograph of *Rothgery* designed to assist counties with the implementation of the case findings. TFDP will also litigate select cases that challenge the illegal policies that prevent indigent defendants from receiving access to appointed counsel in Texas. Currently it is preparing a Circuit Court of Appeals brief in *McFatrige v. State* regarding the consideration of low-equity assets when determining whether a defendant is indigent. TFDP will continue direct case assistance through its statewide intake program in cooperation with community partners, providing information about the right to counsel and assisting individuals with their requests for representation and will implement a community outreach program that includes the publication of public education pieces concerning the right to counsel in juvenile and criminal cases and the dangers of proceeding without counsel, including unforeseen collateral consequences.

Strengthen Quality and Independence of Public Defense Services

TFDP's staff will grow its coalition partnerships with local officials and community groups to start new public defender programs in Texas, developing model policies for independent assigned counsel

programs in collaboration with Lubbock County's pilot program and promoting the establishment of pretrial services offices, including the publication of its non-capital attorney performance standards pending approval by the State Bar Board of Governors. TFDP will continue to advocate for a new formula for distribution of state indigent defense grant funds through the Task Force on Indigent Defense's formula grant working group.

Access Impact of the Criminal Justice System on Core Constituency

TFDP will monitor the implementation of juvenile community corrections programs advocating for the use of defense-team social workers to improve the delivery of public defense services and case outcomes for juvenile offenders. TFDP is expanding its direct case assistance program to include assistance to defendants subject to illegal court collections practices.

Develop Organizational Capacity

TFDP will strengthen its capacity to achieve its mission and goals by expanding the Board of Directors membership, increasing the organization's donor base and through executive leadership development.

TFDP's leadership has been exemplary in forging systemic reform. The organization's stunning victory in *Rothgery v. Gillespie County* is a remarkable achievement for any office, let alone a fledgling organization of four, which litigated the case all the way to the U.S. Supreme Court. Ms. Marsh is recognized as one of Texas' most knowledgeable advocates for systemic indigent defense reform. She has been invited to participate on six working groups of the Texas Task Force on Indigent Defense and has been successful in persuading the task force to adopt best practices in Texas. She was recognized by *Texas Lawyer* as one of eight impact players in the Texas legal community in 2008.

For the above reasons the Criminal Justice Fund recommends a two-year grant to TFDP in the amount of \$125,000.