

**U.S. PROGRAMS
Criminal Justice Fund
Summary of Recommended Grants
June 2011**

Program Area/Organization					
Organization	Grant Code	Recommended	Term	2011	2012
Reducing Mass Incarceration					
Council of State Governments (CSG)	T1: 24015	500,000	2 years	250,000	250,000
Vera Institute of Justice, Inc.	T1: 24015	500,000	2 years	250,000	250,000
Ella Baker Center for Human Rights in California	T1: 24015	300,000	2 years	150,000	150,000
Eliminating Harsh Punishment					
The Osborne Association, Inc.	T1: 24016	200,000	2 years	100,000	100,000
Texas Defender Service	T1: 24016	950,000	2 years	475,000	475,000
Tides Foundation	T1: 24016	200,000	1 year	200,000	
Juvenile Law Center	T1: 24016	450,000	2 years	225,000	225,000
National Juvenile Justice Network (Coalition for Juvenile Justice)	T1: 24016	100,000	1 year	100,000	
Youth United for Change ¹	T1: 24016 T1:24452 T1:21120	50,000 25,000 40,000	1 year	50,000 25,000 40,000	
Securing an Equitable System of Justice and Eliminating Racial Disparities					
Texas Fair Defense Project	T1: 24017	125,000	2 years	65,000	60,000
New York State Defenders Association	T1: 24017	\$300,000	2 years	200,000	100,000
Foundation for Criminal Justice ²	T1: 24017 T1:21130	\$225,000 \$200,000	2 years 2 years	112,500 100,000	112,500 100,000
National Juvenile Defender Center	T1: 24017	\$600,000	2 years	300,000	300,000
The Defender Initiative (Seattle University)	T1: 24017	\$75,000	1 year	\$75,000	
Total Recommended:		\$ 4,840,000		\$ 2,717,500	\$ 2,122,500
GRANTMAKING TOTAL THIS DOCKET:		\$ 4,840,000			


Approval Signature


Date

¹ This grant of \$115,000 to Youth United for Change is co-funded by Criminal Justice Fund, T1: 24016 (\$50,000), Equality and Opportunity Fund, T1: 24452 (\$25,000), and the Campaign for Black Male Achievement, T1: 21120 (\$40,000).

² This grant of \$425,000 to Foundation for Criminal Justice is co-funded by Criminal Justice Fund, T1: 24017 (\$112,500 in 2011, \$112,500 in 2012), and National Security and Human Rights Fund, T1: 21130 (\$100,000 in 2011, \$100,000 in 2012).

Criminal Justice Fund

Memo

To: Aryeh Neier

From: Diana Morris, Leonard Noisette and Criminal Justice Fund Staff

Date: 20 June 2011

Re: Criminal Justice Fund Docket II Grant Recommendations

The Criminal Justice Fund recommends fourteen grants for U.S. Programs' Docket II, scheduled for June 27, 2011, totaling \$4,840,000.¹ These grants, which include twelve renewals, represent continued support for work across our three core goals of Reducing Mass Incarceration, Eliminating Harsh Punishment, and Eliminating Racial Disparities and Securing a Fair System of Justice.

We recommend three grants that advance the Criminal Justice Fund's interest in reducing mass incarceration. The grant to **Council of State Governments** will support its work at the state level to help criminal justice administrators and policy makers identify changes in practice that will reduce incarceration and free resources for community reinvestment. Support for the **Vera Institute of Justice** will allow it to work in targeted jurisdictions to support multi-agency government collaboration to reduce unnecessary incarceration by enhancing the fair administration of justice and the cost-effectiveness of local justice systems. The proposed grant to **Ella Baker Center** will allow it to continue to engage local community members in promoting alternatives to incarceration and community safety through its solution based approaches to dealing with community violence and promoting safe and healthy neighborhoods.

Six of our proposed grants support multiple priorities related to our goal of eliminating harsh punishment. A grant to the **Osborne Association** will advance our interest in removing barriers to and expanding opportunities for the civic participation of people with criminal records, by strengthening contact and relationships between incarcerated parents and their children. Two grants, to **Texas Defender Service** and the **Death Penalty Mobilization State Strategies Fund/Tides Foundation**, further the goals of the national Campaign to Abolish the Death Penalty by 2025 by supporting strategic litigation aimed at reducing death sentences and executions and by helping to improve the infrastructure of state-based organizations targeting death penalty repeal efforts.²

Three grants advance CJF's interest in eliminating the criminalization of children, especially children of color and poor youth. Renewed general support to the **Juvenile Law Center** advances our goal of supporting statewide reform opportunities through policy advocacy and strategic litigation. First time

¹ Of this total, \$4,575,000 would come from CJF funds, with one grant co-funded with \$40,000 from the Equality and Opportunity Fund and \$25,000 from the Campaign for Black Male Achievement, and a second grant co-funded with \$200,000 from the National Security and Human Rights Campaign.

And Opportunity Fund and \$25,000 from the Campaign for Black Male Achievement, and a second grant co-funded with \$200,000 from the national Security and Human Rights Campaign.

² .We also recommend an additional grant to **Rockwood Leadership Institute**, for \$120,000 in project support over one year ,to provide comprehensive leadership development training opportunities to advocates working to abolish the death penalty in United States. This recommendation is consolidated with a proposed renewal of general support funding from the Democracy and Power Fund, and is included in its docket.

project support funding to the **Coalition for Juvenile Justice/National Juvenile Justice Network** advances CJF's interest in strengthening the capacity of advocates to seize opportunities for reform presented by their state's fiscal crisis. Also, first time project support to **Youth United for Change**, in partnership with EOF, supports CJF's goal of dismantling the school-to-prison pipeline by challenging educational policies and practices that decrease educational opportunities for children and increase their involvement in the justice system

Five grants support our goal of eliminating racial disparities and securing a fair system of justice. General support grants, to **Texas Fair Defense Project**, **New York State Defenders Association**, the **Foundation for Criminal Justice/National Association of Criminal Defense Lawyers** and the **National Juvenile Defender Center**, support activities designed to enforce the constitutional right to counsel on a statewide or national level through systemic litigation, policy advocacy, and the training and resourcing of the defender community. One tie-off project grant to **Seattle University/The Defender Initiative** supports activities that promote the implementation of the right to counsel through individual court advocacy and writings designed to raise public awareness of the crisis in indigent defense and the need for greater use of alternatives to incarceration.

These grants also reflect CJF's continued support of a range of strategies to promote reform. We are pleased with our mix of support for grantees working nationally (Vera, Council of State Governments, Juvenile Law Center, Foundation for Criminal Justice, National Juvenile Defender Center) and others working primarily at the state or local level (Ella Baker Center, Osborne Association, Youth United for Change, Texas Defender Service, Texas Fair Defense Project, New York State Defenders Association). Both national and state-based grantees are engaged in activities that seek to take advantage of opportunities for reform presented by the current fiscal crisis.

The proposed grants also contain support for both technical assistance and evidenced based research and policy (Council for State Governments, Vera), and grassroots advocacy (Ella Baker Center, Youth United for Change, Osborne, Death Penalty State Mobilization Fund) We continue to support litigation to advance systemic reform (Texas, Defender Service, Texas Fair Defense Project, Juvenile Law Center) as well as direct services that inform policy change efforts (Osborne, Juvenile law Center, Texas Defender Service).

Finally, our two new recommended grants reflect our desire to make strategic, time-sensitive investments. Project support funding to the Coalition for Juvenile Justice /NJN will better prepare advocates to take advantage of the fiscal crisis in the states to push for reform of juvenile justice systems. Support for Youth United for Change is an opportunity to help the group build its capacity to challenge excessive disciplinary practices, particularly the presence and role of police in schools, at a critical time in the development of the advocacy campaign in Philadelphia, a city CJF is watching related to its developing police accountability work.

REDUCING MASS INCARCERATION

Council of State Governments (CSG), TBD \$500,000 project grant renewal over two years to continue coordinating the Justice Reinvestment Initiative, which works to strengthen public safety by reducing spending on corrections and expanding investments in improving conditions in high incarceration neighborhoods for people returning from prison. Renewed OSF funding would enable CSG to continue providing non-partisan research, technical assistance, and education to policymakers and advocacy organizations to support the development of strategies, policies, and programs that enable states to reduce prison, parole, and probation populations and reinvest saved corrections resources (human and financial) to support and enhance successful reentry through strengthened community infrastructure and institutions.

Vera Institute of Justice (Vera), \$500,000 project grant renewal to conduct research and demonstration projects, provide technical assistance to local government and community leaders, and use cost-benefit analysis to improve criminal and juvenile justice policymaking and planning. OSF funding would support the efforts of Vera's: Center on Sentencing and Corrections, which advances criminal justice policies that promote fairness, protect public safety, and ensure the efficient use of public resources; Center for Youth Justice, which reduces bias in juvenile justice systems, expands the use of community-based services, and diverts young people who will be better served by other agencies; and its Cost Benefit Analysis Program, which helps policymakers and practitioners identify cost-effective criminal and juvenile justice interventions by providing them information about the costs and benefits of program and policy options.

Ella Baker Center for Human Rights (EBC), \$300,000 general support grant renewal over two years. EBC is an Oakland-based public charity whose mission is to promote a human investment agenda that offers positive alternatives to violence and incarceration and builds "people power" in communities most directly affected by mass incarceration and harsh punishment. The organization's projects include: *Books Not Bars*, which develops alternatives to youth incarceration and promotes closing youth prisons in California; the *Green Collar Jobs Campaign*, which creates job opportunities for low income communities and communities of color by engaging diverse stakeholders to launch training programs, align green employers, and advocate for public policies that promote clean energy, green business, and green jobs training; and the *California Partnership*, through which it works in coalition with the other advocacy groups to reduce the number of people incarcerated in California's prison system.

ELIMINATING HARSH PUNISHMENT

Challenging Barriers to and Promoting Opportunities for Reentry

Osborne Association (Osborne), \$200,000 project support grant renewal over two years to support the *Children of Incarcerated Parents Initiative*, a collaborative system reform and advocacy effort that brings together public and private agencies and individuals concerned about how the arrest and incarceration of parents affect children. OSF funding would enable Osborne to continue examining criminal justice, child welfare, education, and other policies and recommend changes that will improve outcomes for children at each stage of the criminal justice continuum, from parental arrest through incarceration and reentry.

Death Penalty Abolition

Texas Defender Service (TDS), \$950,000 general support renewal over two years 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 intervention in cases with imminent execution dates and viable legal issues that have not been properly litigated. TDS will also continue to educate and equip lawyers to better handle a variety of legal challenges through case consultations and trainings. In recent years, this type of strategic litigation support has resulted in a dramatic reduction in death sentencing in Texas.

Tides Foundation (Tides) - \$200,000 project support renewal over one year to support its Death Penalty Mobilization State Strategies Fund, which re-grants pooled donor funds to grassroots organizations that are leading state campaigns to abolish the death penalty. Contributing to the Fund allows Open Society Foundations to leverage its resources with those of other donors in supporting emerging state-based organizations that are often overlooked by the national foundation world but are critical to the success of the fight to end capital punishment.

Addressing the Harsh Punishment of Children

Juvenile Law Center (JLC), \$450,000 renewed general support grant over two years. JLC is a Pennsylvania based public interest law firm and advocacy organization that has had a major impact on policy and practice affecting children in the foster care, juvenile, and criminal justice systems across the country. JLC uses the law to ensure that justice and other public systems provide vulnerable children with the protection and services necessary to help them become healthy and productive adults. Through strategic litigation and public policy advocacy JLC seeks to reduce the number of youth transferred to adult court, reform sentencing policies for youth tried as adults, end the overreliance on incarceration, improve conditions of confinement, promote opportunities for successful reentry, advance civic engagement, and ensure the fair and equitable treatment of children.

Coalition for Juvenile Justice (National Juvenile Justice Network), \$100,000 project support grant over one year to support the development of its Fiscal Policy Center. The Fiscal Policy Center will provide state and national juvenile justice reformers with crucial knowledge and tools around state budgets, and corresponding messaging and communications strategies so they can better understand their state's fiscal architectures, maintain existing reforms, and leverage fiscal constraints into progressive programming. Through general training on state budget structures, in-depth state-specific graphic communications materials, communications training, and technical assistance, the Network will arm those seeking the improved treatment of youth in conflict with the law with concrete tools for change in an era of fiscal deficits.

Youth United for Change (YUC), \$75,000 project support grant over one year (co-funded with EOF - \$25,000). YUC is made up of youth of color and youth from working class communities and is openly and visibly welcoming of LGBTQ and undocumented immigrant youth. YUC empowers youth to act on their own behalf to promote educational equity and hold school officials and government accountable to meet their educational needs in the Philadelphia school district. The organization's work is carried out through six youth-led chapters: four are centered in specific Philadelphia high schools and two are cross-community chapters, a Push-out chapter that is organizing out-of-school and alternative school youth and a citywide chapter organizing youth throughout Philadelphia. This grant will support the work of the two cross-community chapters currently challenging the unacceptable levels of school-based arrests, suspensions, expulsions, and numerous policies and practices that 'push out' students and send too many youth into the justice system.

ELIMINATING RACIAL DISPARITIES AND SECURING A FAIR AND EQUITABLE JUSTICE SYSTEM

Indigent Defense Reform

Texas Fair Defense Project (TFDP) - \$125,000 general support grant renewal over two years. TFDP is a nonprofit law firm based in Austin, Texas promoting fairness and accuracy of the justice system in the state. Its mission is to defend the rights of indigent criminal defendants through strategic litigation, public education, and advocacy initiatives. TFDP is the only state based organization with experience litigating systemic indigent defense issues in Texas and before the U.S. Supreme Court, as evidenced by its successful litigation in *Rothgery v. Gillespie County* in which the Court declared that the constitutional right to counsel attaches at a defendant's initial post-arrest appearance before a magistrate. This grant will support TFDP's ongoing efforts to ensure that all poor people charged with criminal offenses have the assistance of competent counsel.

New York State Defender Association (NYSDA) - \$300,000 general support grant renewal over two years. NYSDA is the largest criminal defense bar association in New York. Since 1967 it has been

committed to improving the quality and scope of indigent defense services through training and education of attorneys representing the poor, technical assistance to the defender community and its allies, including government entities and policy makers, public policy advocacy, and strategic litigation. In 2010, for example, NYSDA played a critical role in the creation of the NYS Indigent Legal Services Board and the Office of Indigent Legal Services tasked with monitoring, studying, and improving the quality of indigent defense services in New York State. NYSDA also filed an amicus brief in the Court of Appeals concerning the importance of allowing the NYCLU lawsuit challenging deficiencies in New York's public defense system. This grant supports NYSDA's ongoing commitment to improving the delivery of public defense services to all poor people charged with crimes in New York State.

The Foundation for Criminal Justice/National Association of Criminal Defense Lawyers (FCJ/NACDL) - \$425,000 general support grant renewal over two years (\$225,000 CJP, co-funded with NSHR, \$200,000). FCJ and NACDL are the preeminent organizations in the U.S. advancing the mission of the nation's criminal defense bar to ensure justice and due process for persons accused of crimes, to foster the integrity and independence of the criminal defense profession, and to promote the proper and fair administration of justice. Together, FCJ and NACDL have developed numerous reform projects designed to improve the criminal justice systems as well as protect fundamental constitutional rights threatened by the government's "war on terrorism." FCJ and NACDL advance its mission through a variety of strategies, including strategic litigation, training and resourcing of the defender community, and initiating key projects designed to improve our systems of justice.

National Juvenile Defender Center (NJDC) - \$600,000 renewed general support grant over two years. NJDC is a core grantee of the Criminal Justice Fund and the linchpin in efforts to develop a viable juvenile indigent defense infrastructure on a national and state level. This grant will allow NJDC to advance an array of practice and policy initiatives designed to reform the juvenile indigent defense systems in the United States. Through capacity building, leadership development, training and technical assistance, policy, communications, and resource development, NJDC will advance its goal of ensuring that all children have access to competent counsel throughout the duration of the juvenile or criminal court process.

Seattle University/The Defender Initiative - \$75,000 tie off, renewal project grant over one year to support the Misdemeanor Right to Counsel Project. This project seeks to persuade individual courts in the states of Washington, Kentucky, and New Hampshire to provide counsel to indigent persons charged with misdemeanor offenses at their arraignment or first appearance hearings. Also, through research and writings, this project seeks to raise public awareness of the benefits of implementing diversion programs and reclassification of low level misdemeanor offenses as strategies for addressing the excessive caseloads carried by public defenders, which hampers the meaningful application of the right to counsel. While an important project, we are proposing a tie-off grant because the project has limited capacity to impact reform broadly and is not consistent with our desire to support more robust local efforts to foster systemic reform.

Grant ID: #20031469

Legal Name of Organization: Council of State Governments

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

Purpose of Grant: To continue support for the Justice Center’s Justice Reinvestment Initiative, a data-driven process to strengthen public safety by reducing prison populations and redirecting correctional dollars toward community-based strategies that increase public safety and strengthen neighborhoods affected by high incarceration rates

Grant Description: To provide \$500,000 project grant renewal over two years to continue support for its Justice Reinvestment Initiative, a data-driven process to strengthen public safety by reducing prison populations and redirecting correctional dollars toward effective, community-based strategies that increase public safety and strengthen neighborhoods affected by high incarceration rates. OSF renewal funding would enable CSG to continue to: provide non-partisan research, technical assistance, and education to keep federal officials informed about the effectiveness of the Justice Reinvestment approach; educate key constituencies in Justice Reinvestment Initiative states and nationally to garner support; and design and execute proactive and reactive media strategies to educate the public and policymakers about Justice Reinvestment. This grant advances the Criminal Justice Fund’s interest in reducing mass incarceration.

Previous OSF Support: \$4,010,160
(\$1,050,000 Seize the Day Fund, JEHT Emergency Fund, and Criminal Justice Fund-2009; \$700,000 U.S. Justice Fund-2007; \$1,000,000 U.S. Justice Fund-2004; \$100,000 U.S. Justice Fund-2004; \$250,000 Criminal Justice Initiative-2003; \$320,000 Criminal Justice Initiative-2002; \$89,500 Criminal Justice Initiative-2002; \$98,000 Criminal Justice Initiative-2001; \$95,000 Center on Crime, Communities & Culture-2001; \$101,000 Center on Crime, Communities & Culture-2000; \$51,260 Center on Crime, Communities & Culture-2000; \$110,000 Center on Crime, Communities & Culture-1999; \$12,100 Center on Crime, Communities & Culture-1998; \$33,300 Center on Crime, Communities & Culture-1997)

Organizational Budget: \$9,795,049

Project Budget: \$7,913,911

Sources of Support: \$3,285,521 Pew Charitable Trusts; \$3,994,714 Bureau of Justice Assistance; \$75,631 The State of Ohio; \$58,044 The State of North Carolina

Amount Requested: \$500,000

Contingent Grant: No

Amount Recommended: \$500,000 (Criminal Justice Fund, T1: 24015)

Term: 2 years

Matching Requirements: None

Description of Organization:

Founded in 1933, the Council of State Governments (CSG) is a nonpartisan, non-profit organization that provides state legislators and other policymakers the information necessary for developing and implementing effective public policies and government programs. Through committees and task forces supported by its staff of policy and research specialists, CSG evaluates and makes recommendations on promising approaches to public policy. In 1995, CSG's Eastern Regional Conference (CSG-ERC) established a Criminal Justice Board of Directors to meet regularly to discuss issues in a de-politicized arena and to oversee its criminal justice programming. Over eleven years, CSG/ERC's criminal justice program evolved from its original regional focus to a respected, nonpartisan research, analysis and technical assistance resource for policymakers in states across the country.

In December 2006, CSG's Governing Board voted to transform the ERC's criminal justice program into the Justice Center, a semi-autonomous program of CSG. Today, CSG's Justice Center provides policymakers at the local, state, and federal levels from all branches of government with recommendations for system improvement, informed by available evidence, to increase public safety and strengthen communities. The Justice Center promotes effective data-driven policies and practices—particularly in areas in which the criminal justice system intersects with other disciplines, such as public health—to provide solutions to public safety and cross-systems issues. It's Justice Reinvestment Initiative—a data-driven approach to reduce corrections spending and reinvest savings in strategies that can decrease crime and strengthen neighborhoods—builds on the organization's solid foundation of work to improve the way the justice system responds to justice-involved people with mental illnesses, crime survivors, and people returning home from prison.

OSF has funded CSG's criminal justice work since 1997. In 2002, OSF provided seed funding to CSG to develop the Justice Reinvestment initiative and identify and marshal support for the strategy among key policymakers and stakeholders. In 2009, OSF awarded CSG's Justice Center Seize the Day funding to inform the criminal justice policy reform agenda of the U.S. Congress and Administration and to continue support for the Justice Reinvestment Initiative. OSF also provided JEHT Emergency funding to continue CSG's effort to analyze the impact of school discipline policies on the juvenile and criminal justice systems in Texas.

Description of the Project for Which Funding Is Sought:

The Council of State Governments' Justice Center requests renewed project funding continue support for the Justice Center's Justice Reinvestment Initiative, a data-driven process to strengthen public safety by reducing prison populations and redirecting correctional dollars toward community-based strategies that increase public safety and strengthen neighborhoods affected by high incarceration rates. Specifically, OSF funding will enable CSG to engage in the following:

Keep federal officials informed about the Justice Reinvestment approach. To maintain knowledge about and support for federal-level Justice Reinvestment policies that incentivize states to downsize prison, parole, and probation populations and reinvest savings in the health and safety of neighborhoods affected

by high incarceration rates, CSG will continue to provide non-partisan research and analysis, education, advocacy, and technical assistance to Obama Administration officials and to Congress. CSG will educate and provide technical assistance by preparing brief updates and status reports for members of Congress whose states are pursuing Justice Reinvestment approaches, by developing and assisting Congress members and staff in using key messages and talking points, and by facilitating the participation and engagement of members of Congress in key Justice Reinvestment events. CSG will coordinate national and regional advocacy groups working on related criminal justice and corrections reform issues to help federal officials understand the interdependence of various federal initiatives and their nexus with Justice Reinvestment projects that are priorities for distinct members of Congress. CSG will also ensure that its Justice Reinvestment web site and other informational resources demonstrate current, broad-based support among a politically diverse spectrum of federal officials for justice reinvestment.

Garner support for Justice Reinvestment by key local, state, and national constituencies. To safeguard past policy reform successes and advance reforms and implementation efforts currently underway, CSG will expand its efforts in Justice Reinvestment states³ to educate key constituencies, whose support is critical for the effective implementation of Justice Reinvestment. CSG will design and implement communications and education strategies for engaging key constituencies such as prosecutors, police, and crime survivors; conduct presentations at national meetings of associations representing them; and create networks among staff supporting these national and state-based associations. CSG will also prepare fact sheets and other informational materials that are tailored to the needs of key constituencies and provide case studies and other information that address common questions and concerns on the Justice Center's web site.

Design and execute proactive and reactive media strategies. To provide timely and thorough communications to advance Justice Reinvestment as a safe and effective strategy for cutting corrections costs and strengthening public safety, CSG will develop and implement proactive and reactive media strategies. CSG will update "crisis" plans, which describe responses to high profile incidents or other sudden, intense, negative media attention; prepare media-friendly updates summarizing key findings and trends in Justice Reinvestment states; and develop and maintain a multi-media website to demonstrate current, broad-based support among a politically diverse spectrum of federal officials for Justice Reinvestment. It will also continue to cultivate a network of print, radio, television, and new media reporters interested in Justice Reinvestment, visit with editorial board writers and columnists who help shape opinion on criminal justice issues, and provide timely and thorough responses to inquiries from national and local media.

Rationale for Recommendation:

This grant would advance the Criminal Justice Fund's interest in reducing mass incarceration by exposing the social and economic costs of incarceration and fostering multi-agency government collaboration and accountability for public safety.

Since 2004, when OSF first seeded the Justice Reinvestment Initiative at the Council of State Governments with a pilot in Connecticut, state leaders concerned about expanding corrections costs and frustrated by high recidivism rates have turned to the CSG's Justice Center for technical assistance to reduce spending on corrections and redirect savings toward effective, community-based strategies that increase public safety. A diverse group of national funders, including the Pew Charitable Trusts, the Public Welfare Foundation, and the US Department of Justice—using dollars appropriated by Congress

³ The Council of State Governments Justice Center has operated Justice Reinvestment Initiatives in 17 states, including: Ohio, Indiana, Oklahoma, Virginia, Pennsylvania, Hawaii, Connecticut, New Hampshire, Vermont, Rhode Island, Kansas, Texas, Arizona, Nevada, Wisconsin, and Michigan.

expressly for Justice Reinvestment—have joined OSF in funding CSG’s technical assistance in 17 states. Justice Reinvestment strategies in these states have garnered bipartisan support among policymakers and have resulted in the cancellation of prison construction plans or the closure of existing facilities, generating savings totaling over one billion dollars. For example, Texas used CSG Justice Center analyses to halt the appropriation of nearly \$500 million to build new prisons and reinvested nearly \$250 million of associated savings in community-based treatment. Since enacting those policies, Texas’s prison population has not grown (as was originally forecasted) but, instead, declined, and crime fell in major urban areas. These results and the impact of the CSG Justice Center’s efforts in other locations have received widespread attention, including a lengthy editorial in *The New York Times* highlighting the CSG Justice Center’s work in this area.⁴ Whereas the Justice Reinvestment concept was relatively unknown just five years ago, many local, state, and federal leaders, along with community-based advocates, now point to the strategy as one that their jurisdiction must seriously consider.

Despite this success, current economic and political realities have begun to threaten the concept, related strategies, and implementation. As budget pressures intensify in states, policymakers are focusing increasingly on cutting costs, making it less likely that they will re-allocate savings to community-based programs. Accordingly, as state officials are releasing more people from prison, they are resisting making the investments in community-based supports and services necessary for ensuring successful reentry. Compounding this problem are deep cuts being made to existing services. For example, in Ohio, policy changes under consideration would save the state more than \$80 million over a two year period, and the state is considering re-allocating only \$10 million of those savings for community reinvestments. While significant, especially in this budget climate, the reinvestment is insufficient to meet the needs of community-based organizations that will receive increased numbers of people under correctional supervision, especially at a time when the state is making deep cuts to services.

With elections around the corner, prospective candidates are exploring incumbents’ vulnerabilities. Although policies enacted using a Justice Reinvestment approach have enjoyed bipartisan support across a broad spectrum of stakeholders, people not currently in office often feel little sense of investment in these policy solutions. They can be quickly, albeit inaccurately, demonized as soft on crime. In this context, policymakers tracking how their counterparts in other states weather the fall-out of such accusations can become uneasy about a policy approach that could generate needless political liabilities. This grant would help CSG’s Justice Center maintain the positive momentum for downsizing prison populations that Justice Reinvestment strategies have helped bring about and to inoculate ongoing reform efforts by broadening the support of law enforcement and those directly impacted by crime and by creating political cover for policymakers who have enacted or are considering related reform measures.

Because of its Republican and Democratic membership, trusted expertise and leadership, and data-driven, consensus-building approach to reform, the Council of State Governments’ Justice Center is uniquely positioned to educate the general public, law enforcement, crime survivors, Congress, and the Obama Administration about the safety and effectiveness of Justice Reinvestment. CSG has established a strong track record as a policy innovator that can also help practitioners in often politically charged environments. By leveraging its neutral expertise, CSG manages to build consensus for progressive criminal justice reform among unlikely constituencies. The pragmatism of CSG’s criminal justice reforms has attracted widespread interest across the country, the Administration, and federal agency officials and their staff. Its concrete and innovative strategies to fund and operationalize progressive innovations—such as reallocating resources from prisons to affordable housing, living wage work, education, and health care—are beginning to leverage other public and private funding streams. CSG is a leader not only in Justice Reinvestment but also in advocating for community-based treatment and decriminalization of the mentally ill, championing the *Second Chance Act* and, more recently, calling

⁴ “Shrinking the Prison Population.” Editorial. *The New York Times* 2009, New York ed.: A22. Print.

attention to children of incarcerated parents and the connection between school disciplinary policies and juvenile justice populations in Texas.

For these reasons, we recommend continued project funding for the Council of State Governments in the amount of \$500,000 over two years. Because it is our interest to commit multi-year project support funding to the organization, in accordance with our available 2011 grantmaking budget, a contingency grant is not appropriate.

Grant ID: #20031410

Legal Name of Organization: Vera Institute of Justice, Inc.

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

Purpose of Grant: To conduct research, provide technical assistance, and direct demonstration projects to help local government and community leaders create juvenile and criminal justice systems that are more just, humane, and effective at safeguarding public safety

Grant Description: To provide \$500,000 project grant over two years to conduct research, provide technical assistance, and direct demonstration projects to help local government and community leaders create juvenile and criminal justice systems that are more just, humane, and effective at safeguarding public safety. OSF funding would support projects to reform court, jail and other criminal justice policies and practices in New Orleans, Louisiana and, in other local sites, promote the expansion of community-based, family-focused services to divert young people from detention settings. This grant advances the Criminal Justice Fund's interest in reducing mass incarceration.

Previous OSF Support: \$5,495,903
(\$200,000 Criminal Justice Fund/JEHT Emergency Fund-2010; \$108,379 Neighborhood Stabilization Initiative-2009; \$350,000 Criminal Justice Fund/JEHT Emergency Fund-2009; \$400,000 U.S. Justice Fund-2008; \$100,000 U.S. Justice Fund-2007; \$400,000 U.S. Justice Fund-2006; \$350,000 U.S. Justice Fund-2005; \$42,500 U.S. Justice Fund-2004; \$110,755 African Initiatives-2002; \$200,000 President's Grants-2006; \$300,000 President's Grants-2005; \$121,745 President's Grants-2005; \$273,800 President's Grants-2004; \$200,000 President's Grants-2004; \$200,000 President's Grants-2003; \$10,000 Resident Scholars Grants-2004; \$25,000 Strategic Opportunities Fund-2004; \$100,000 International Police & Prison Reform-2003; \$85,000 President's Grants-2000; \$75,000 Center on Crime, Communities & Culture-2000; \$48,769 Program on Law & Society-2000; \$151,000 Center on Crime, Communities & Culture-1999; \$1,588,000 National Foundation Law-1999; \$30,755 President's Grants-1999; \$24,000 Program on Law & Society-1999; \$1,200 President's Grants-1997)

Organizational Budget: \$28,040,393

Project Budget: \$9,414,081

Sources of Support: \$1,506,575 Robert W. Wilson Charitable Trust; \$774,620 New York State Office of Children & Family Services; \$475,725 New York State Division of Criminal Justice Services; \$327,689 MacArthur Foundation; \$281,634 Pew Charitable Trust; \$2,334,475 Bureau of Justice

Assistance; \$208,170 National Council on Crime & Delinquency; \$90,000 Center on Effective Public Policy; \$50,000 The David Rockefeller Fund; \$40,000 Prospect Hills; \$34,897 Annie E. Casey Foundation; \$26,047 Mentoring Today; \$24, 014 Tides Foundation;

Amount Requested: \$500,000

Contingent Grant?: No

Amount Recommended: \$500,000 (Criminal Justice Fund, T1: 24015)

Term: 2 years

Matching Requirements: None

Description of Organization:

In 1961, Louis Schweitzer and Herb Sturz founded the Vera Foundation to repair New York City's unjust bail system, which granted liberty based on income. Working closely with the City's criminal justice leaders, Vera explored the issue, developed and rigorously tested a solution, and demonstrated that the City could safely allow pre-trial release for those too poor to afford bail but with strong, verified ties to their communities. Today, with offices in New York City, Washington, DC, and New Orleans, Louisiana, the Vera Institute of Justice (Vera) provides practical advice and assistance to government officials in the U.S. and around the world. Vera effectively combines reliable research and analysis, technical assistance to local and state governments, and innovative demonstration projects to inform policy debate and achieve meaningful justice system reforms. It operates more than two dozen justice-related projects, including efforts to serve troubled youth at home instead of in juvenile institutions, reduce violence against women, help state leaders develop affordable and humane sentencing policies, and strengthen police-community relations.

Vera has been an Open Society Foundations (OSF) grantee since 1997. In 2010, OSF provided support to Vera to work with local government and community leaders in New Orleans, Louisiana to: develop and implement a pretrial release system; expand expedited screening; and transform the New Orleans Municipal Court.

Description of the Project for Which Funding Is Sought:

The Vera Institute of Justice requests renewal project funding to conduct research, provide technical assistance, and direct demonstration projects to help local government and community leaders in New Orleans and other local sites create juvenile and criminal justice systems that are more just, humane, and effective at safeguarding public safety. Specifically, OSF funding will enable Vera to:

Reform criminal justice system policy and practice in New Orleans, Louisiana. Vera's Center on Sentencing and Corrections will continue supporting local stakeholders in criminal justice reform efforts in New Orleans. It will continue to convene the Pretrial Services Working Group to build local consensus about the importance of using pretrial release to reduce the city's large jail population. It will also develop, implement, and evaluate a pilot program aimed at increasing the use of release on recognizance and basing pretrial release and detention decisions on risk of flight and risk to public safety rather than on wealth. To reduce custodial arrests, fines, and incarceration for municipal offenses, Vera will continue to convene the Municipal Court Working Group to reclassify non-violent municipal offenses as civil infractions, taking incarceration off the table as an option. Working with the New Orleans Police

Department and a local service provider, it will help to create a sobering center as a public health-based alternative to the current criminal justice approach to public intoxication. And, it will help to create a funding mechanism for the Municipal Court that does not rely on fines and fees paid by people who are convicted. Vera will also continue to play an important role in providing information and advice to the City Council, the Mayor's Office, and community organizations about the size of proposed new jail and, in response to the Mayor's request, provide technical assistance in creating a template for a jail budget that can account for both fixed and changeable/marginal costs over time.

Divert young people from detention settings. Vera, through its Center on Youth Justice, will expand its on the ground technical assistance efforts nationally to reduce the use of detention and imprisonment of young people. It will also develop a communications strategy for disseminating best practices across the country. To support reform of juvenile justice responses to young people engaging in status offenses (non-criminal behaviors that often lead to juvenile justice system contact—such as running away, truancy, or simply acting out beyond the control of parents or guardians), Vera will provide research, analysis, and technical assistance to help three local jurisdictions design and implement immediate, family-focused and cost-effective alternatives to court intervention. Vera will also research the role of truancy and school disciplinary policies in responses to status offenses and will create a web-based *Status Offender Reform Resource Center* to showcase innovative strategies and best practices for working with children and their families to address status offense behaviors. Vera will also help jurisdictions across the country use alternatives to detention and placement and address poor conditions in detention facilities.

Rationale for Recommendation:

This grant would advance the Criminal Justice Fund's interest in reducing mass incarceration by exposing the social and economic costs of incarceration, promoting policies and practices that reduce the reliance on jails and prisons, and fostering cross-sector and multi-agency government collaboration and accountability. This grant would also advance our interest in eliminating harsh punishment by challenging the treatment of children as adults in prosecution and sentencing.

Over the past 50 years, Vera has earned a strong reputation among policymakers, practitioners, and local, state, and federal government officials as one on of the most trusted sources of information about innovative and effective programs, policies and practices for ensuring justice and public safety. As a national research and technical assistance organization, it has a broad view of best and emerging practices that inform policy discussion and decision-making at the local and state level as well as help shape national policies and practices.

Although Louisiana is a state notorious for its intransigence with respect to criminal justice reform, Vera's on-the-ground presence and involvement in New Orleans since 2006 has been effective. In 2007, Vera directed a planning retreat involving all relevant criminal justice stakeholders that led to the formation of the Criminal Justice Leadership Alliance and working groups committed to addressing the major areas of reform Vera identified for the city. With Vera's ongoing support and direction, these work groups continue to function and have made some modest progress. For example, its Expedited Screening and Disposition Work Group developed and implemented changes to police and prosecutor policies and practices that have reduced long stays in detention before charge filing and disposition for people with low-level arrest charges. The time between arrest and the filing of a screening decision has been reduced from an average of 61 days to 6 days and the time of arrest to arraignment for those who remain detained from 64 days to 10.5 days.

Given the trust and credibility it has built with community leaders, criminal justice agency leaders and practitioners, the City Council, and the Mayor and the potential of its ongoing initiatives to demonstrate that New Orleans' criminal justice system can safeguard justice and strengthen public safety while using

resources more efficiently, we are optimistic that Vera's continued presence in New Orleans will continue to advance needed reform there.

Similarly, Vera's Center on Youth Justice is well-situated for advancing reforms that move juvenile justice systems away from a reliance on detention and toward interventions that support young people and families in the community. For the past ten years, Vera's research and technical assistance has helped government officials in 33 jurisdictions (across New York State, Massachusetts, New Mexico, Louisiana, Washington State, and the District of Columbia) to design and implement immediate, family-focused, and cost-effective alternatives to court intervention for young people engaging in non-criminal behaviors. For example, with assistance from Vera, officials in Orange County, New York, revamped their status offender system to divert young people and families from court and connect them immediately (within 48 hours) to in-home crisis management and case management. Of the 2,180 families who received this support in the first five years of the reform, 98 percent of the children avoided an out-of-home placement.

Since 2005, Vera's research and strategic planning assistance have helped local officials in New York state limit the use of detention, decrease local and state expenditures, and ensure more sound outcomes for young people and their families in the community. With support from Vera, officials in Onondaga (Syracuse), Erie (Buffalo), Albany, Monroe and Nassau Counties, and New York City, have researched their current systems and have developed and implemented a detailed reform agenda. While each jurisdiction has identified strategies specifically tailored to local needs, Vera has ensured that the common thread across reform efforts is the use of juvenile detention risk assessment instruments to guide objective and fair detention decisions and the design of effective community-based alternatives. Many of the New York counties that have launched detention reform efforts have seen promising outcomes. Between 2004 and 2010, Onondaga County witnessed a 75-percent decline in its use of secure detention for juvenile delinquents (from 369 to 93 admissions), yielding a savings of \$1.7 million. New York City has seen the proportion of cases detained at the time of arraignment drop from 32 percent to 22 percent; the city has simultaneously seen the proportion of children who were re-arrested prior to disposition drop by 50 percent. OSF funding will enable Vera to expand this work to three additional jurisdictions outside of New York and promote lessons learned nationally.

For these reasons, the Criminal Justice Fund recommends continued project funding for Vera Institute of Justice in the amount of \$500,000 over two years. Because it is our interest to commit multi-year project support funding to the organization, in accordance with our available 2011 grantmaking budget, a contingency grant is not appropriate.

Grant ID: #20032588

Legal Name of Organization: Ella Baker Center for Human Rights in California

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

Purpose of Grant: To provide general support

Grant Description: To provide \$300,000 general support grant renewal over two years. Ella Baker Center for Human Rights in California is an Oakland-based public charity whose mission is to promote positive alternatives to violence and incarceration and build “people power” in communities most directly affected by mass incarceration and harsh punishment. The organization’s projects include: *Books Not Bars*, which develops alternatives to youth incarceration and promotes closing youth prisons in California; the *Green Collar Jobs Campaign*, which creates job opportunities for low income communities and communities of color by launching training programs, aligning green employers, and advocate for public policies that promote clean energy, green business, and green jobs training; *Soul of the City*, which promotes civic engagement and leadership development as models for ensuring public safety; and *Heal the Streets*, which combines youth leadership development and cultural engagement with a strong policy agenda to reduce violence. This grant would advance the Criminal Justice Fund’s interest in reducing mass incarceration by exposing its excessive and economically destructive costs, and its interest in eliminating harsh punishment by increasing access to employment for people with criminal records.

Previous OSF Support: \$1,881,800
(\$250,000 Criminal Justice Fund-2009; \$125,000 U.S. Justice Fund-2008; \$125,000 U.S. Justice Fund-2007; \$140,000 U.S. Justice Fund-2006; \$11,800 Strategic Opportunities Fund-2005; \$280,000 U.S. Justice Fund-2004; \$150,000 Criminal Justice Initiative-2003; \$175,000 Criminal Justice Initiative-2002; \$150,000 Criminal Justice Initiative-2001; \$25,000 Center on Crime, Communities & Culture-2000; \$300,000 Center on Crime, Communities & Culture-1998; \$150,000 Center on Crime, Communities & Culture-1998)

Organizational Budget: \$2,200,000

Sources of Support: \$465,000 California Endowment; \$225,000 Nathan Cummings Foundation; \$100,000 Richard and Rhoda Goldman Fund; \$50,000 Resources Legacy Fund; \$50,000 Public Welfare Foundation; \$50,000 Akonadi Foundation; \$40,000 Mitchell Kapor Foundation; \$40,000 Tides Foundation; \$40,000 Unitarian Universalists Veatch Program; \$35,000 Tides Foundation ECO Fund; \$35,000 Compton Foundation; \$25,000 van Loben Sels/Rembe Rock; \$20,000 San Francisco Foundation; \$20,000 Hull Family Foundation; \$20,000 Lia Fund; \$20,000 Marin Foundation; \$15,000 Fund for Nonviolence; \$15,000

Tides Foundation; \$10,000 See Forward Fund; \$6,147 East Bay Community Foundation; \$5,000 Edna Wardlaw Charitable Trust

Amount Requested: \$300,000

Contingent Grant?: No

Amount Recommended: \$300,000 (Criminal Justice Fund Grantmaking, T1: 24015)

Term: 2 years (July 1, 2011-June 30, 2013)

Matching Requirements: None

Description of Organization:

Based in Oakland, California, Ella Baker Center for Human Rights (EBC) was established in 1996 as an outgrowth of the Bay Area Police Watch, a hotline founded in 1995 for survivors of police brutality. Since its founding with one full-time staff person and a small office donated by the Lawyers Committee for Civil Rights, EBC has grown to be an award-winning center with a staff of more than 20 human rights and social justice advocates working to strengthen justice, opportunity, and peace. Through a combination of public education, media advocacy, grassroots organizing and direct action mobilizing, and policy reform advocacy, EBC promotes positive alternatives to violence and incarceration and aims to build “people power” in communities most harmed by prison and harsh punishment.

EBC operates four programs, including: *Books Not Bars*, the *Green-Collar Jobs Campaign*, *Soul of the City*, and *Heal the Streets*, and participates in the *California partnership*, a statewide coalition to reduce the number of people incarcerated in California’s prison system.

Books Not Bars. Created in 2004, *Books Not Bars* works to reform California’s abusive and costly youth prison system and to replace it with effective, community-based education and treatment alternatives. The project advocates for an end to prosecuting and sentencing young people as if they were adults, keeping young people out of California’s adult jails and prisons, and closing youth prisons. It advocates for a realigned juvenile justice system that is independent of the adult criminal justice system, composed of community-based learning centers staffed with qualified youth specialists, and informed by community involvement and oversight. *Books Not Bars* educates the public and policymakers through public rallies and events, such as documentary screenings, strategic media outreach and advocacy. It organizes and supports young people, law enforcement officials, judges, business leaders, and teachers calling for reform of policies and practices that lead to the costly and ineffective incarceration young people. EBC recently launched *Families for Books Not Bars*, the first statewide network for families of incarcerated youth, which provides trainings in advocacy and communication skills to enable parents to advocate for the rights of their incarcerated children.

Green-Collar Jobs Campaign. EBC launched the *Green-Collar Jobs Campaign* at the United Nations World Environmental Day Conference in 2005 to address the lack of meaningful employment and career opportunities in California. Its goal is to build a movement for a clean and green economy in California—especially for low-income communities and communities of color—advocating for the creation of “green-collar” jobs (high quality, career-track jobs in industries such as renewable energy, water and energy efficiency, green building, habitat restoration, sustainable agriculture). Through its involvement in statewide and local Bay Area coalitions, EBC has developed a network of social justice organizations, green businesses, labor organizations, education groups, community-based organizations, and environmental experts and advocates. With partners and allies, EBC strengthens the understanding of

the community on the opportunities that come with fighting climate change and supporting renewable energy. The *Green-Collar Jobs Campaign* also includes an employment pipeline called the Oakland Green Jobs Corps, which recruits and provides a range of services to low-income young adult participants, including: an introduction to the skilled trades; GED preparation; basic literacy, math, job readiness, and financial planning skills; and connections to social services and supports, such as driver's license acquisition, court intervention and record expungement,, and drug and alcohol counseling.

Soul of the City. Launched in January 2009, EBC's *Soul of the City* project seeks to transform Oakland by engaging and mobilizing community members through civic engagement, leadership development, and civic education, to become active decision-makers on issues related to the economy, environment, and public safety. Its "Reclaim the Future" community workshop targets young adults of color and uses multimedia tools to educate participants about how they can effect change in their communities. *Soul of the City* also develops community service projects that promote the health and well-being of Oakland, convenes residents to share information and resources, engages residents in public education and advocacy to support policies and programs that support healthy and sustainable neighborhoods, and works to create an educated, invested, and active voter base throughout the City of Oakland.

Heal the Streets. Launched in 2009 to train a new generation of social change leaders, *Heal the Streets* provides a ten-month fellowship to educate and mobilize Oakland youth (ages 15-18) to become community leaders and advocate for community-based violence prevention policies. The project supports partner organizations to host fellows to engage them in projects and campaigns that educate them about the issues and policy discussions that affect their lives and build their advocacy, research, and communication skills. The 2010 fellows identified teen joblessness as a cause for violence in the community, and the 2011 cohort of fellows is focusing its public education and advocacy efforts on racial profiling.

California Partnership. Since 2009, Ella Baker Center has been working closely in coalition with the American Civil Liberties Union of Northern California and the Drug Policy Alliance to reduce the number of people incarcerated in California's Prison System. Leveraging the state's severe budget crisis, EBC and its coalition partners educate the public and policymakers about alternative, cost-effective strategies that strengthen public safety while reducing corrections spending.

The Ella Baker Center for Human Rights has been an OSF grantee since 1998. In 2009, the Criminal Justice Fund awarded EBC renewed general support over two years.

Description of the Project for Which Funding is Sought:

Ella Baker Center for Human Rights requests renewed general support.

Rationale for Recommendation:

This grant would advance the Criminal Justice Fund's interest in reducing mass incarceration by exposing the excessive and economically destructive costs of incarceration. The grant would also advance our interest in eliminating harsh punishment by increasing access to living wage employment and career opportunities for people with criminal records.

California's Juvenile and criminal justice systems are bloated and broken. Overcrowding in the adult prison system has reached a critical crossroads. Indeed, on May 23, 2011, the Supreme Court of the United States ruled to uphold an order by a three-judge federal court in 2009 that required the state to reduce its prison population to by 40,000 in two years. The state's juvenile justice system is similarly in crisis. At an annual cost of over \$200,000 per ward and with an 81 percent recidivism rate, the California

Division of Juvenile Justice (DJJ) has gained notoriety as one of the nation's most expensive and least effective juvenile justice systems. Inside DJJ prisons, children and young people are subjected to unusually harsh conditions, such as solitary confinement 20- to 23-hour-a-day, lock-ups in small cells, staff abuse and assault, denial of basic medical care, and inadequate educational programming.

EBC offers alternative public safety solutions that mirror CJF's longstanding philosophy: the safest neighborhoods are not the ones with the most police and largest contributions to the prison population. Rather, they are the ones with the best public schools, the cleanest environment, and the most viable life opportunities for young and working people. In its fifteen years of operation, EBC has developed a strong understanding of the ways in which criminal justice intersects with other policy issues. We agree with EBC's analysis that creating enduring juvenile and criminal justice reform involves engaging communities and creating opportunities in other public institutions to reverse the decades of divestment in our cities, excessive policing, and over-incarceration that have destabilized poor neighborhoods.. Similarly, we believe EBC's strategies of leadership development and civic engagement to address community concerns and to create sustainable and healthy neighborhoods are sound.

Within Oakland and throughout California, EBC has established itself as a champion in engaging communities affected by local and state policy. For the past 15 years, it has maintained a strong presence in the community as well as with policymakers. Its "roots in the ground, branches in the sky" approach enables EBC to be a strong force in advocating for policies that benefit affected communities and connect grassroots constituencies with policymakers and other ally organizations. EBC elevates and amplifies the voices of parents and families of incarcerated youth by equipping families with advocacy tools that can help their children navigate the juvenile justice system. The tireless efforts of EBC's 1,500 member *Families for Books Not Bars* network successfully advocated for the closure of Herman G. Stark and Preston youth facilities in 2010—EBC's fourth prison closure since the inception of *Books Not Bars*. In March 2010, EBC partnered with Oakland Rising in a door knocking and phone banking initiative to ensure that low-income people, people of color, undocumented immigrants, and formerly incarcerated people are counted in the 2010 Census and properly represented in local, state, and federal governments.

EBC has positioned itself as a prominent coalition builder by creating allies across various sectors, partnering with organizations that advance similar goals to make a larger impact, and maintaining a strong presence in the community as well as with policymakers. In 2009, EBC collaborated with the Center for Juvenile & Criminal Justice, Drug Policy Alliance, the American Civil Liberties Union California affiliates, and Families to Amend California's Three Strikes, to create the *People's Budget Fix*, a series of criminal justice reforms proposals to increase public safety, protect social safety nets, and generate \$2.4 billion in annual state savings.

For these reasons, the Criminal Justice Fund recommends renewed general support to the Ella Baker Center in the amount of \$300,000 over two years. Because it is our interest to commit multi-year general support funding to the organization, in accordance with our available 2011 grantmaking budget, a contingency grant is not appropriate.

Grant ID: #20032722

Legal Name of Organization: The Osborne Association, Inc.

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

Purpose of Grant: to support the *New York Initiative for Children of Incarcerated Parents*, which organizes community and government stakeholders to advocate on behalf of children affected by the arrest and incarceration of a parent

Grant Description: \$200,000 project grant renewal over two years to support the *New York Initiative for Children of Incarcerated Parents*, which organizes community and government stakeholders to advocate on behalf of children affected by the arrest and incarceration of a parent. OSF funding will enable Osborne to continue examining criminal justice, child welfare, education, and related policies and practices and recommend reforms that reduce the collateral damage to children and families at each stage of the criminal justice continuum, from arrest through incarceration and reentry. This grant would advance the Criminal Justice Fund's interest in eliminating harsh punishment by challenging the collateral consequences of criminal convictions on children and families. The grant would also advance our interest in reducing mass incarceration by exposing the social and economic costs of incarceration

Previous OSF Support: \$1,751,445
(\$300,000 Criminal Justice Fund-2009; \$150,000 U.S. Justice Fund-2007; \$150,000 U.S. Justice Fund-2006; \$50,000 U.S. Justice Fund-2005; \$150,000 U.S. Justice Fund & U.S. Programs-2005; \$100,000 Center on Crime, Communities & Culture-2000; \$50,000 Center on Crime, Communities & Culture-1998; \$50,000 Center on Crime, Communities & Culture-1996; \$1,445 Center on Crime, Communities & Culture-1996)

Organizational Budget: \$14,326,280

Project Budget: \$509,885

Sources of Support: \$80,000 Ira W. DeCamp Foundation; \$60,000 Florence V. Burden Foundation; \$60,000 Jessie Ball DuPont Fund (pending); \$34,450 New Yorkers for Children

Amount Requested: \$200,000

Contingent Grant?: No

Amount Recommended: \$200,000 (Criminal Justice Fund, T1: 24016)

Term: 2 years (August 1, 2011- July 30, 2013)

Matching Requirements: None

Description of Organization:

Founded in 1931, the New York City-based Osborne Association (Osborne) provides a broad range of treatment, education, and vocational services to more than 6,500 people each year, including people who are currently or formerly incarcerated, their children, and other family members. Osborne offers programs in community sites in New York (Bronx, Brooklyn, and Dutchess County) as well as in courts, jails and state prisons. Unlike conventional service providers, Osborne has a strong track record in developing and promoting system and policy reforms to promote health and public safety without relying on incarceration and while reducing the collateral consequences to individuals and families of criminal convictions.

The Osborne Association has been an OSF grantee since 1996.

Description of Project for Which Funding is Requested:

The Osborne Association requests renewed project funding over two years to support the *New York Initiative for Children of Incarcerated Parents*, which organizes community and government stakeholders to advocate on behalf of children affected by the arrest and incarceration of a parent. OSF funding will enable Osborne to continue examining criminal justice, child welfare, education, and related policies and practices and recommend reforms that reduce the collateral damage to children and families at each stage of the criminal justice continuum, from arrest through incarceration and reentry. Specifically, over the next two years, Osborne will continue the following efforts:

1. Establish a statewide, representative, inter-disciplinary oversight Coordinating Council on Children of Incarcerated Parents housed within the Council on Children and Families (CCF). CCF reports directly to the Governor and is charged with addressing cross-systems issues by convening multiple agencies, including community-based partners. Osborne will work with CCF and existing councils and advisory boards that advocate on behalf of children to build partnerships and integrate issues affecting children of incarcerated parents into the discussions and determinations of government agencies.
2. Ensure that government agencies authorized to make arrests adopt and implement child-sensitive arrest protocols. Osborne will promote and assist in the development of training for law enforcement agencies, including information about the impact of parental arrest on children, the benefits of child sensitive arrest practices, and proper use of relevant protocols. Osborne will ensure that training and materials build on successful efforts in other jurisdictions and incorporate current research about trauma and child development. To inform practice, policy, agency coordination and training, Osborne will also work with law enforcement agencies to collect and analyze data on children present at an arrest of their parent, as well as the caregiving arrangements that resulted at the time of the arrest.
3. Promote the welfare of children by advocating changes to New York State Department of Correctional Services' (DOCS) policies and practices pertaining to inmate classification, the prison assignment system, and visitations. Osborne will assist DOCS in developing an assessment system for prioritizing and guiding parental assignment to prisons closer to home. It will also assist corrections in creating, and providing publicly, information about visiting and other forms of contact with incarcerated parents. Osborne will work with DOCS and prison administrators to institute child-friendly visiting protocols, including visitor processing and searches. To increase children's access to

their parents, Osborne will advocate for tele-visiting and use of secure email, such as those currently in use within the Federal Bureau of Prisons.

4. Work with probation departments to consider the parenting role and responsibilities of the person being charged and sentenced. To ensure that courts have knowledge of the effect of various sentencing options on children and families, Osborne will develop and work to implement a Family Impact Statement (FIS) as part of probation departments' pre-sentencing investigation report and reports to the court. The Family Impact Statement would minimally include: whether a parent is the primary caregiver, the extent of a parent's involvement in the child's life and home, level of financial and emotional support provided, involvement with family court, predicted short and long-term impact on a child of a parent's incarceration, a psychosocial assessment of the parent, and, if appropriate, a statement from the child about the impact of the parent's absence. Osborne will provide training to probation officers on the purpose of FIS, on how to implement it, and on the impact of sentencing process and decisions on children.
5. Increase the capacity of education and mental health professionals to respond to the needs of children of incarcerated parents and implement changes to policies and practices that support children's wellbeing. Osborne will work with various working groups to implement the *Dignity for All Students Act* (DASA), which New York State passed in June 2010 and will take effect in 2012 and that prohibits harassment and discrimination against all students in New York public schools. Although DASA does not explicitly recognize children of incarcerated parents, it offers a promising mechanism for addressing the need for safe space and protection within schools for children with incarcerated parents. Through public education efforts, Osborne will ensure that children of incarcerated parents are considered and included in the practice tools that emerge and develop a training module for teachers, guidance counselors, school psychologists, and other educational professionals regarding the impact of incarceration on children and their educational success. In addition to school professionals, Osborne will collaborate with the New York State Office of Mental Health and New York City Department of Health and Mental Health to develop training for mental health practitioners. To expand Family Court judges' access to informed assessments of the needs of children with incarcerated parents, Osborne will also compile and disseminate a list of mental health practitioners who are well-versed in the impact of parental incarceration.

Rationale for Recommendation:

This grant would advance the Criminal Justice Fund's interest in eliminating harsh punishment by challenging the collateral consequences of criminal convictions on children and families. The grant would also advance our interest in reducing mass incarceration by exposing the social and economic costs of incarceration. The issues faced by children with parents experiencing contact with the criminal justice system present an opportunity for inter-agency collaboration to reform criminal justice policies and practices, a key CJF strategy.

More than 2.7 million children in the United States, or one in every 28 children, have a parent who is incarcerated, compared to one in 125 just 25 years ago.⁵ Two-thirds of these children's parents were incarcerated for nonviolent offenses.⁶ New York State is home to an estimated 105,000 children of incarcerated parents, the vast majority of whom reflect the race and socioeconomic status of the prison population: primarily African American and Hispanic men and women from impoverished neighborhoods. Because it belongs to no single agency or oversight body, some have called this an

⁵ The Pew Charitable Trusts: Pew Center on the States. *Collateral Costs: Incarceration's Effect on Economic Mobility*. Washington, DC: 2010.

⁶ Ibid.

“orphan issue,” and there remains a great deal we do not know about these children and the impact of parental criminal justice system involvement and incarceration on them.

There is growing energy throughout New York around the experiences and rights of children with criminal justice involved or incarcerated parents and emerging opportunities for reducing the collateral consequences of policies and practices on children and families. The New York City Council is proposing that all City agencies adopt a Children of Incarcerated Parents Bill of Rights, provide training to their staff, collect related data, and report to the City on efforts to meet the needs children with parents affected by criminal justice involvement. In November 2010, in collaboration with 14 City agencies and non-profit organizations, Osborne convened a one-day summit to examine the various issues affecting children with parents involved in the criminal justice system and to develop a roadmap for reform. The Summit brought together 240 diverse professionals from 100 different government agencies and community-based organizations and people with direct experience with parental incarceration (including children and formerly incarcerated parents). It included a panel discussion with the commissioners of the state Department of Correctional Services, Office of Children and Family Services, NYC Department of Probation, and the NYC Department of Youth and Community Development. The Summit also brought many new government partners to the table, including the NYS Education Department, the NYS Office of Mental Health, the NYS Office of Temporary and Disability Assistance (the state agency in charge of child support), the NYC Department of Health and Mental Hygiene, and the NYS Center for School Safety. Continued support from OSF will allow Osborne to capitalize on the momentum created by the Summit and the subsequent policy recommendations and continue to facilitate cross-agency and cross-systems coordination to address the needs of children with incarcerated parents.

As a long-time service provider, Osborne is in a strong position to bring stakeholders to the table and broaden concern for children of incarcerated parents within a broader systems reform agenda. Osborne has good working relationships and credibility with relevant city and state agencies and the connections to win buy-in from many different interest groups, including organizations serving young people not usually attuned to criminal justice issues, such as schools, pediatric clinics, and child advocacy organizations. Osborne knows the bureaucratic red tape in New York and is able to work effectively with those in power to improve policies and practices. At the same time, Osborne’s programmatic expertise also advances the persuasiveness of its advocacy. For example, the NYS Association of Chiefs of Police added a new protocol for child sensitive arrest to the *New York State Law Enforcement Handbook*, and the NYC Department of Corrections revised its policy for arresting visitors who have children with them. Although neither of these agencies is specifically responsible for the wellbeing of children with incarcerated parents, Osborne’s advocacy has oriented organizations with missions focused on law and justice to also consider and reduce harm that children experience when a parent is arrested and incarcerated.

Also rooted in Osborne’s direct services experience and benefiting Osborne’s advocacy work is the connection to the real people affected by the issues, whose stories help the public and policymakers see the need for reform. The Initiative mobilizes young people to share their experiences and bring their voices and ideas to criminal justice policy reform. The November 2010 Summit opened with a powerful panel of youth, whose presentations underscored that “incarceration involves not only the person who’s sentenced, but everyone whose lives that they affect.” More recently, the New York City Council’s April 2011 Hearing on Children of Incarcerated Parents included testimony from a member of Osborne’s Youth Advisory Board, the only youth voice and only young person present at the hearing.

For these reasons, we recommend continued project funding for The Osborne Association in the amount of \$200,000 over two years. Because it is our interest to commit multi-year project support funding to the organization, in accordance with our available 2011 grantmaking budget, a contingency grant is not

appropriate. As a result, if approved, we will accrue this two-year grant fully to our 2011 grantmaking budget.

Grant Id: 20032819

Name of Organization: Texas Defender Service

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

Fiscal sponsor: N/A

Purpose of Grant: to provide general support

Grant Description: TDS will undertake key trial and post-conviction litigation activities aimed at reducing the number of death sentences and executions in Texas and thus the nation. It will also intervene in cases with imminent execution dates and viable legal issues that have not been properly litigated. TDS will also educate and equip lawyers to better handle legal challenges through case consultations and trainings. 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.

Previous OSI Support: \$525,000 Criminal Justice Fund 2010; \$250,000 Criminal Justice Fund 2009; \$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

Organizational Budget: \$2,820,330

Project Budget: N/A

Sources of Support: \$650,000 Other Grants; \$218,000 Texas Innocence Network; \$200,000 Atlantic Philanthropies; \$100,000 Vital Projects Fund; \$75,000 Public Welfare Foundation; \$25,000 Butler Family Fund; \$25,000 Texas Bar Foundation; \$22,000 Tides Foundation

Amount Requested: \$950,000

Contingent Grant: No

Amount Recommended: \$950,000 (Criminal Justice Fund, T1: 24016)

Term: Two Years (October 1, 2011 – September 30, 2013))

Matching Requirements: None

Description of Organization:

Founded in 1955, Texas Defender Service (TDS) is an Austin based, non-profit litigation and policy reform advocacy organization with a mission to establish a fair and just criminal justice system in Texas and a special focus on improving the quality of justice for people facing the death penalty. TDS has 28 employees, including 18 lawyers, 4 mitigation specialists and administrative staff. The organization is led by executive director Andrea Keilen, formerly a Soros Justice Fellow.

TDS has two central long-range goals: 1) suspend or limit the death penalty in Texas; and 2) establish an indigent defense system that functions effectively and independently from the judiciary. TDS strives to achieve its goals by implementing five main strategies, described below.

1. Identify and expose inaccuracies, injustices, and flaws in Texas's system of capital punishment

To reduce the use of the death penalty in Texas, TDS will identify cases with compelling injustices and relate that information to policy makers and the public. To implement this strategy, TDS will: 1) collect data to identify cases that provide litigation opportunities; 2) track death penalty cases at all phases of the proceedings; 3) litigate injustices by representing clients and consulting with other lawyers; 4) train trial and post-conviction lawyers to identify and challenge flaws in the system; and 5) report, study and conduct media outreach to educate the public and policy makers about the flaws inherent in Texas's current system of capital punishment.

2. Advance Policy Reforms to Limit the Death Penalty

TDS advances policy reforms that will: 1) improve appointment standards for capital lawyers; 2) establish fair procedures for addressing the question of mental retardation in capital cases and oppose the prosecutor's efforts to roll back the Supreme Court's decision banning the execution of people with mental retardation; and 3) change the capital sentencing scheme and eliminate the use of the future dangerousness question.⁷

3. Improve the Quality of Defense Representation in Capital Cases

The absence of public defender systems, institutional deficiencies created by inconsistent attorney standards and haphazard access to resources leave defense attorneys ill-equipped to zealously advocate for their clients. Some of the activities that TDS will engage in to improve representation include: 1) supporting the expansion of capital public defender units and the growth and implementation of the Office of Capital Writs, a state-funded habeas corpus office put in place as a result of TDS advocacy; 2) consulting with and training trial and post-conviction lawyers; 3) equipping defense teams with skills and resources such as briefs, motions, and links to mitigation specialists and experts; and 4) recruiting law firms to take death penalty cases at the trial or post-conviction phase.

4. Reform Pre-trial Discovery in Criminal Cases

TDS will work to reform pre-trial discovery in criminal cases to provide the defense adequate notice of exculpatory/impeachment evidence and the nature of testimony the prosecution plan to present.

5. Improve the Integrity of the Adversarial Process

TDS will seek to improve the integrity of the adversarial process in Texas by reducing opportunities for prosecutorial and judicial ethical infractions and by increasing the accountability for such violations. TDS will equip defense teams with the tools to challenge efforts by trial judges to deny resources and to make unfair rulings. Finally, it will provide opportunities to train defense lawyers and educate the judiciary.

⁷ The current sentencing statute in Texas requires the jury to assess whether there is a probability that the defendant would be a continued threat to society. This sentencing statute fails to give the jury meaningful information about the defendant and has led to a ballooning of the number of people sentenced to death.

Description of the Project for Which Funding Is Sought:

TDS seeks general support in the amount of \$950,000 over two years.

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 by reducing capital sentences in Texas and moving Texas from a high-use to an "ambivalent" state.⁸

TDS has played an influential role in all major litigation and policy reforms of Texas's system of capital punishment since the organization's inception in 1995. Specifically, the organization has: 1) reduced new death sentences through its Trial Project; 2) reduced the number of Texas executions through post-conviction case consultation and intervention; and 3) advanced policy reforms aimed at improving defense systems and reducing the use of the death penalty.

TDS's expertise, combined with efforts of other advocates and litigators, has contributed to the decline in the number of new death sentences in Texas. The life without parole sentencing option, improved resources and training for defense teams, and heightened public scrutiny and doubt about the accuracy of the death penalty have all contributed to the incremental improvements. In Texas, approximately 400 cases are indicted each year as capital eligible cases. In the 2010 calendar year, 20 cases went to trial (down from 32 cases in 2009) and more than half of those resulted in a sentence less than death. The Trial Project at TDS was involved in most of these cases by providing attorneys with critical advocacy skills.

Similarly, TDS's efforts have contributed to a decline in the number of executions. For example, in 2010, Texas carried out 17 executions - down from 24 in 2009. During the same period, there were six stays of execution. TDS was involved in four of the six stays. Thus far in 2011, there have been three executions and two stays. TDS has been involved in some capacity in all of these cases.

TDS also provides critical support in "cases on the brink" or crisis cases. There are 40 death row inmates in Texas who are completely through federal habeas review in the Fifth Circuit. These individuals could get an execution date at any time. TDS plays an important role by identifying potential factual and legal issues to litigate in state and federal courts and seek stays of execution. In addition to providing critical support in crisis cases, TDS also provides advice to appointed attorneys with death row clients who are not facing imminent execution.

Finally, TDS has contributed to several key policy changes, including improved eyewitness identification procedures and efforts to expand capital public defender offices both at the trial and post-conviction stages. There is no other legal organization in Texas that addresses the death penalty system at every phase, using both litigation and policy reform. TDS is considered a national model for death penalty reform and strives to work in close collaboration with many local, state and national organizations to further the goal of reducing death sentences and executions. Despite its programmatic successes, TDS is still adjusting to loss of funding due to the closing of the JEHT Foundation in December 2008. This general support grant will provide TDS with the flexibility to develop and sustain other funding sources

⁸ The Steering Committee for the Campaign to End the Death Penalty by 2025 has defined "ambivalent" as a state having one or more of the following criteria: few or no death sentences; small death row; few or no executions; lots of protections in place for defendants; high reversals; expensive, lengthy system; and declining sentences by county.

while maintaining its programmatic work. For the above mentioned reasons, the CJF recommends a grant of \$950,000 over two years to provide general support to TDS.

Grant Id: 20032830

Name of Organization: Tides Foundation

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

Fiscal sponsor: N/A

Purpose of Grant: to provide capacity building grants to effective state-based organizations working on death penalty reform, abolition, or moratoria campaigns in the U.S.

Grant Description: The Tides Death Penalty Mobilization State Strategies Fund will re-grant pooled donor funds to organizations that are leading state campaigns to abolish the death penalty. Contributing to the Fund allows Open Society Foundations to leverage its resources with those of other donors to support state-based organizations that are often overlooked by the national foundation world but are critical to the success of the fight to end capital punishment. This grant supports the Criminal Justice Fund's priority of eliminating harsh punishment in the criminal justice system and advances the goals of the Campaign to End the Death Penalty by 2025, a national campaign started with the support of Open Society Foundations.

Previous OSI Support: \$850,000 (2001 – 2011)

Organizational Budget: \$6,000,000

Project Budget: \$790,000

Sources of Support: \$465,000 Atlantic Foundations; \$125,000 Sheilah's Fund

Amount Requested: \$200,000

Contingent Grant: No

Amount Recommended: \$200,000 (Criminal Justice Fund, T1: 24016)

Term: One Year (August 1, 2011 – July 31, 2012)

Matching Requirements: None

Description of Organization:

The Tides Foundation (“Tides”), a San Francisco-based public charity founded in 1976, partners donors who are interested in charitable giving with organizations that are working for progressive social change. Tides actively promotes change towards a healthy society, one which is founded on the principles of social justice, broadly shared economic opportunity, a robust democratic process, and sustainable

environmental practices. Tides initiatives focus on economic and racial justice, Native American rights, environmental justice, youth programs, violence prevention, and civic participation.

The Tides Foundation Death Penalty Mobilization Fund (DPMF) was initiated in 2000 by a Tides donor and over the years has been sustained through the support of individual and institutional partners. To date, DPMF has awarded approximately \$2.19 million in grant support to state-based organizations working against the death penalty via two structures: the State Strategies Fund and the Rapid Response Fund. Currently, only the State Strategies Fund of DPMF—which Open Society Foundations has supported since 2001—remains active.

Description of the Project for Which Funding Is Sought:

The Tides Foundation seeks a renewal grant of \$200,000 over one year to support the Death Penalty Mobilization State Strategies Fund (“Fund”). The Fund’s goal is to abolish the death penalty through the re-granting of pooled donor funds to state-based grassroots organizations to support public education and mobilization. Additionally, the Fund provides support to build the capacity of state-based organizations that strategically shape public opinion against the death penalty. A typical grant from the Fund ranges from \$30,000 to \$60,000 per year.

The Fund’s grantmaking decisions have been guided by an Advisory Committee composed of activists and contributing grantmakers, including OSF’s Criminal Justice Fund, Atlantic Philanthropies, and Sheilah’s Fund. Collectively, the committee determines which states are most likely to succeed in their reform efforts and which organizations within these states are best suited to mobilize groups to support reform. In the recent past, the Advisory Committee has recommended grants to build the organizational capacity of state-based groups in Colorado, California, Illinois, Kansas, Nebraska, New Hampshire, Ohio, Pennsylvania and Tennessee.

Rationale for Recommendation:

This grant supports the Criminal Justice Fund’s priority of eliminating harsh punishment in the criminal justice system and advances the goals of the Campaign to End the Death Penalty by 2025, a national campaign started with the support of Open Society Foundations.

The anti-death penalty continues to gain momentum as Illinois became the fourth state to abolish the death penalty since New York abandoned capital punishment in 2005 – and 2011 promises to be an exciting year for grassroots opportunities. More Americans are finding the death penalty’s costs and risks less justifiable given the infrequency of its use and the fact that its primary targets are consistently the most vulnerable: the mentally ill, the poor, people of color, and those without adequate representation. Studies show that most Americans believe that innocent people have been executed, and two-thirds believe that merely enacting death penalty reforms will not eliminate the multiple problems endemic to capital punishment systems. The economic cost argument continues to be relevant in state and national media. As states continue to look for ways to decrease expenses, there will be more opportunities to argue for abolition.

Unlikely allies also continue to lend their support to abolition or reform, including Ohio Supreme Court Justice Paul Pfeifer, U.S. Senator Dick Durbin of Illinois and Indiana Attorney General Greg Zoeller. Former Governor Rendell of Pennsylvania urged lawmakers to consider life without parole instead of using capital punishment if the system could not be made more effective. Moreover, prosecutors are not seeking the death penalty as often as they had a decade ago, and jurors are not voting for death as often.

In 2012, advocates in several states will organize their grassroots base, murder victims' families and unlikely allies to push momentum for policy reform. Some of these states include Colorado, Maryland, Washington, Tennessee, Pennsylvania and Texas. It is important that anti-death penalty organizations in these and other states receive adequate resources so that they can continue to build grassroots support, attract new messengers for reform and influence public opinion. Yet, many of these grassroots death penalty organizations work with limited resources and frequently have to rely on volunteer support. The death penalty movement can continue to be strengthened by building the organizational capacity of impactful advocacy organizations to hire strong leadership and skilled organizers, to obtain communications assistance, and to engage committed support staff.

The Fund plays a singularly important role in the abolition movement by adding capacity to small, state-based organizations to support the goals of the Campaign to End the Death Penalty by 2025. Usually, the small scale at which these groups operate leaves them vulnerable to being overlooked by national foundations, which are ill equipped to seek out and evaluate numerous requests from fledgling groups. By participating in the Fund, Open Society Foundations pools its funds with those from other donors and pursues a nationwide strategy of promoting promising local organizations. OSF benefits from the administrative assistance provided by the Tides staff. Additionally, the combined experience and expertise of the Fund's Advisory Committee supports solid grantmaking decisions and maximizes opportunities for success.

For these reasons, Criminal Justice Fund staff recommends a renewal project support grant of \$200,000 over one year to the Tides Foundation Death Penalty Mobilization State Strategies Fund.

Grant ID: 20032780

Name of Organization: Juvenile Law Center

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

Name of Fiscal Sponsor: N/A

Purpose of Grant: to provide general support

Grant Description: Juvenile Law Center (JLC) is a Pennsylvania based public interest law firm and advocacy organization that has had a major impact on policy and practice affecting children in the foster care, juvenile, and criminal justice systems across the country. JLC uses the law to ensure that the justice and other public systems provide vulnerable children with the protection and services necessary to help them become healthy and productive adults. Through strategic litigation and public policy advocacy, JLC seeks to reduce the number of youth transferred to adult court, reform sentencing policies for youth tried as adults, end the overreliance on incarceration, improve conditions of confinement, promote opportunities for successful reentry, advance civic engagement, and ensure the fair and equitable treatment of children in the justice system. This grant advances the Criminal Justice Fund's interest in eliminating harsh punishment by challenging policies and practices that treat children as adults and sentence them to lengthy terms of imprisonment. This grant would also advance CJF's interest in eliminating racial disparities and in ensuring equal and effective access to justice by securing the right to counsel for young people.

Previous OSI Support: \$300,000 Criminal Justice Fund 2010; \$250,000 US Justice Policy & Research 2002; \$20,000 The After Prison Initiative 2001; \$150,000 The After Prison Initiative 2000; \$1,728 Gideon 2000; \$400,000 US Justice General Fund 1997; \$100,000 Center on Crime, Communities and Culture 1996

Organizational Budget: \$2,238,275

Project Budget: N/A

Sources of Support: \$166,667 Wm. Penn Foundation; \$165,000 MacArthur Foundation; \$117,315 Individual Contributions; \$58,331 Ford Foundation; \$43,740 Goldsmith Foundation

Amount Requested: \$450,000

Contingent Grant: No

Amount Recommended: \$450,000 (Criminal Justice Fund, T1: 24016)

Term: 2 years (January 1, 2011 – December 31, 2012)

Description of Organization

Founded in 1975, the Juvenile Law Center (JLC) was created to advance the interest of children whose legal rights have been compromised by the public agencies charged with their care. It is the oldest multi-issue public interest law firm for children in the United States working on systemic reform issues. JLC has evolved over its 35 year history from a local, Pennsylvania-based organization, responding to problems one child at a time, to become a premier national public interest law firm and advocacy organization.

JLC advances its mission by litigating key cases in state and federal courts, leading and supporting amicus efforts on key issues, working with academic researchers to develop sound public policy, training lawyers, judges and professionals, advocating for child welfare and juvenile justice reform legislation and regulation, educating and informing the public, and serving as a media resource. JLC's legal and public education and training services are provided at no cost to its clients or participants.

Bob Schwartz and Marsha Levick co-founded the organization in 1975; Schwartz has been its Executive Director since 1982 and Levick serves as Deputy Director. Schwartz is a gubernatorial appointee to the Pennsylvania Commission on Crime and Delinquency's Juvenile Advisory Committee, which distributes federal funds in Pennsylvania and advises the governor regarding juvenile justice policy. And Levick serves as president of the Board of Directors of the National Juvenile Defenders Association and is a member of the Board of the Southern Poverty Law Center. In April 2008, the Juvenile Law Center was recognized as one of only eight organizations in six countries to receive the prestigious, international John D. and Catherine T. MacArthur Foundation Award for Creative and Effective Institutions.

Description of Project for Which Funding Is Sought

The Juvenile Law Center requests renewed general support.

Rationale for Recommendation

This grant advances the Criminal Justice Fund's interest in eliminating harsh punishment by challenging policies and practices that treat children as adults and sentence them to lengthy terms of imprisonment. This grant would also advance CJF's interest in eliminating racial disparities and ensuring equal and effective access to justice by securing the right to counsel for young people.

The Juvenile Law Center is widely recognized as one of the leading litigation, advocacy and policy organizations working to reform juvenile justice practices in the United States and reverse the criminalization of adolescents that has occurred over the past two decades. Last year, JLC engaged in sustained efforts to protect the rights of children in multiple areas, including: (1) ending juvenile life without parole in Pennsylvania and nationally; (2) improving conditions of confinement; (3) promoting youth engagement in systemic reform; (4) ending zero tolerance educational policies; (5) reducing youth transfer to adult courts; and (6) promoting systemic reform in Pennsylvania following the judicial corruption scandal in Luzerne County. JLC frames its outcomes in terms of *impact* (on individual children and families); *influence* (the changes in policy and practice it creates that will have an impact on children's lives); and *leverage* (encouraging other advocates, lawyers, parents, foundations, etc. to devote time and dollars to JLC's goals). This approach reflects the reality of an effective advocacy organization, mainly, that there are multiple steps and many allies between JLC's work and improved outcomes for youth.

Most recently, the Juvenile Law Center was a critical player in national efforts to end the practice of sentencing youth to life without parole and in state efforts to transform Pennsylvania's troubled juvenile justice system.

Luzerne County - The Juvenile Law Center is largely credited with uncovering the Luzerne County "kids-for-cash" judicial embezzlement scheme. Through extensive investigation of complaints from youth in confinement, JLC exposed a judicial corruption scandal in which two judges have been convicted on federal racketeering charges for accepting \$2.8 million from the builder and operator of a for-profit juvenile detention center in exchange for keeping its beds filled.

JLC continues to promote implementation of the reform recommendations proposed to the Interbranch Commission on Juvenile Justice in 2010 by responding to requests for assistance from policy-makers and the judiciary about the best vehicles for reform. For example, JLC responded to informational requests from Senator Stewart Greenleaf (R-Montgomery/Bucks) on how best to support efforts to ensure the timely appointment of counsel to all juveniles regardless of financial background, how to swiftly expunge minor offenses committed by juveniles, and how to develop a more thoughtful approach to teenage technology misuse (e.g., sexting) by decriminalizing consensual conduct and keeping fewer kids from entering the juvenile justice system. JLC is also advising the highly influential Juvenile Court Procedural Rules Committee on proposed rule changes. For example, JLC has proposed a prohibition on the use of restraints in courtrooms unless there is a clear risk of flight, disturbance or harm. It is also drafting a comment on a proposed rule which would limit, but not prohibit, waiver of counsel for juveniles charged with delinquent offenses. The proposed rule is complex and costly; moreover, JLC believes that research in adolescent development, coupled with recent Supreme Court case law, supports a complete prohibition on the waiver of counsel by juveniles.

Juvenile Life Without Parole - JLC followed up its remarkable work with the successful national coalition to end the juvenile death penalty in 2005 with an equally impressive effort to end juvenile life without parole (JLWOP) in 2010. JLC served as lead counsel for over 65 advocacy organizations and individuals who submitted an amicus brief in support of the plaintiff in *Graham v. Florida*. The amicus brief highlighted that an offender's youth or mental capacity can make certain penalties unconstitutional regardless of the severity of the offense. On May 17, 2010, the U.S. Supreme Court relied, in part, on this rationale to declare juvenile life without parole for non-homicide cases unconstitutional. JLC views *Graham* as creating new avenues and theories for challenging the 'adulthood' of children in the justice system and the use of harsh punishments. Thus, in partnership with Equal Justice initiative and the Campaign for the Fair Sentencing of Youth, two CJF grantees, JLC is exploring strategies for expanding the *Graham* decision to challenge juvenile life without parole sentences in murder accomplice cases and other sentencing schemes, as well as using the Court's reasoning to challenge laws governing the transfer of youth to adult courts. Moreover, in NJ, JLC is using the Court's decision in litigation challenging the use of isolation for children in confinement.

Over the next two years, JLC will continue efforts to:

Ensure that juvenile and criminal justice policies and practices are aligned with principles of adolescent development - The developmental characteristics of adolescents and their diminished capacities affect both their decision-making in the system (e.g., competence to waive rights, such as Miranda rights) and their blameworthiness for the conduct with which they are charged. Developmental psychology, which was the foundation of the United States Supreme Court's opinion ending the juvenile death penalty in *Roper v. Simmons* in 2005, has now been enhanced by the emerging science of brain research, which was cited favorably by the Supreme Court in *Graham*. JLC is among a small group of public interest law firms in the country concentrating on challenges to transfer and sentencing laws for juveniles. JLC collaborates with the Equal Justice initiative and the Campaign for the Fair Sentencing of

Youth, participates in the End-JLWOP Pennsylvania coalition, and remains at the forefront strategizing about legal challenges in these areas.

Ensure that juvenile justice policies respond to youths' mental health needs - Large scale studies show that as many as 65%-75% of youth involved in the juvenile justice system have one or more diagnosable psychiatric disorders. Unless appropriately identified and treated, these youth will pose a safety risk to themselves and others in institutions and sink deeper into the juvenile justice system as they are unable to meet their rehabilitation goals. JLC will work to ensure that screening and assessment are appropriate to the legal questions they are able to answer and that they have positive—not negative—outcomes for youth. It will work to divert youth with mental health problems from the juvenile justice system, promote the use of evidence based practices, and promote youth and family involvement in policy making and in individual cases.

Shrinking the school-to-prison pipeline and ensuring that youth in juvenile justice have access to education - In the late 1990s, in the wake of the Columbine shootings, JLC led a national effort to promote rational debate about disciplinary policies addressing student misbehavior. Additionally, in partnership with other advocates, it helped organize the movement against zero tolerance policies that led to alarming rates of suspensions, expulsions, and arrest for normative misbehavior. In partnership with the Pennsylvania-based Education Law Center, state coalitions, and national colleagues, JLC will continue to address laws and policies that diminish educational opportunities and push students out of schools and into the juvenile justice system.

Ensuring that delinquent youth have access to high quality counsel. Youths' lawyers promote fairness, ensure appropriate participation of youths in decisions that affect their lives, and build youths' allegiance to the rule of law. Assessments of indigent juvenile defense in over a dozen states have led to improved representation of youth, pointing reform in the right direction. In Pennsylvania, the Luzerne County scandal was made possible because over a five-year period over 50% of the youth waived their right to counsel. Juvenile Law Center continues to zealously advocate for an unwaivable, state-funded, right to counsel in Pennsylvania.

The Juvenile Law Center is one of the country's leading juvenile justice organizations. Its work linking juvenile justice policy and practice to the science of adolescent development has influenced advocates, stakeholders, and policy makers in Pennsylvania and across the country to adopt a developmental framework. This shift has undeniably helped increase momentum across the country for more effective, youth-friendly approaches to address the needs of troubled youth.

For these reasons, the Criminal Justice Fund recommends renewed general support funding to the Juvenile Law Center in the amount of \$450,000 over two years. Because it is our interest to commit multi-year general support funding to the organization, in accordance with our available 2011 grantmaking budget, a contingency grant is not recommended. As a result, if approved, we will accrue this two-year grant fully to our 2011 grantmaking budget.

Grant ID: 20032782

Name of Organization: Coalition for Juvenile Justice

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

Fiscal Sponsor: N/A

Purpose of Grant: to support the National Juvenile Justice Network (NJJN) in providing its network of state and national reformers with crucial knowledge and tools around state budgets, and corresponding messaging and communications strategies so advocates can better understand their state fiscal architectures, maintain existing reforms, and leverage fiscal constraints into progressive programming

Grant Description: The Coalition for Juvenile Justice/National Juvenile Justice Network will create the Fiscal Policy Center to provide state and national reformers with crucial knowledge and tools around state budgets, and corresponding messaging and communications strategies so they can better understand their state’s fiscal architectures, maintain existing reforms, and leverage fiscal constraints into progressive programming. Through general training on state budget structures, in-depth state-specific graphic communications materials, communications training, and technical assistance, the Network will arm those seeking the improved treatment of youth in conflict with the law with concrete tools for change in an era of fiscal deficits. This grant advances the Criminal Justice Fund’s interest in reducing mass incarceration by reforming juvenile incarceration policies and practices. This grant also advances CJF’s commitment to enhancing capacity for statewide policy reform efforts

Previous OSI Support: None

Organizational Budget: \$567,535

Project Budget: \$225,000

Sources of Support: \$250,000 Public Welfare Foundation; \$195,490 MacArthur Foundation; \$10,000 Tow Foundation

Amount Requested: \$100,000

Contingent Grant: No

Amount Recommended: \$100,000 (Criminal Justice Fund, T1: 24016)

Term: One year (August 1, 2011 – July 31, 2012)

Description of Organization

The Coalition for Juvenile Justice (CJJ) is a national nonprofit association representing governor-appointed advisory groups on juvenile justice from the U.S. states, territories and the District of Columbia. Since 2005, CJJ has hosted and sponsored the National Juvenile Justice Network (NJJN) which leads a national movement of state-based juvenile justice reform coalitions and organizations seeking to secure policies and practices that are fair, equitable and developmentally appropriate for all children and youth involved in, or at risk of becoming involved in, the justice system. NJJN facilitates networking, information sharing, and strategizing among its 39 state-based organizations from 33 states, thereby strengthening the juvenile justice reform community. Network membership ranges from large multi-issue, multi-strategy organizations to smaller volunteer coalitions from affected communities. NJJN has emerged as a leader in advancing fair and equitable practices for youth in conflict with the law. The Network's primary activities include its Annual Forum for members, publication of relevant policy papers, policy platforms, research summaries and fact sheets, and webinars and teleconferences for members and the larger juvenile justice field. NJJN is also responsible for managing several issue-based working groups, an active members-only listserv, and a bi-weekly e-newsletter.

Sarah Bryer, NJJN's Director, has been working in the juvenile and criminal justice fields for more than twenty years. Prior to joining NJJN, Bryer served as Director of Policy and Planning at the Center for Alternative Sentencing and Services. She has been a victim-offender mediator for court-involved youth in California and was an appellate investigator for adults on death row. Bryer received a BA with honors from Stanford University and a Master in Public Policy from the John F. Kennedy School of Government at Harvard University.

Description of Project for Which Funding Is Sought

The Coalition for Juvenile Justice requests support for the National Juvenile Justice Network's Fiscal Policy Center, designed to equip state and national advocates with crucial financial literacy and technical assistance around state budgets along with corresponding messaging and communications strategies so that reformers can better understand their state fiscal architectures, maintain existing reforms, and leverage fiscal constraints into progressive programming. Through general training on state budget structures, in-depth, state-specific technical assistance on budget analysis, dissemination of state-specific graphic communications materials, and communications training, NJJN will arm those seeking the improved treatment of youth in conflict with the law with concrete financial tools for change.

The Fiscal Policy Center will include three key components: Budget Mastery; Communications Tools; and an Advisory Board to guide program development:

Budget Mastery: The Budget Mastery component will provide general training in budget structures, content and process, with a focus on those elements that are common to most states. In tandem with this training, the Network's in-house Senior Budget Analyst will work individually with states to delve more deeply into their budgets to provide a detailed understanding of content and processes, particularly as they relate to expenditures on youth in conflict with the law, related expenditures on youth and family services, and revenue streams that can be accessed through the general fund, through trust funds, or other off-budget funding streams.

Communications Tools: The Communications Tools component of the Fiscal Policy Center will follow a similar model to the Budget Mastery component: members and allies will receive general training on messaging with fiscal frames, and two to three individual member organizations will receive in-depth messaging training. In addition to training, Network members will have access to adaptable

communications tools that focus on fiscal messaging, applying the lessons learned from the in-depth state work.

Advisory Board: NJJN will create an advisory board for the Fiscal Policy Center in order to ensure that the related work of these organizations is leveraged, not duplicated, and to ensure ready access to experts in the field. The Network anticipates populating this Advisory Board with both fiscal and juvenile justice experts. To date, the Vera Institute of Justice, the Center on Budget and Policy Priorities, the tax and policy analyst for Kentucky Youth Advocates (an NJJN member), the Director of the Juvenile Law Center, and the Director of the Justice Policy Institute have all agreed to serve on the Advisory Board. NJJN anticipates that the final Board will include approximately 10-15 individuals/organizations.

Through the Fiscal Policy Center, NJJN seeks to advance its goals of retaining positive changes to policy and pushing forward new reforms during times of fiscal austerity and beyond.

Rationale for Recommendation

This grant advances the Criminal Justice Fund's interest in reducing mass incarceration by reforming juvenile incarceration policies and practices. This grant also advances CJF's commitment to enhancing capacity for statewide policy reform efforts.

The United States has lost its way from the core ideals that led to the formation of the juvenile court more than 100 years ago when our country realized that youth are fundamentally and categorically different than adults. Today, thousands of our nation's children are languishing in prisons. Children as young as 6 years old are locked up and cut off from family and community supports, spending entire days in single room cells. In some states, 13 year olds are rubbing elbows with adult prisoners rather than receiving services that have been proven to help youth get on the right track. Moreover, in spite of a large and growing body of evidence that incarcerating children does not protect the public, states in dire fiscal straights continue to spend upwards of \$300,000 per child, per year to incarcerate children.

According to the Center on Budget and Policy Priority, state budget shortfalls in 2012 will reach as high as \$125 billion. Legislators across the country are searching state budgets for areas to cut, and many have already made significant cuts to juvenile justice programming. Not surprisingly, juvenile justice reformers are watching hard-won battles for better programming fall prey to short-sighted budget cuts. In the current climate, policy changes become "all about the money." If the cost-benefits, or more commonly, the cost savings, of a proposed change isn't clear, or if the fiscal note is too high, even well-supported, positive policy changes will be derailed. Yet, at the same time, it is a great moment of opportunity for states to rethink their juvenile justice policies and evaluate whether they are getting a good return on the dollar for their investments. States can no longer afford to waste precious dollars on ineffective, expensive and frequently harmful interventions such as juvenile prisons, boot camps, or fads like Scared Straight programs.

In order to take advantage of this unique window for reform, state-based advocacy groups must be fully armed with current research, well-framed public safety arguments, and the fiscal details necessary to actually advance change during tight fiscal times. It is this last piece of the puzzle that juvenile justice reformers sorely lack. Reformers need a baseline understanding of state budget structures, as well as in-depth knowledge of their individual state budgets, including proposed and historical expenditures, revenue streams and budgeting processes, so they can make sound fiscal arguments and help their legislative or administrative champions disarm their detractors.

Additionally, advocates also need to know how to translate knowledge about budgets and budget shortfalls into messages that convince state legislators and the public to choose positive policy decisions for youth. Fiscal arguments must also be carefully balanced so that messages of cost-effectiveness do not fall prey to cost-savings. Whether shifting dollars from prisons to communities, leveraging fiscal constraints into progressive programming, or ensuring that existing programs do not get laid to waste in a state's flurry to balance its budget, advocates need concrete fiscal tools to make their case.

The Network is continually apprised, through its members, partners and allies, of the needs of the reform community, which campaigns are poised for success, and what issues are hampering positive forward movement. Through these channels, the Network has the capacity to easily and widely disseminate crucial fiscal information and circulate key budget tools and materials to state-based reformers. Moreover, the Network is also connected to the larger juvenile justice reform community through its 16 national partner organizations, which enables further distribution of strategies and materials, as well as breadth and depth of expert consultation on all Fiscal Policy Center activities.

As the only organization of its kind, NJJN has emerged as a leader supporting the work of state-based advocates and raising their collective voices in demanding change both locally and nationally. In July 2010, for example, NJJN published, *"The Real Costs and Benefits of Change: Finding Opportunities for Reform During Difficult Fiscal Times."* This publication armed advocates with substantive and tactical strategies to push, and even accelerate, progressive youth policies during the recession. The Fiscal Policy Center builds on prior fiscal education by equipping juvenile justice change agents with user-friendly financial knowledge and tools necessary to leverage fiscally-oriented reforms.

Ultimately, NJJN's goal is to ensure that positive reforms are not defeated by budget-wary and -weary legislators and to build continued momentum for effective and humane juvenile justice programming during tight fiscal times and beyond.

For these reasons, the Criminal Justice Fund recommends a one year \$100,000 project support grant to the Coalition for Juvenile Justice.

Grant ID: 20032783

Name of Organization: Youth United for Change

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

Name of Fiscal Sponsor: None.

Purpose of Grant: to support youth-led organizing efforts to challenge the School District of Philadelphia’s continued use of zero tolerance policies and practices that lead to unacceptable levels of school based arrests, suspensions, expulsions, and administrative practices that ‘push out’ students from schools and into the criminal justice system.

Grant Description: Youth United for Change (YUC) empowers young people to act on their own behalf to promote educational equity and hold school officials and government accountable to meet their educational needs in the Philadelphia public schools. This grant will support the work challenging the unacceptable high levels of school based arrests, suspensions, expulsions, and ‘zero tolerance’ policies and practices that diminish educational opportunities and increase the likelihood of youth involvement in the criminal justice system. This grant advances the Criminal Justice Fund’s goals of reducing over-reliance on incarceration by challenging educational policies and practices that decrease educational opportunities for children and increase the likelihood of their involvement in the juvenile and criminal justice systems; the Equality and Opportunity Fund’s goal of supporting advocacy that highlights the shared interest people of color and other marginalized groups; and the Campaign for Black Male Achievement’s goals of strengthening leadership development and civic engagement among young black males and of investing in model organizations that seek to improve life outcomes for black men and boys in the Campaign’s target-region of Philadelphia, Pennsylvania.

Previous OSI Support: None

Organizational Budget: \$610,933

Project Budget: \$269,234

Sources of Support: \$82,500 William Penn Foundation; \$70,000 CPER; \$75,000 Surdna Foundation; \$60,000 Cricket Island; \$52,938 Coordinating Office of Drug And Alcohol Programs

Amount Requested: \$115,000

Contingent Grant: No

Amount Recommended: \$115,000
 \$50,000 (CJF T1: 24016)
 \$25,000 (EOF T1:24452)
 \$40,000 (CBMA T1:21120)

Term: One year (July 1, 2011 – June 30, 2012)

Description of Organization:

Youth United for Change (YUC) began in 1991 and grew out of the desire of a group of young people to challenge the School Board of Philadelphia to include student voices in its policy-making. In 1993, YUC developed its youth organizing model to cultivate local leadership and empower young people to bring about institutional change within their high schools. In 1996, YUC incorporated as an independent 501(c)(3) organization and began building a youth-based, democratic organization with the power to hold school officials and government accountable to meet the education needs of Philadelphia public school students. Its mission is driven by a belief that every young person deserves a high quality public education that prepares him or her for success at a four year university, for making a living wage job, and for active participation in civic life.

Andi Perez, Executive Director, has been leading the organization since 2004. Born and raised in Philadelphia, Perez attended public schools and went on to graduate from the University of California, Los Angeles. She spent the next several years as the executive director of Youth United for Community Action, a youth organizing agency in Los Angeles, before returning to her hometown and joining the YUC staff in 1999. YUC is made up of low-income young people of color, and its 3,270 student members all qualify for free or reduced school lunch, are largely African American and Latino/a, and reflect the student body in Philadelphia’s public schools.

Description of Project for Which Funding Is Sought

YUC seeks project support for the work of four chapters: the Edison and Mastbaum High School chapters, the Citywide Chapter, and the Pushout Chapter. The Edison/Mastbaum Chapters are focused on reforming the school district’s Career and Technical Education (CTE) schools, and the Pushout Chapter and the Citywide Chapters are organizing out-of-school youth and alternative school students to address the unacceptable levels of arrests, suspensions, expulsions and ‘zero tolerance’ policies that limit educational opportunities for youth and increase the likelihood of youth involvement in the juvenile and criminal justice systems.

In January 2011 the Citywide Chapter released *Zero Tolerance in Philadelphia*, which analyzed the School District of Philadelphia’s various ‘zero tolerance’ policies and their impact on student achievement and wellbeing. In February 2011, the Pushout Chapter released *Pushed Out: Youth Voices on the Dropout Crisis in Philadelphia*, to inject the voices of pushed out youth into the Philadelphia school reform conversation. The reports highlight the myriad reasons why young people leave school and offer solutions for increasing student retention rates.

YUC staff is now working with the four chapters to develop campaigns and policy platforms to influence the development and implementation of the School District of Philadelphia’s school reform agenda. Specifically, these Chapters will engage in the following activities:

Youth-led campaign – Campaign platforms will be based on the findings and recommendations included in *Pushed Out* and *Zero Tolerance*. Chapter members will meet with school officials, policymakers, and other key stakeholders to discuss report findings and recommendations, stage press conferences, organize public briefings and, if necessary, organize public actions in order to compel the revision of detrimental

zero tolerance policies. Members will also seek to secure the school district's commitment to implementing report recommendations, such as, using positive behavioral methods and restorative justice practices proven to foster positive school climates and improve student achievement. Members also seek to engage teachers and school police personnel in "unlearning" discriminatory behavior and creating cultures of respect. Youth are currently in conversations with the Philadelphia Federation of Teachers and are exploring ways to engage the Philadelphia Police Department.

School Safety Initiative – Members will continue to actively participate on the Blue Ribbon Commission on Safe Schools charged with developing and reviewing plans and actions related to school safety. In partnership with the EOF grantee Advancement Project, members will engage in efforts to rewrite the school district Student Code of Conduct and make recommendations for improved responses to bullying and other discipline related issues. Members also seek to engage the district in re-writing the Memorandum of Understanding (MOU) with the Philadelphia Police Department regarding police presence and law enforcements response to disciplinary infractions and improve training for school based officers. Additionally, members will continue to actively participate in the Campaign for Non-violent Schools, a youth-led citywide coalition seeking to end all forms of school violence, including interpersonal and structural violence, without pushing students into the criminal justice system.

Career and Technical Education (CTE) reform: the CTE reform work complements efforts to address push out and zero tolerance policies. Based on a year of student research, site visits, and meetings with system stakeholders, students from Edison H.S and Mastbaum H.S. finalized their CTE reform platform. The ongoing organizing campaign around CTE has engaged city officials as well as the Philadelphia Youth Network, and is beginning to pay off as both district and state policy makers are now incorporating platform recommendations into their efforts to improve CTE education in Philadelphia. Students presented their CTE platform to the School Reform Commission on March 9, 2011 and gained a commitment from the district that they would be included in the district's ongoing CTE planning process. Members will now focus on monitoring the planning process and any subsequent implementation.

OSF support for this project will allow YUC to advance its goals of ensuring that every young person has a high quality education and is prepared to succeed at a four year university, earn a living wage, and actively participate in his or her community's civic life.

Rationale for Recommendation

This grant advances the Criminal Justice Fund's goals of reducing over-reliance on incarceration by challenging educational policies and practices that decrease educational opportunities for children and increase the likelihood of their involvement in the juvenile and criminal justice systems. This grant also advances the Equality and Opportunity Fund's goal of supporting advocacy that highlights the shared interest people of color and other marginalized groups, such as women, immigrants, and the LGBTQ community, and furthers the Campaign for Black Male Achievement's goals of strengthening leadership development and civic engagement of young black males and investing in model organizations that seek to improving life outcomes for black men and boys in the Campaign's target-region of Philadelphia, PA.

During the late 1990s and early 2000s, in response to high profile tragedies like the killings in Columbine High School, school districts across the country began adopting harsh policies and practices that emphasized the long-term exclusion of students who violate school rules. Simultaneously, schools began relying more on law enforcement and juvenile courts to address school based behaviors. These policies, however, have not made schools safer or improved educational quality. On the contrary, the impact of these policies has been to undermine opportunities to learn, to push youth out of school and into the justice system, and to waste taxpayer dollars. In response to these negative consequences, a national movement has emerged to end the use of "zero tolerance" and many school districts have taken steps to eliminate zero tolerance policies. Unfortunately, the School District of Philadelphia is not one of them.

As a result, Philadelphia public schools continue to fail students by fostering a hostile and alienating environment.

The use of zero tolerance and the policing of students has resulted in thousands of students – primarily poor youth of color or youth who identify as LGBTQ - being removed from or dropping out of school and finding the streets or the Philadelphia jail. In 2008-2009, for example, there were 4,423 incidents involving law enforcement in the School District of Philadelphia, resulting in 2,943 arrests of students. Compared to the rest of Pennsylvania, Philadelphia students were arrested in school three-and-a half times more often. Moreover, when compared to the other 19 large school districts in the state, Philadelphia had school-based arrest rates that were between 3 and 25 times higher than the other large school districts. Additionally, Philadelphia’s four year graduation rate is 57% and only 10% of youth returning from juvenile justice placements graduate in four years. Not surprisingly, issues of dropout, push-out, and criminalization of student misbehavior are paramount for black males in Philadelphia schools where 46% of black males do not graduate. This widespread criminalization and marginalization of poor children, children of color, and children who identify as LGBTQ, are disconcerting and simply unacceptable.

YUC is committed to reversing this trend by challenging the School District of Philadelphia’s continued reliance on zero tolerance policies and the policing of children in schools. It seeks to create policy changes through a process of community mobilization that brings young people together to identify common concerns and take collective action. Through its school based and citywide chapters, youth identify, research, and organize around key educational issues in order to influence district policies and school practices. YUC’s vision is of a community where every young person receives a high quality education and is vital to the dialogue and process of improving Philadelphia’s public schools.

Over the past two decades, YUC has developed a track record of bringing about significant changes in Philadelphia high schools and has gained recognition and respect as a viable organization of youth leaders. It has developed important relationships with policymakers, teachers, school administrators, parents, local businesses, and media outlets to gain access to power and get student issues addressed. For example, YUC is the only youth-led organization sitting on the district’s Blue Ribbon Commission on Safe Schools, a cross-section of the city’s leaders, convened for the first time to develop plans for tackling violence in and outside of the District. Notably, many of the recommendations for improved student performance and school safety under consideration by the Commission were proposed by the youth in the *Pushed Out* and *Zero Tolerance* reports. YUC’s presence on the Commission and similar forums ensures that the voices of young people are part of the debate to reform Philadelphia’s public schools.

YUC has also distinguished itself by its unwavering commitment to developing the potential of all youth, regardless of age, race, gender, sexual orientation, or immigration status. Thus, it approaches its work through an “anti-oppression” lens, which means first and foremost, creating a culture within the organization where young people feel comfortable being themselves. For example, membership divides about equally between girls and boys and is intentional in ensuring that YUC work is not male-dominated and that girls and LGBTQ students receive encouragement and support for their participation and leadership efforts. As a result, many students and adult staff in leadership positions represent these groups.

Lastly, OSF support for YUC is particularly critical at this time as YUC funding is threatened by some public and private funders that do not share open society values. For example, the Catholic Campaign for Human Development has withdrawn \$30,000 in funding due to YUC’s visible acceptance of gay staff and students and its training on heterosexism and empowering of LGBTQ youth. Additionally, some representatives in the Pennsylvania legislature have proposed withdrawing government funds from organizations, such as YUC, that welcome and serve undocumented youth. This increasing climate of

intolerance makes YUC a critical partner of OSF's efforts to promote an open society that values the participation of *all* people.

For these reasons the Criminal Justice Fund, the Equality and Opportunity Fund, and the Campaign for Black Male Achievement jointly recommend a one year \$115,000 project support grant to Youth United for Change.

Grant ID: 20032786

Name of Organization: Texas Fair Defense Project

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

Fiscal Sponsor: None

Purpose of Grant: to provide general support

Grant Description: Texas Fair Defense Project (TFDP) is a nonprofit law firm based in Austin, Texas promoting fairness and accuracy of the justice system in the state. Its mission is to defend the rights of indigent criminal defendants through strategic litigation, public education, and advocacy initiatives. TFDP is the only state based organization with experience litigating systemic indigent defense issues in Texas and before the U.S. Supreme Court. This grant will support TFDP's ongoing efforts to ensure that all poor people charged with criminal offenses have the assistance of competent counsel. This grant supports the Criminal Justice Fund's goal of eliminating racial disparities and securing a fair and equitable system of justice by improving indigent defense systems.

Previous OSI Support: \$125,000 Criminal Justice Fund 2009; \$100,000 Gideon Project 2007

Organizational Budget: \$279,840

Project Budget: N/A

Sources of Support: \$92,500 Atlantic Philanthropies; \$10,000 individual donations; \$5,000 Law Firm donations

Amount Requested: \$125,000

Contingent Grant: No

Amount Recommended: \$125,000 (T1:24017)

Term: Two years (August 1, 2011 – July 31, 2013)

Matching Requirements: None

Description of Organization:

The Texas Fair Defense Project (TFDP) is a nonprofit law firm based in Austin, Texas. Its mission is to improve the fairness and accuracy of the justice system in Texas, with a primary focus on improving access to counsel and the quality of representation provided to poor people accused of crime. TFDP defends the rights of indigent criminal defendants through litigation, education, and advocacy. TFDP was founded in 2004 as the fellowship project of Soros Justice Advocacy Fellow Andrea Marsh and has operated as an independent 501(c)(3) organization since January 2008. TFDP has been featured

in *Texas Lawyer*, which is widely read by lawyers and judges across Texas, as well as *The Texas Tribune*, the *Houston Chronicle*, the *Fort Worth Star-Telegram*, the *Austin-American Statesman*, the *Austin Chronicle*, and the *San Antonio Express-News*. In 2008, *Texas Lawyer* identified Marsh as one of eight impact players in the Texas legal community for her outstanding work on *Rothgery v. Gillespie County*, in which the United States Supreme Court declared that the constitutional right to counsel attaches at a defendant's initial post-arrest appearance before a magistrate.

TFDP has three core programs: (1) education – to address the need for greater community education around the right to counsel and its importance; (2) litigation – individual advocacy and impact litigation to challenge due process and constitutional violations; and (3) advocacy – which aims to educate system stakeholders on best practices in the delivery of indigent defense services. These programs operate as follows:

Education: TFDP has developed literature, in English and Spanish, explaining the importance of asserting the right to counsel in the face of official pressure to waive counsel. The brochure explains (1) the right to counsel, (2) the role of defense counsel, (3) the conditions of probation and the risk of revocation, (4) what a deferred adjudication dismissal achieves, and (5) other long-term consequences of misdemeanor convictions. TFDP has also published a “Tip Sheet” on how to navigate the appointment process and overcome judicial resistance to requests for counsel. These educational materials are distributed through a statewide network of community partners, which includes legal aid organizations, civil rights groups, community groups, domestic violence shelters, and local government offices that provide services to low-income individuals. Additionally, TFDP staff meets with community leaders and individuals in impacted communities and trains them on how to effectively assert the right to counsel, overcome common barriers, and understand the collateral consequences of uncounseled convictions.

Litigation: TFDP's Litigation Program involves both assistance to individual clients, often in the form of informal advocacy, and systemic challenges to indigent defense procedures that violate federal and state law. It operates a statewide intake program that offers legal information and referrals to low-income individuals facing criminal charges and, when feasible, TFDP also provides direct assistance to a many of these defendants. The brief service program enables TFDP to address right to counsel violations in situations in which systemic litigation is not feasible.

TFDP also pursues both civil and criminal litigation in a variety of fora in order to have the greatest positive impact on the delivery of indigent defense services. Its most high-profile work involves systemic indigent defense litigation brought in state and federal court pursuant to 42 U.S.C. § 1983. For example, in *Rothgery v. Gillespie County*, TFDP won a victory before the U.S. Supreme Court in a challenge to the common Texas practice of significantly delaying appointment of counsel to defendants released on bond. The Court held that the right to counsel attaches at a defendant's post-arrest appearance before a magistrate. The *Rothgery* decision was a watershed moment in Texas indigent defense reform. Most Texas counties now provide counsel to all defendants within a few days of arrest, regardless of their bond status, and TFDP is continuing to work with local jurisdictions to achieve full implementation of the *Rothgery* decision. TFDP is also counsel in *Heckman v. Williamson County*, a class action that challenges practices used to deny appointed counsel to misdemeanor defendants. Additionally, TFDP monitors state court appellate decisions in order to intervene strategically in direct criminal appeals with the potential to have statewide impact, allowing it to obtain faster results and effectively leverage its litigation resources.

Advocacy: TFDP's Advocacy Program aims to educate stakeholders and develop strategic partnerships to change illegal or inefficient court procedures and develop new indigent defense programs. It works with the Task Force on Indigent Defense, the State Bar of Texas, and other entities to develop educational materials, model forms, and best practices at the state level. The goal of the Advocacy Program is to eliminate illegalities without litigation and make improvements beyond the remedies that could be

achieved through litigation. The foundation of the Advocacy Program is research and data analysis, which TFDP relies on to identify problems and propose solutions to those problems.

Description of the Project for Which Funding Is Sought:

Texas Fair Defense Project seeks renewed general support.

Rationale for Recommendation:

This grant supports the Criminal Justice Fund's goal of eliminating racial disparities and securing a fair and equitable system of justice by improving indigent defense systems.

This grant will provide TFDP with the resources needed to reform Texas' broken indigent defense system. A vast majority of people arrested in Texas are charged with misdemeanor offenses but fewer than 10 % of defendants charged with jailable misdemeanors receive appointed attorneys. Thus, 90% of misdemeanor defendants are left to navigate a complicated legal system without counsel. Moreover, indigent felony defendants released on bond in Texas are also denied access to counsel for extended periods due to widely held assumptions that felony defendants do not need lawyers until an indictment is filed or that defendants released on bond are not indigent. Not surprisingly, the lack of legal assistance disproportionately impacts African Americans, who represent 12 % of the population but comprise 44 % of the state's total prison and jail population. Latinos are also disproportionately impacted.

During the next two years, TFDP will continue its groundbreaking role as the only organization dedicated to pursuing systemic indigent defense reform in Texas and will prioritize the following activities:

Ensure that indigent defendants are appointed counsel in a timely manner - Although Texas courts have significant barriers to access to counsel, many of those barriers are navigable by sophisticated defendants. TFDP will continue its education programs and expand its network of community partners to include particularly affected communities and geographic regions it has not yet reached and, through its intake program, will continue to provide one-on-one coaching and brief service to indigent defendants who have been denied counsel.

Support the development of a public defense system that operate in a manner consistent with the ABA's Ten Principles of a Quality Public Defense Delivery System - The vast majority of Texas counties rely exclusively on private assigned counsel to represent indigent defendants. These private lawyers are dependent on the judges before whom they appear for payment and future appointments. TFDP will work to develop new models for the independent delivery of public defense services beyond the traditional public defender office and assist jurisdictions interested in developing alternative models, such as the managed assigned counsel programs, in which appointed counsel exercise a greater degree of independence from the judiciary.

Support the development of diversion programs to minimize the financial burdens and collateral consequences of criminal convictions - TFDP will work to improve the provision of defense services to juvenile offenders and defendants with mental health issues. A growing number of Texas counties are exploring new models for providing defense services to defendants with mental health issues. These models involve providing defendants with specially trained lawyers and social workers focused on diverting cases from the criminal justice system and reducing recidivism. TFDP will work with counties that have specialized mental health defender programs to support the growth of those programs, promote promising or best practices, promote greater use of social workers in juvenile representation, and build partnerships to provide mental health training to juvenile defenders.

TFDP is a critical partner in CJF's efforts to advance indigent defense reform in Texas and nationally. For the above reasons the Criminal Justice Fund recommends a two-year grant to TFDP in the amount of \$125,000.

Grant Id. 20032778

Name of Organization: New York State Defenders Association

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

Fiscal Sponsor: None

Purpose of Grant: to provide general support

Grant Description: The New York State Defenders Association (NYSDA) is the largest criminal defense bar association in New York. Since 1967 it has been committed to improving the quality and scope of indigent defense services through training and education of attorneys representing the poor, technical assistance to the defender community and its allies, including government entities and policy makers, public policy advocacy, and strategic litigation. This grant supports NYSDA's ongoing commitment to improving the delivery of public defense services to all poor people charged with crimes in New York, and furthers the Criminal Justice Fund's goals of eliminating racial disparities and securing a fair and equitable system of justice by improving indigent defense systems.

Previous OSI Support: \$200,000 Criminal Justice Fund 2009; \$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

Organizational Budget: \$2,233,100

Project Budget: N/A

Sources of Support: \$200,000 Criminal Justice Fund 2009; \$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

Amount Requested: \$300,000

Contingent Grant: No

Amount Recommended: \$300,000 (T1: 24017)

Term: 2 years (April 1, 2011 – March 31, 2013)

Matching Requirements: 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) membership organization, has

been providing support to New York's criminal defense community. Its mission is to improve the quality and scope of publicly supported legal representation to poor people. NYSDA is the largest criminal defense bar association in New York and among the first statewide defense organizations to be established in the country. Its membership is open to people in the public defense client community and others committed to improving the quality of publicly support criminal defense.

Jonathan E. Gradess, is NYSDA's executive director. Gradess began his career as a paralegal, thereafter graduating *cum laude* in 1973 from Hofstra Law School. He has worked as a criminal defense lawyer, a private investigator, and a law school professor. Gradess is the recipient of the New York State Association of Criminal Defense Lawyers Gideon Award and the New York State Bar Association Criminal Justice Section award for Outstanding Contribution to the Delivery of Defense Services. He serves on the Restorative Justice Commission of the Roman Catholic Diocese of Albany and the boards of directors of New Yorkers for Alternatives to the Death Penalty and Equal Justice USA.

Description of the Project for Which Funding Is Sought:

The New York State Defender Association seeks renewed general support.

Rationale for Recommendation:

This grant furthers the Criminal Justice Fund's goals of eliminating racial disparities and securing a fair and equitable system of justice by improving indigent defense systems.

After nearly 45 years in operation, New York's disparate and inequitable public defense system is on the verge of collapse. The "system" is merely a collection of more than 100 under-funded individual programs operating in 62 counties. These programs operate without oversight, fail to comply with minimal national standards for quality representation, and handle caseloads that exceed national limits. In 2006, this ongoing crisis in public defense was recognized by the Commission on the Future of Indigent Defense Services appointed by then-Chief Judge Judith S. Kaye. In 2007 and 2008, NYSDA in partnership with the National Legal Aid and Defender Association, a core CJF grantee, released several studies showing that at least ten counties in New York State failed to meet national standards for providing public defense and highlighted the devastating human cost associated with these deficiencies. The Association is committed to eradicating these deficiencies across New York State by advocating for systemic change through strategic litigation, research and analysis, public education, communications and organizing efforts designed to end NY's perpetual indigent defense crisis.

Throughout its existence, NYSDA has supported a number of important developments that improve the delivery of indigent defense services in the state. In 2010, for example, the Association played a key role in the creation of New York's first Office of Indigent Legal Services, which reports to the Indigent Legal Services Board. Under a new law, the Office and Board have been given broad powers to collect information, monitor performance, distribute funds and take actions to improve the quality of indigent defense services. NYSDA is now dedicated to supporting the proper implementation of this new agency and any proposed recommendations for reform.

Additionally, its staff of 18 supports impact litigation, provides case consultations, legal research, technical assistance, referrals to experts, skills trainings and legal resources, monitors state legislation, and designs innovative programs to improve the quality of public defense representation. In 2010, for example, NYSDA responded to changes in the Rockefeller Drug Laws by providing training to defense attorneys in venues from Buffalo to Long Island. Moreover, in the wake of *Padilla v. Kentucky*, NYSDA developed the Post-Padilla Advocacy training program to help ensure that non-citizens are properly advised of the immigration consequences of criminal proceedings.

In addition to supporting individual attorneys, NYSDA assists public defense programs, county and state officials, and others in broader ways through its operation of the Backup Center. Through this service, the Association provides analysis, advice, and case management innovations to local offices to help with a range of legal, administrative, budgetary, and regulatory issues. In 2010, NYSDA provided 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. NYSDA filed an *amicus* brief in the NY Court of Appeals concerning the importance of allowing a New York Civil Liberties Union lawsuit about deficiencies in public defense services to proceed. NYSDA's brief exemplified the Backup Center's ability to bring cogent, focused, venue specific support to bear on important policy decisions.

Making the strongest case possible to improve indigent defense services in New York State requires 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 in the state. Funding will also support the organization's ongoing efforts to provide high quality consultation, training and technical assistance to front line public defense lawyers and public defender offices in the face of recent state budget cuts. Through its many services, NYSDA aims to engage the state as a whole, including government leaders, the media, impacted communities, and the general populations from which jurors are selected.

For these reasons, the Criminal Justice Fund recommends renewed general support to the New York State Defender Association in the amount of \$300,000 over two years. Because it is our interest to commit multi-year general support funding to the organization, in accordance with our available 2011 grantmaking budget, a contingency grant is not recommended. As a result, if approved, we will accrue this two-year grant fully to our 2011 grantmaking budget.

Grant Id. 20032785

Name of Organization: Foundation for Criminal Justice

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

Purpose of Grant: to provide general support

Grant Description: The Foundation for Criminal Justice (FCJ) and its member organization, the National Association of Criminal Defense Lawyers (NACDL) are the preeminent organizations in the US advancing the mission of the nation’s criminal defense bar to ensure justice and due process for persons accused of crimes, to foster the integrity and independence of the criminal defense profession, and to promote the proper and fair administration of justice. Together FCJ and NACDL have developed numerous reform projects designed to improve the criminal justice system as well as protect fundamental constitutional rights threatened by the government’s “war on terrorism.” FCJ and NACDL advance the organization’s mission through a variety of strategies, including litigation, training and resourcing of the defender community as well as initiating advocacy projects designed to improve our systems of justice. This grant will further the Criminal Justice Fund’s goals of eliminating racial disparities and securing a fair and equitable system of justice by improving indigent defense systems, and the National Security and Human Right’s Campaign’s goal of countering the government’s efforts to undermine the constitutional and human rights of persons charged with terrorism-related activities in the name of national security.

Fiscal Sponsor: N/A

Previous OSI Support: \$425,000 Criminal Justice Fund, co-funded with NSHR 2009 \$150,000 National Security and Human Rights Campaign 2008; \$50,000 Gideon Project 2008

Organizational Budget: \$463,250

Project Budget: N/A

Sources of Support: \$85,000 Ford Foundation; \$50,000 Annual Fund Raiser; \$30,000 Capital Campaign; \$25,000 Corporate WC Contributions

Amount Requested: \$425,000

Contingent Grant: No

Amount Recommended: \$425,000
\$225,000 (CJF T1: 24017)
\$200,000 (NSHR T1:21130)

Term: Two years (September 1, 2011 – August 31, 2013)

Matching Requirements: None

Description of Organization:

Founded in 2000, the Foundation for Criminal Justice (FCJ) is a 501(c)(3) organization that works to preserve and promote the core values of America's justice system guaranteed by the Constitution and the Bill of Rights and to support the work of its member organization, the National Association of Criminal Defense Lawyers (NACDL). Founded in 1958, NACDL has approximately 10,000 direct members and 35,000 affiliate members and is the sole member of FCJ. NACDL's mission is to ensure justice and due process for persons accused of crime, foster integrity and independence of the criminal defense profession, and promote the proper and fair administration of justice.

Norman Reimer, the foundation manager and NACDL Executive Director, practiced law for 28 years prior to joining NACDL in 2006. Reimer is a seasoned criminal defense lawyer with expertise in trial and appellate advocacy, in both state and federal jurisdictions. Since arriving at NACDL, he has co-authored several *amicus* briefs on behalf of NACDL, including *People v. Weaver* (which found that a warrant is required to conduct GPS surveillance without probable cause or reasonable suspicion) and *Hurrell-Harring v. New York* (which found a right to bring a prospective claim to challenge systemically deficient indigent defense representation). In 2007, Reimer received the Robert Louis Cohen Award for Professional Excellence from the New York Criminal Bar Association and the David S. Michaels Memorial Award for Courageous Efforts in Promoting Integrity in the Criminal Justice System from the New York State Bar Association.

Description of the Project for Which Funding Is Sought:

The Foundation for Criminal Justice seeks renewed general support.

Rationale for Recommendation:

This grant will further the Criminal Justice Fund's goals of eliminating racial disparities and securing a fair and equitable system of justice by improving indigent defense systems. This grant also advances the National Security and Human Right's Campaign's goals of ending indefinite detention and countering the government's efforts to undermine the constitutional and human rights of persons charged with terrorism-related activities in the name of national security.

The FCJ and NACDL have been at the forefront of pursuing reforms necessary to make America's criminal justice system more humane by supporting public defense, combating racial and ethnic disparities in the criminal justice system, and opposing the evisceration of fundamental constitutional rights. Through its strong network of rank and file criminal defense attorneys, FCJ and NACDL reach directly into the courtrooms where the daily battles over individual liberties, government overreaching and the rights of the accused are fought. FCJ and NACDL equip the criminal defense bar with the resources and training necessary to challenge ill-conceived attacks on fundamental freedoms, fight against prosecutorial overreaching, and withstand the omnipresent pressure created by court processes to compromise advocacy in favor of efficiency. In 2010, with the support of the FCJ, NACDL provided training to over 3,500 criminal defense lawyers, many at reduced cost or no cost.

Training alone is not sufficient to advance systemic reform. In contrast to the balanced scales of justice, defense lawyers oftentimes lack the necessary resources to provide their clients with zealous advocacy. Therefore, NACDL also provides model motions and briefs, technical assistance and the provision of

appropriate experts, testing and other key tools of defense advocacy from the courts and state commissions that oversee access to these important items, and files *amicus* briefs in support of strategic litigation.

FCJ and NACDL are also playing an important role in the effort to protect the civil rights and liberties of individuals suspected of terrorism. Since the tragedy of 9/11, the U.S. government has engaged in unparalleled assaults on a range of constitutional rights of such individuals, including their right to counsel, due process, a speedy trial, *habeas corpus*, and trial by jury. Despite hopes that the Obama Administration would reverse these policies, it has become clear that it has accepted the use of indefinite detention without charge or prosecution, as in the case of the Guantanamo Bay detainees, and has accepted the flawed military commission system. Given these challenges, the ability of NACDL's national security program to marshal the resources of the criminal defense bar to expose and combat these limitations on civil liberties is vitally important.

FCJ and NACDL have developed a number of reform projects designed to improve the criminal justice system and protect civil liberties. Over the next two years the organizations will continue to engage in the following reform initiatives:

Criminal Justice

Misdemeanor Project: In 2009, NACDL released its report on misdemeanor courts, entitled *Minor Crimes, Massive Waste: The Terrible Toll of America's Broken Misdemeanor Courts*. The recommendations of the report included reclassification or decriminalization of many misdemeanors and improved resources for misdemeanor defenders. FCJ and NACDL used the findings in the report to pursue a targeted reform agenda in Colorado and Florida. In Colorado, for example, NACDL is partnering with the state public defender and a statewide coalition to raise public awareness and challenge a law requiring misdemeanor defendants to negotiate with a prosecutor prior to having counsel appointed in violation of the Supreme Court's ruling in *Rothgery v. Gillespie*. In Florida, NACDL partnered with Professor Alisa Smith, Associate Professor of Criminology & Criminal Justice at the University of Tampa, to study the appointment of counsel and costs of misdemeanor prosecutions. This study will collect and analyze data in key counties and use the findings to mount an economically based argument for improving policies concerning the prosecution of misdemeanor crimes in Florida.

Problem-Solving Courts: In 2007, NACDL established a Task Force on Problem-Solving Courts to assess the extent to which these increasingly popular diversionary courts preserve or erode fundamental rights. In September 2009, it released, *America's Problem-Solving Courts: The Criminal Costs of Treatment and the Case for Reform*, which highlighted best and worst practices in the administration of these courts and proposed a set of guidelines for the formation of any problem-solving court program. Since the release of this report, NACDL has been asked to provide technical assistance to various jurisdictions reforming their problem-solving courts. In Maryland, for example, NACDL is engaged in efforts to develop a specialized court that meets the goal of rehabilitation without compromising a defendant's rights. Similarly, in California, NACDL is providing technical assistance to a judge seeking to improve administrative procedures and implement many of the recommendations of the report. The FCJ will continue to support NACDL in undertaking these kinds of technical assistance programs in the future and continue to work with jurisdictions to improve problem-solving court procedures.

Sentencing Reform: FCJ and NACDL are focused on three interrelated projects promoting sentencing reform. The first project seeks to expand the Supreme Court's decision and reasoning in *Padilla v. Kentucky* that the criminal sentence extends beyond the term of incarceration to critical civil consequences of a conviction as a platform to move toward a more client-centered concept of the defense function. The second project will analyze the effectiveness of the various methods for obtaining relief from the consequences of convictions, such as pardons, expungements, and petitions for administrative relief. The third project follows

the Supreme Court's decision in *Graham v. Florida*, in which the Court held that sentencing a juvenile to life without parole for a non-homicide offense violates the Eight Amendment's ban on cruel and unusual punishment. The project aims to train and resource lawyers to fully implement the Court's holding and exploring strategies for using the decision in myriad sentencing reform projects.

Resource Center: FCJ and NACDL seek to equip the defense bar with the resources necessary to mount a zealous defense. For example, through the Resource Center, an online forum with information relevant to the front line criminal defense practitioner, new and emerging issues, such as eyewitness identification challenges and the most recent forensics report from the National Academy of Sciences, are shared with the defense community. Furthermore, a dedicated attorney, Resource Counsel, provides technical assistance and referrals to expert NACDL members. The Center's support is especially important to small and solo practitioners who do not have the resources available to larger offices.

National Security

NACDL and the FCJ recognize that under the banner of the "war on terrorism," America's fundamental constitutional protections are under unprecedented assault. Since the tragedy of 9/11, the government has sanctioned a number of practices that violate a range of constitutional rights, including the right to due process, speedy trial, *habeas corpus*, and trial by jury. The practices in question include extraordinary rendition, indefinite detention, torture, and the use of procedurally flawed military commissions. As it has for the past several years, NACDL continues to prioritize national security issues. Its National Security Coordinator marshals the extensive knowledge and experience of NACDL members to educate the defense bar on national security issues, distribute critical resources on national security topics, and support law reform efforts to ensure that core constitutional rights are not trampled in the name of national security.

Training and Supporting Attorneys in Domestic Courts: National security laws have become a fixture in domestic criminal courts, both in cases with national security implications as well as non-terrorism prosecutions. NACDL tracks the use and misuse of national security laws in domestic courts and provides defenders with the training and resources necessary to prepare them to litigate these issues. For example, NACDL has partnered with New York University's Center on Law and Security to construct a brief bank on issues often unique to national security prosecutions, including the handling of classified information, navigating the Patriot Act and Foreign Intelligence Surveillance Acts, and conducting investigations abroad. Additionally, the NSC is working with members of NACDL's National Security Committee to develop a primer for practitioners on national security offenses and will offer chapters on the crime of material support, the Classified Information Procedures Act, jury selection, client management, and sentencing. A first draft is expected in the summer of 2011.

Preserving Fourth Amendment and privacy rights: The FCJ and NACDL are concerned with our government's willingness to overlook privacy concerns in pursuing its national security ends, whether under the rubric of the Patriot Act, the Foreign Intelligence Surveillance Acts, or agency policies. On September 7, 2010, NACDL and the ACLU commenced a lawsuit challenging a U.S. Customs and Border Protection policy that authorizes searches of the contents of travelers' laptop computers and other electronic storage devices at border crossings, notwithstanding the absence of indicia of wrongdoing, much less probable cause or reasonable suspicion. Also in 2010, NACDL filed an *amicus* brief in *People v. Weaver*, a case in which a New York State court held that surreptitious GPS tracking surveillance may not be conducted without a warrant. NACDL garnered a wide array of *co-amici*, including major state bar associations, the Electronic Frontier Foundation, the Union for Reform Judaism, the Sikh American Legal Defense and Education Fund, the American-Arab Anti-Discrimination Committee, and the Council on American-Islamic Relations. The Department of Justice has filed a petition for *certiorari* asking the Supreme Court to resolve a split among the

Circuit Courts on this issue, and NACDL is preparing to file an *amicus* brief in the event the Court grants the petition.

For the above reasons, the Criminal Justice Fund and the Campaign for National Security and Human Rights jointly recommend a general support grant of \$425,000 over two years to the Foundation for Criminal Justice. Because it is our interest to commit multi-year general support funding to the organization, each fund will accrue this two-year grant, if approved, to its 2011 grantmaking budget.

Grant ID: 20032787

Name of Organization: Seattle University

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

Fiscal Sponsor: N/A

Purpose of Grant: to support the Defender Initiative’s “*Misdemeanor Right to Counsel Project*”

Grant Description: tie off, renewal project grant over one year to support the *Misdemeanor Right to Counsel* project. This project seeks to persuade individual courts in the states of Washington, Kentucky, and New Hampshire to provide counsel to indigent persons charged with misdemeanor offenses at their arraignment or first appearance hearings. Also, through research and writings, this project aims to raise public awareness of the benefits of implementing diversion programs and reclassifying low level misdemeanor offenses to address the issue of excessive case load carried by public defenders, which hampers the meaningful application of the right to counsel. This grant would advance the Criminal Justice Fund’s goal of eliminating racial disparities and securing a fair and equitable system of justice by improving indigent defense services and by enforcing the constitutional guarantee of the right to counsel at every critical stage of the court process.

Previous OSI Support: \$125,000 Criminal Justice Fund 2010; \$57,895 Criminal Justice Fund 2009

Organizational Budget: \$166,000,000

Project Budget: \$91,300

Sources of Support: \$10,000 in-kind donations; \$5,000 Private Bar contributions; \$1,300 individual donors

Amount Requested: \$75,000

Contingent Grant: No

Amount Recommended: \$75,000 (Criminal Justice Fund, T1: 24017)

Term: One year (July 1, 2011–June 30, 2012)

Matching Requirements: None

Description of Organization:

Seattle University School of Law is the largest and most diverse law school in the Northwest, serving roughly 1,000 students, and home to nearly 200 full and part-time faculty members. Founded in 1891, Seattle University is recognized for academic excellence, commitment to service, and the formation of the whole

person. The urban campus houses eight schools and colleges and offers 56 undergraduate degree programs, 40 graduate programs, and 22 certificate programs. Founded in 2008 at the Korematsu Center for Law and Equality at Seattle University School of Law, The Defender Initiative (the Initiative) aims to improve indigent public defense representation for thousands of people in the state of Washington and develop replicable models for application in other states.

The Initiative is led by Professor Bob Boruchowitz, a former Soros Justice Fellow and experienced litigator and advocate. During the past six years, Boruchowitz has raised national awareness of the problems in misdemeanor courts through various publications and presentations on the subject and local and national conferences.

Description of the Project for Which Funding Is Sought:

In *Argersinger v. Hamlin* (1972), the U.S. Supreme Court held that the right to counsel guaranteed by the Sixth Amendment applies to defendants facing misdemeanor charges. The Court revisited this question in *Rothgery v. Gillespie* (2008) and, in an 8-1 decision, determined that a defendant's Sixth Amendment right to counsel attached after his initial appearance before a magistrate where he was informed of the charges against him, the Fourth Amendment probable-cause determination was made, and bail was set. The court's decision has the potential to affect the vast number of individuals who face misdemeanors charges in our nation's courts each year without the assistance of counsel.

The Defender Initiative seeks to increase the number of courts that provide counsel to accused persons in misdemeanor courts at their arraignment or first appearance. Through administrative advocacy, education and scholarly publications on the right to counsel, the Initiative has had success in persuading several courts in Washington State to provide counsel at misdemeanor arraignments. For example, three municipal courts in Washington now provide counsel at first appearance or arraignment, and the Spokane District Court has begun providing counsel for out-of-custody DUI defendants at hearings that did not previously have counsel available. Additionally, in the City of Tumwater, the judge, city attorney, and the local County Prosecutor have implemented a policy prohibiting guilty pleas from unrepresented persons.

Additionally, in 2010, the Defender Initiative provided technical assistance to staff at the Kentucky Department of Public Advocacy and a law professor at the University of New Hampshire School of Law, each seeking reform of misdemeanor court in their respective states.

The proposed project will build on this work by persuading additional courts to change. The Defender Initiative seeks support to: 1) expand reform efforts to Whatcom County District Court and Bremerton Municipal Court in Washington State; 2) offer technical assistance to the Kentucky Department of Public Advocacy in its efforts to persuade the counties of Campbell, Carter, and Pike to provide counsel to indigent misdemeanants at arraignment; and 3) provide consultation and expert witness services to advocates at the University of New Hampshire exploring the feasibility of bringing an impact litigation suit to enforce the right to counsel.

This tie-off grant will enable the Defender Initiative to conclude the efforts underway in Washington, Kentucky and New Hampshire.

Rationale for Recommendation:

This grant would advance the Criminal Justice Fund's goal of eliminating racial disparities and securing a fair and equitable system of justice by improving indigent defense services and enforcing the constitutional guarantee of the right to counsel at every critical stage of the court process.

The majority of defendants in the criminal justice system appear in misdemeanor courts. There are an estimated ten million misdemeanor cases per year in the United States. Despite clear U.S. Supreme Court authority that a guilty plea at arraignment is a critical stage requiring counsel,⁹ one-third or more of the accused persons resolve their cases without counsel. Often there are simply no defense attorneys available at the first hearings and judges accept “waivers” of the right to counsel that would not withstand appellate review. Moreover, while misdemeanor cases generally have sentences less severe than those for felony cases, the collateral consequences, including loss of work, loss of educational opportunities, and loss of housing, can be equally distressing. Significantly, a misdemeanor conviction for non-citizens can result in devastating consequences such as automatic deportation. As the U.S. Supreme Court recognized in its April 23, 2010 landmark ruling in *Padilla v. Kentucky*, deportation is not a mere “collateral” consequence but an “extreme penalty” that warrants the advice of counsel before entering a guilty plea. Therefore, it is imperative that misdemeanor defendants have effective representation at every critical stage, including arraignments.

The first project of the Initiative was a joint effort with the National Association of Criminal Defense Lawyers to conduct a comprehensive investigation of misdemeanor public defense in the United States. This project resulted in a report, *Minor Crimes, Massive Waste: The Terrible Toll of America's Broken Misdemeanor Courts*, which found that misdemeanor courts across the country are wasting money and eroding the rights of the accused. In the previous grant periods, the Initiative has persuaded several Washington courts to provide counsel at arraignment and first appearance hearings, resulting in literally thousands of accused persons having the opportunity to consult with and be represented by counsel at those hearings. Despite its success, however, many courts continue to prosecute and conduct arraignments without counsel. Thus, the Initiative is expanding its efforts to Whatcom County District Court and Bremerton Municipal Court.

Moreover, because this problem is not unique to Washington, in 2010, the Initiative began offering technical support to advocates in Kentucky and New Hampshire. In Kentucky, the Initiative is pursuing reform in three courts in the counties of Campbell, Carter, and Pike. Thus far, in each county Boruchowitz has reviewed several recordings of arraignment proceedings and subsequently contacted the respective judge, recommended the appointment of counsel, and provided constitutionally appropriate colloquies concerning waiver of counsel. The initiative has not received a favorable response from the judiciary, and it is currently strategizing with local advocates to develop and file formal judicial complaints as a strategy for enforcing the right to counsel in each court.

In New Hampshire, Boruchowitz has facilitated a series of conference calls with representatives of the public defender office and law professors. The group decided to pursue a litigation strategy, with Boruchowitz serving as a consultant and expert witness. Boruchowitz reviewed recordings of a court that took guilty pleas from unrepresented persons without an adequate colloquy and prepared a declaration. The New Hampshire team filed a petition for a writ in the state’s Supreme Court, which dismissed without prejudice, a finding that the litigation should be heard first in the superior court. The team filed a new petition in superior court and a hearing was held May 16, 2011. The court’s decision is pending.

While an-important project, Criminal Justice Fund staff are proposing a tie-off grant because the project appears to have limited capacity to affect reform broadly given that, despite three years in operation, it continues to operate as a one-man operation, advancing reform one courtroom at a time. Additionally, both the National Association of Criminal Defense Lawyers and the Texas Fair Defense Project, both

⁹ See, e.g., *White v. Maryland*, 373 U.S. 59, 60 (U.S. 1963), “Only the presence of counsel could have enabled this accused to know all the defenses available to him and to plead intelligently.”

recommended for OSF support on this docket, continue to advance misdemeanor representation reform on a state and national level. Finally, the project is not consistent with our desire to support more robust local efforts that incorporate multiple partners and strategies to foster systemic reform. For the above reasons, the Criminal Justice Fund recommends a tie-off project support grant of \$75,000 over one year to Seattle University School of Law's Defender Initiative.