

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

Program Area/Organization

<u>Organization</u>	<u>Grant Code</u>	<u>Recommended</u>	<u>Term</u>	<u>2011</u>	<u>2012</u>
Board Initiated Special Grants					
Ella Baker Center for Human Rights in California	T1: 21106	200,000	6 months	250,000	
N.A.A.C.P. Legal Defence and Educational Fund, Inc.	T1: 21106	250,000	6 months	250,000	
	Total Recommended:	\$ 450,000		\$ 500,000	\$
	GRANTMAKING TOTAL THIS DOCKET:	\$ 450,000			

OK \$500,000
 Approval Signature Angel Nave Date August 25, 2011

MEMORANDUM

TO: Aryeh Neier
VIA: Diana Morris
CC: Sherrilyn Ifill; Bryan Stevenson
FROM: Leonard Noisette, for the Criminal Justice Fund
DATE: August 24, 2011
RE: Grant Recommendations, Campaign to Reduce Incarceration in California

The Criminal Justice Fund recommends two grants totaling \$500,000 for funding from the U.S. Programs Board/Chairman's Fund. These grants would advance the U.S. Programs Board's interest in taking advantage of the current fiscal crisis in California as an opportunity to support a comprehensive campaign to promote reforms that would reduce the state's prison population and enhance public safety. The grants would also advance the Criminal Justice Fund's interest in reducing mass incarceration by exposing the excessive and destructive social and economic costs of incarceration and promoting just and effective sentencing alternatives.

The two proposed grants were included in our memo of August 3, 2011 to the USP Board, more fully describing our proposed campaign effort and requesting \$1 million to launch the campaign. The Board approved the \$1 million request and asked a board sub-committee (Sherrilyn Ifill and Bryan Stevenson) to oversee this board-initiated effort. We anticipate recommending shortly an additional grant that would support the campaign infrastructure and related activities. The grants below would provide additional capacity to ongoing activities, which we will fully integrate into the overall campaign. (Following a recent set of meetings in California, the Criminal Justice Fund also submitted another memo to the Board sub-committee, requesting additional support from the Board/Chairman's Fund so that OSF can participate fully in a proposed four-year campaign to reduce mass incarceration. Sherrilyn has indicated that the Board will consider this request in the near future.)

Ella Baker Center for Human Rights in California (EBC), \$250,000 project grant over six months to strengthen the California Partnership's (CA Partnership) capacity to participate in campaign development and to engage in public education and constituency organizing and mobilizing to reduce excessive incarceration and enhance public safety in California. OSF funding would enable the CA Partnership to play a leading role as criminal justice reform advocacy experts in the planning and implementation of OSF's Campaign for Criminal Justice Reform in California by: 1) participating in campaign planning and development; 2) engaging and mobilizing criminal justice reform organizations across the state, with particular emphasis on organizations based in Latino and African-American communities in Southern California; and 3) supporting the on-the-ground implementation of the campaign's communications and media strategy to demonstrate widespread public support for fair and cost effective sentencing policies.

N.A.A.C.P. Legal Defense and Educational Fund, Inc. (LDF), \$250,000 project grant over six months to conduct non-partisan analysis and research on the impact of California's Three Strikes Sentencing scheme and to support public education and grassroots mobilizing. OSF funding would enable LDF to: analyze raw California Department of Corrections and Rehabilitation data to understand the impact of the Three Strikes law on the current prison population; conduct public opinion research to understand Californians' attitudes about the law; and support the public education and mobilizing efforts of local grassroots organizations.

We are available to discuss these recommendations with you and answer any questions you may have.

If you approve, kindly sign and date the attached financial summary sheet.

Grant ID: #20032947

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

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

Name of Fiscal Sponsor: Not Applicable

Purpose of Grant: To strengthen the California Partnership’s capacity to participate in the development and implementation of a public education and mobilization campaign to advance cost-effective solutions that reduce excessive incarceration in California

Grant Description: To provide \$250,000 project grant over six months to strengthen the California Partnership’s (CA Partnership) capacity to participate in the development and implementation of a public education and mobilization campaign development to reduce excessive incarceration and enhance public safety in California. OSF funding would enable the CA Partnership to play a leading role as criminal justice reform advocacy experts in the planning and implementation of OSF’s Campaign to Reduce Mass Incarceration in California by: 1) participating in campaign planning and development; 2) engaging and mobilizing criminal justice reform organizations across the state, with particular emphasis on organizations based in Latino and African-American communities in Southern California; and 3) supporting the on-the-ground implementation of the campaign’s communications and media strategy to demonstrate widespread public support for fair and cost effective sentencing policies.

Previous OSF Support: \$1,881,800

- \$250,000 from Criminal Justice Fund, 2009
- \$681,800 from U.S. Justice Fund, 2004-2008
- \$475,000 from Criminal Justice Initiative, 2001-2003
- \$475,000 Center on Crime, Communities & Culture, 1998-2000

Organizational Budget: \$2,200,000

Project Budget: \$400,000

Sources of Support:

Rosenberg Foundation	\$37,500
Fund for Nonviolence	\$37,500
Public Welfare Foundation	\$37,500
Ford Foundation	\$37,500

Amount Requested: \$250,000

Contingent Grant?: No

Amount Recommended: \$250,000 (U.S. Programs Board/Chairman’s Fund, T1: 21106)

Term: 6 months, beginning October 1, 2011

Matching Requirements: None

Description of Organization:

Based in Oakland, California, Ella Baker Center for Human Rights in California (EBC) was established in 1996 as an outgrowth of the Bay Area PoliceWatch, 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 a staff of more than 20 advocates working to strengthen justice, opportunity, and community safety. Through public education, grassroots organizing, direct action mobilizing, and policy reform advocacy, EBC promotes alternatives to violence and incarceration and aims to strengthen the voice of communities most harmed by prison and harsh punishment. EBC's programs include: *Books Not Bars*, which works to reform California's youth prison system and to replace it with effective, community-based education and treatment alternatives; the *Green-Collar Jobs Campaign*, which promotes a clean and green economy in California—especially for low-income communities and communities of color—advocating for the creation of career track “green-collar” jobs in industries like renewable energy, green building, habitat restoration, and sustainable agriculture; *Soul of the City*, which works to transform Oakland by engaging and mobilizing community members to become active decision-makers on issues related to the economy, environment, and public safety; and *Heal the Streets*, which works to train a new generation of social change leaders through a ten-month fellowship to educate and mobilize Oakland youth (ages 15-18) to advocate for community-based violence prevention policies.

In addition to conducting its four main programs, the Ella Baker Center, along with the American Civil Liberties Union of Northern California (ACLU-NC) and the Drug Policy Alliance (DPA), has been a leading member of the California Partnership (CA Partnership), a statewide coalition formed in 2009 to reduce the number of people incarcerated in California's prison system. Leveraging the state's severe budget crisis, EBC, ACLU-NC, and DPA and their coalition partners educate the public and policymakers about alternative, cost-effective strategies that strengthen public safety while reducing corrections spending and reliance on incarceration.

The Ella Baker Center for Human Rights has been an OSF grantee since 1998. In June 2011, the Criminal Justice Fund awarded EBC renewed general support over two years.

Description of the Project for Which Funding is Sought:

The Ella Baker Center for Human Rights requests project funding to strengthen the California Partnership's capacity to play a leading role as criminal justice reform advocacy experts in OSF's Campaign to Reduce Mass Incarceration in California. Specifically, OSF funding would enable the CA Partnership to:

Participate in campaign planning and development. To inform the development and deployment of the Campaign to Reduce Mass Incarceration in California, EBC and its coalition partners will play a leading role as criminal justice policy reform experts on the campaign planning committee. The CA Partnership will work closely with OSF, its foundation partners, and central campaign staff to: refine the campaign's short-, medium-, and long-term policy objectives; develop the campaign's advocacy agenda and strategies; and create the campaign's associated public education plan and targeted messaging strategies. The CA Partnership will also serve as the liaison between central campaign staff and local, on-the-ground grassroots groups to ensure that advocacy efforts across the state remain consistent with the campaign's advocacy, education, and messaging strategies.

Educate and mobilize local reform organizations. To support the engagement of key grassroots organizations and community stakeholders in the criminal justice and budget policy debate, EBC and its coalition partners will continue educating, mobilizing, and providing communications and campaign assistance to its existing network of local criminal justice and related reform organizations. The CA Partnership will expand its efforts to educate, organize, and support the participation of families of incarcerated and convicted people and of community-based organizations throughout the state.

Demonstrate public support for reform. To demonstrate to policymakers the widespread public support for reform, EBC and its partners will participate in the deployment of the campaign's on-the-ground public education and communications strategy. The CA Partnership will identify, organize, and support community spokespeople—with an emphasis on leaders from the African-American, Latino, and Asian and Pacific Islander Communities in Southern California—to promote effective strategies for keeping people who do not pose a threat to public safety out of jails and prisons, such as reducing low-level, non-violent drug and property offenses to misdemeanors. It will also ensure that local spokespeople and grassroots efforts remain on message as the campaign progresses.

Rationale for Recommendation:

This grant would advance the U.S. Programs Board's interest in taking advantage of the current fiscal crisis in California as an opportunity to promote a comprehensive campaign that would result in reduced prison population and spending without compromising public safety. USP staff are working closely with staff from other national and California based foundations to launch a multi-year campaign that will work aggressively to develop broad public support for criminal justice reform and the re-allocation of limited public funds away from incarceration. While much of the campaign will focus on engaging people and organizations that have not traditionally focused on criminal justice policy and on incarceration, in particular, the grant recommended here would ensure that the campaign builds upon a foundation of strong criminal justice expertise. The grant would advance the Criminal Justice Fund's interest in reducing mass incarceration by exposing the excessive and destructive social and economic costs of incarceration and promoting just and effective sentencing alternatives.

California's criminal justice system is bloated and costly. Overcrowding in the state prison system has reached such a critical level that, on May 23, 2011, the Supreme Court of the United States ruled in *Brown v. Plata* to uphold a 2009 order by a three-judge federal court requiring the state to lower the prison population to a maximum of 137.5 percent of capacity.¹ With more than 140,000 people in its system, California's Department of Corrections is currently 42 percent over its official capacity and, in 2010, cost the state roughly \$8 billion to operate, putting its costs ahead of positive expenditures such as higher education. It is now up to the state to decide how it will comply with the order to ease overcrowding, bringing the prison population to 110,000 in the mandated two-year time period.

Prior to the Supreme Court's decision, Governor Jerry Brown responded to the state's budget and prison overcrowding crises with a plan to reduce the state prison population by approximately 30,000, cutting corrections spending by \$2 billion per year by 2014. This "realignment" plan would accomplish these goals by shifting authority of most people without a current or previous conviction for a serious offense from the state to the counties. The Brown administration contends that its realignment plan will allow it to meet the court's mandate, but others project that it will fall short. Moreover, while the recently passed California budget provides some funding for the realignment, it is not at the level initially envisioned. As such, implementation of the realignment plan presents significant challenges: localities are concerned about their ability to effectively assume responsibility for supervision and provision of services without

¹ *Brown v. Plata*, 563 U. S. ____ (2011)

adequate resources to do so; and, criminal justice advocates worry about the possibility of substantial increases in local jail populations as the counties are given responsibility for large numbers of individuals convicted of low level offenses. Perhaps most important, the Supreme Court ruling requires only that California reduce its prison population to 137% of capacity, or to 110,000 people. Advocates and reform-minded policymakers alike recognize reforms beyond those contained in the realignment plan could significantly reduce the prison population further, with no threat to public safety.

This project will leverage the recent Supreme Court decision and Brown's realignment plan by deepening the engagement of key local community and grassroots organizations in reform efforts. It will play an important role in the OSF-led Campaign to Reduce Mass Incarceration in California, which will educate the public and key stakeholders about effective strategies, beyond the realignment plan, that could keep people who do not pose a threat to public safety out of jails and prisons, saving taxpayer dollars for other needed services.

Ella Baker Center for Human Rights and its California Partnership coalition partners, the American Civil Liberties Union of Northern California and the Drug Policy Alliance, are well positioned to play a leading role in the Campaign's statewide public education and mobilization efforts. Since 2008, The CA Partnership has been working together to reduce the number of people incarcerated in California's prison system. Leveraging the budget crisis, the CA Partnership has demanded immediate cuts to corrections in order to protect spending on other important services such as education and health care. In the past three years, the CA Partnership has contributed to several significant victories, including marijuana decriminalization and raising the threshold for charging theft offenses as felonies.

This year, to build momentum and capacity for continued and larger victories in the context of *Brown v. Plata* and the state's dire fiscal crisis, the coalition has agreed to focus on reducing the penalty for drug possession from a felony to a misdemeanor and on maximizing the positive impact of the proposed realignment plan. The change in the drug possession penalty alone would reduce the daily prison population by 9,000 people (and cut prison costs by \$450 million a year) as well as shrink the number of people burdened with a felony drug conviction. Criminal Justice Fund staff is cautiously optimistic about the prospects for success, given recent polling commissioned by the CA Partnership, which found overwhelming public support for this reform.²

This grant would provide targeted funding to strengthen the capacity of the CA Partnership lead organizations to support the planning, development, and deployment of a coordinated campaign to reduce incarceration in California. By supporting the ability of CA Partnership members—the Ella Baker Center, the ACLU of Northern California, and the Drug Policy Alliance—to participate as field experts in the campaign planning and development team, OSF funding will ensure the Campaign's policy objectives are well-defined and ambitious and that its advocacy and communications strategies are inclusive and effective. The CA Partnership's knowledge of California, connections to and good reputation among grassroots organizations statewide, and experience mobilizing and coordinating broad coalitions to advance criminal justice reform will be important assets for realizing the Campaign's potential to reap substantial reductions in imprisonment and help the state generate budget savings in corrections. OSF funding will support the CA Partnership in playing a critical role in the campaign effort by mobilizing advocates across the state and supporting their strategic engagement in the Campaign's effort to gain and demonstrate broad public support for its reform goals.

² The poll, conducted March 21-24, 2011, by Lake Research Partners, showed that 72 percent of likely General Election voters in California favored changing from a felony to a misdemeanor possession of a small amount of illegal drugs for personal use. Sixteen percent opposed reducing the penalty and 11 percent remained undecided. The margin of error for the poll is +/- 3.5 percent.

Although OSF currently provides general support to the Ella Baker Center, a portion of this grant will enable it to ramp up its activities in support of a more robust campaign effort. Similarly, this funding would also support deeper engagement by the Drug Policy Alliance and the ACLU of Northern California, key OSF partners whose California prison downsizing work we are not funding currently. Criminal Justice staff are limiting the grant term to six months to provide time for OSF with other foundations to set up the California campaign staff. Once that staff is in place and has refined the campaign workplan and division of labor, funders—including OSF—will have a better sense of the ongoing role of the CA Partnership.

For these reasons, the Criminal Justice Fund recommends project support for the Ella Baker Center for Human Rights in California in the amount of \$250,000 over six months.

Grant ID: #20033041

Legal Name of Organization: N.A.A.C.P. Legal Defense and Educational Fund, Inc.

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

Purpose of Grant: To conduct non-partisan analysis and research on the impact of California's Three Strikes Sentencing scheme and to support public education and grassroots mobilization around the research findings

Grant Description: To provide \$250,000 project support over one year to N.A.A.C.P. Legal Defense and Educational Fund (LDF) to conduct non-partisan analysis and research on the impact of California's Three Strikes Sentencing scheme and to support public education and grassroots mobilizing around the research findings. OSF funding would enable LDF to analyze raw California Department of Corrections and Rehabilitation data to: understand the impact of the Three Strikes law on the current prison population; conduct public opinion research to understand Californians' attitudes about the law; and support the public education and mobilizing efforts of local grassroots organizations.

Previous OSF Support: \$2,658,000

- \$200,000 from Campaign for Black Male Achievement-2011
- \$358,000 from Equality and Opportunity Fund, 2010-2011
- \$750,000 from Criminal Justice Fund, 2008-2011
- \$350,000 from Progressive Infrastructure Initiative, 2007
- \$400,000 from U.S. Justice Fund, 2005
- \$250,000 from Criminal Justice Initiative, 2003
- \$300,000 from Center on Crime, Communities & Culture, 2000
- \$25,000 from Center on Crime, Communities & Culture, 1996

Organization Budget: \$13,421,500.00

Project Budget: \$615,000

Major Sources of Support: Individual Donor (David Mills) \$37,500

Amount Requested: \$250,000

Contingent Grant: No

Amount Recommended: \$250,000 (U.S. Programs Board/Chairman's Fund, T1: 21106)

Term: 6 Months, beginning July 1, 2011

Matching Requirements: None

Description of Organization:

Founded in 1940 by Thurgood Marshall, the NAACP Legal Defense and Educational Fund (LDF) is a non-profit legal organization with the mission of achieving racial equality for African-Americans and, ultimately, all Americans. LDF has a rich history that includes the landmark 1954 victory before the U.S. Supreme Court in the school desegregation case of *Brown v. Board of Education*. LDF supports litigation and advocacy efforts to secure quality education, along with meaningful economic opportunities, the right to vote and fully participate in democracy, and access to a fair criminal justice system.

NAACP Legal Defense and Educational Fund has been an OSF grantee since 1996. In 2010, the Criminal Justice Fund and the Equality and Opportunity Fund awarded renewed general support funding to the organization. In 2011, CJF and the Campaign for Black Male Achievement jointly awarded funding to support its Dismantling the School to Prison Pipeline initiative to challenge racially discriminatory school disciplinary policies and practices.

Description of the Project for Which Funding Is Sought:

The N.A.A.C.P. Legal Defense and Educational Fund requests project funding to conduct non-partisan analysis and research on the impact of California's Three Strikes Sentencing scheme and to support public education and grassroots mobilizing around the research findings. Specifically, OSF funding will enable LDF to retain the Stanford Law School Three-Strikes Clinic to engage in the following:

Data Analysis. To understand the impact of California's Three Strikes law on the state's prison population and the public safety implications of reform, LDF will analyze raw data it recently obtained from the California Department of Corrections and Rehabilitation (CDCR). LDF will identify the currently incarcerated individuals who would be affected by different Three Strikes reform proposals and calculate their recidivism risk according to the state's recidivism risk analysis protocol. It will compare their risk levels against those eligible for early release under current laws designed to relieve overcrowding; analyze the risk data to determine the relative safety of different reforms; and identify measures that could lower the risk profile of those released under the different reform options. LDF will also analyze the impact of the current Three Strikes law and the different potential reform options according to race, age, county of conviction, and mental health status.

Public Opinion Research. To understand Californians' attitudes about the Three Strikes law, LDF will conduct public opinion research. LDF will conduct two statewide telephone surveys and a series of focus groups to explore Californians' opinions about the crimes they believe should not trigger a life sentence and about the arguments for and against Three Strikes reform.

Public education and grassroots mobilizing. To inform the debate in California about the social and economic costs of Three Strikes policies and the different options for safe and cost effective system reform, LDF will direct a public education campaign and support grassroots organizing and mobilizing. LDF will engage the California media and conduct outreach to stakeholder groups, with an emphasis on African-American, Latino, and religious communities, policy makers, and opinion leaders to educate them about the high cost of the Three Strikes law on California's budget relative to the public safety benefits and the possibilities for safe and cost-effective reforms. It will also support the public education and local organizing of existing grassroots criminal justice reform organizations.

Rationale for Recommendation:

This grant would advance the U.S. Programs Board's interest in taking advantage of the current fiscal crisis in California as an opportunity to promote a comprehensive campaign that would reduce the prison population and spending on incarceration without compromising public safety. USP staff are working closely with staff from other national and California based foundations to launch a multi-year campaign

that will work aggressively to develop broad public support for criminal justice reform and the re-allocation of limited public funds away from incarceration. While much of the campaign will focus on engaging people and organizations that have not traditionally focused on criminal justice policy and on incarceration, in particular, the grant recommended here would ensure that the campaign builds upon a foundation of strong criminal justice expertise and focuses on one of the main causes of over-incarceration in the state. The grant would advance the Criminal Justice Fund's interest in reducing mass incarceration by exposing the excessive and destructive social and economic costs of incarceration and promoting just and effective sentencing alternatives.

The public debate in California concerning Three Strikes policies has changed dramatically since 2004, when every significant law enforcement leader and elected official in the state publicly opposed the reform proposed in Proposition 66. Although several influential and vocal leaders and organizations—such as former Governor Pete Wilson, former Kern County District Attorney Ed Jagels, and Mike Reynolds, who authored the Three Strikes initiative in 1994—remain opposed, a growing group of state law enforcement leaders, elected officials and tax watchdogs have begun to publicly question the value of Three Strikes. Although no concrete Three Strikes reform proposals currently exist in the public domain, prominent policy leaders have recently made public statements supporting Three Strikes reform, including Los Angeles Police Chief Charles Beck and California Correctional Peace Officers' Association President Mike Imenez.³ They have been joined by the editorial boards of a number of influential newspapers across the state, including the *Los Angeles Times*, the *San Jose Mercury News*, the *San Francisco Chronicle*, the *Sacramento Bee*, the *San Diego Union-Tribune*, and the *North County Times*, as well as those from other smaller-market newspapers.

In addition, recent polling indicates a shift in the attitudes of California's citizenry about Three Strikes reform. Initial polling conducted in March and April of this year by LDF showed that, while a majority of California voters (54 percent) supports the Three Strikes law in general, a larger majority (69 percent) support reforming the Three Strikes law to ensure that life sentences are not imposed for non-violent, non-serious offenses. Eighty percent of likely voters surveyed agreed with the statement "Three Strikes reform will release less dangerous inmates from California's overcrowded prisons so that more dangerous inmates can remain incarcerated." More recently, polling released on June 16 by the independent and nonpartisan Field Research Corporation showed that 74 percent of California voters support reforming the Three Strikes law. Because opponents of reform have consistently argued that Three Strikes reform will result in the release of dangerous people, Criminal Justice Fund staff agree with LDF's assessment that the public safety implications of Three Strikes reform will be important to understand, as will communicating this information clearly and effectively to the public and policymakers. This project will provide the empirical analysis and public opinion research necessary for addressing the concerns of policy makers, opinion leaders, and the public.

LDF's team is a strong one and well positioned to advance the sentencing reform objectives of OSF's Campaign to Reduce Mass Incarceration in California. It has retained the Stanford Law School's Three Strikes Project as its advisor and local counsel to collaborate on this project. The only legal organization in the country devoted to representing individuals serving life imprisonment under California's Three

³ High-profile elected officials, law enforcement leaders, and policy commentators who have recently called for amending the Three Strikes law to prohibit life sentences for non-violent, non-serious crimes include California Attorney General Kamala Harris, California Lt. Governor Gavin Newsome, Los Angeles Mayor Antonio Villaraigosa, Los Angeles District Attorney Steve Cooley, San Francisco District Attorney George Gascon, California Correctional Peace Officers' Association President Mike Imenez, Los Angeles Police Chief Charlie Beck, Los Angeles County Sheriff Lee Bacca, retired Los Angeles Police Chief Bill Bratton, retired San Jose Police Chief Joe McNamara, Prison Fellowship President Pat Nolan, and American Civil Rights Institute Chairman Ward Connerly.

Strikes law, Stanford's Three Strikes Project has been highly successful in generating media attention to its litigation on behalf of individual clients sentenced under the Three Strikes law for minor crimes. Co-founders Michael Romano and Larry Marshall oversee the Three Strikes Project. Romano has been recognized as one of the top lawyers in California, and Marshall is a nationally recognized leader in criminal justice advocacy and public policy who played a key role in exonerating a dozen wrongfully convicted death row inmates and in leading the campaign to secure clemency for over 150 condemned inmates in Illinois.

In addition, Stanford Law School has on its faculty the person best situated to oversee the project's risk assessment analysis, Joan Petersilia. A criminologist with a background in empirical research and social science, Petersilia co-directs the Stanford Criminal Justice Center, which focuses on policies related to crime control, sentencing, and corrections. It develops nonpartisan analyses and recommendations intended to aid public officials, legal practitioners, and the public in understanding criminal justice policy at the state and national levels. Petersilia has spent more than 25 years studying the performance of U.S. criminal justice agencies and has been instrumental in changing sentencing and corrections reform in California and throughout the United States. She is the author of 11 books about crime and public policy, and her research on parole reform, reentry, and sentencing policy has fueled changes in policies throughout the nation.

For these reasons, the Criminal Justice Fund recommends project support for the N.A.A.C.P. Legal Defense and Educational Fund in the amount of \$250,000 over six months.