

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

Program Area/Organization

Organization	Grant Code	Recommended	Term	2011	2012
Eliminating Harsh Punishment					
Trustee of Columbia University in the City of New York	T1: 24017	10,000	10 months	10,000	
Total Recommended:		\$ 10,000		\$ 10,000	\$ -
GRANTMAKING TOTAL THIS DOCKET:		\$ 10,000			

Diana Maus
Approval Signature

11/15/11

Date

Grant ID: 20034571

Legal Name of Organization: Trustees of Columbia University in the City of New York

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

Name of Fiscal Sponsor: n/a

Purpose of Grant: to support the Center on Crime, Community and Law at Columbia Law School to convene a conference of experts in community policing and racial justice to discuss litigation and other forms of legal interventions to reform policing policies and practices

Grant Description: \$10,000 project support over 10 months to support the Center on Crime, Community and Law at Columbia Law School to convene a conference of experts in community policing and racial justice to discuss: 1) successful litigation addressing unconstitutional policing practices and related efforts at reform; 2) lessons learned from past consent decrees and other forms of intervention; 3) new ideas in the design of judicial remedies in current and future cases; and 4) new models of policing reform beyond litigation. This grant advances the Criminal Justice Fund's priorities to eliminate racial disparities and secure a fair and equitable system of justice by reforming police practices.

Previous OSF Support: n/a (for this project)

Organization Budget: \$100,805,858 (Columbia Law School)

Project Budget: \$20,763

Major Sources of Support: Ford Foundation \$10,763

Amount Requested: \$10,000

Is this a contingent grant? No

Amount Recommended: \$10,000 (T1: 24017)

Term: 10 months, beginning December 1, 2011

Matching Requirements: n/a

Description of Organization:

Columbia University was founded in 1754 as King's College by royal charter of King George II of England. It is the oldest institution of higher learning in New York and the fifth oldest in the United

States. The project will be managed and led by principle investigators at the Center on Crime, Community and Law at Columbia Law School. Founded in 1858, the law school is one of the first in the United States. Today, Columbia Law School enrolls approximately 1,200 Juris Doctor students and approximately 210 graduate students. The Center on Crime, Community and Law, established at Columbia Law School in 2002, draws on law and social science to analyze problems in criminal law and criminal justice, including drug policy, juvenile justice, and terrorism. The Center's research programs examine the interaction of individuals and communities with law and the impact of criminal justice policy.

Description of Program for Which Funding Is Sought:

Columbia Law School will convene experts in community policing, attorneys with expertise in impact litigation brought against police agencies, Department of Justice officials, legal scholars, civil rights advocates and representatives from community-based organizations to improve outcomes of civil rights litigation against police departments and to improve police accountability and legitimacy. To accomplish this goal, the convening participants will discuss and analyze: 1) successful police litigation and reform efforts; and 2) lessons learned from prior consent decrees against police agencies, including weaknesses of those actions. The project will include a final report which will provide recommendations to improve the design of litigation remedies in current and future cases. Some of the areas covered by the final report will include: 1) the role of monitors in consent decrees; 2) how to improve relief through the use of expert panels, statistical experts, and police professionals; 3) working with and involving the U.S. Department of Justice; 4) using data and statistical analysis including the use of benchmarks to measure the impact of remedies (e.g., racial disparities, use of force); and 5) the use of community input in designing litigation remedies.

Rationale for Recommendation:

This grant would advance the Criminal Justice Fund's goal of eliminating racial disparities and securing a fair and equitable justice system by supporting the development of innovative thinking to improve litigation remedies against police agencies accused of constitutional violations such as racial bias.

Recent litigation against police departments in New York and Philadelphia has raised broad challenges to the order maintenance and stop-and-frisk practices that violate constitutional rights and result in highly disproportionate stops of people of color.¹ The Department of Justice has opened pattern and practice investigations in 15 cities, in addition to these jurisdictions, to examine allegations of police misconduct, police abuse and racial bias. There is currently an unprecedented opportunity to bring together some of the nation's best thinkers on the subject of police accountability and civil rights litigation to generate new ideas to improve police accountability, transparency and legitimacy. In particular, the project will use stop-and-frisk cases as a model to apply the best social science, legal and statistical measures to guide litigators and courts to achieve effective judicial remedies to reform police practices.

Over the past two decades, litigation challenging police practices has not always been successful despite prevailing on the merits. The injunctive relief has often failed to bring about long-term institutional

¹ The *Floyd v. City of New York* is currently pending in court. In Philadelphia, plaintiffs represented by private counsel and the ACLU of Pennsylvania filed a class action against the City of Philadelphia in November 2010 (*Bailey v. City of Philadelphia*) alleging a pattern of unlawful stop-and-frisk practices. The Philadelphia settlement agreement includes creating a court monitored scheme to collect stop data electronically, training of police officers, review of current training practices and supervision, prohibition of unconstitutional stops and frisks, establishment of policies and procedures, audits of stop practices, written documentation of training, and enhanced supervision and compliance monitoring.

reform of police practices. One such example is *Daniels v. City of New York*, which challenged NYPD's racially biased stop-and-frisk practices. The *Daniels* suit led to a settlement and consent decree, which the City of New York failed to implement.² Although the NYPD did create a written anti-racial profiling policy, the City's stop-and-frisk audits did nothing more than assess if officers' stop-and-frisk paperwork was filled out correctly. The NYPD never held the community forums it was required to organize under the settlement agreement. More importantly, after the *Daniels* settlement, NYPD's use of stop-and-frisk exploded citywide. The *Daniels* suit taught litigators that settlement agreements do not automatically transform into meaningful remedies in practice. After non-compliance with the *Daniels* consent decree, CCR filed *Floyd v. City of New York* to challenge the legality of NYPD's stop-and-frisk practices.

Compared to the *Daniels* suit, the April 2002 Collaborative Agreement reached in a class action lawsuit against the Cincinnati police alleging racial discrimination has been more successful, although there is still some evidence of racial disparities in policing practices. Some of the successes in Cincinnati have been measured by a reduction in the use of excessive force by police against African-American residents and a reduction in the number of civilian complaints made against police officers. Experts attribute the relative success of the Collaborative Agreement to a bottom-up approach in the design of the Agreement. The ACLU, Black United Front and other grassroots groups solicited community support and input during the negotiation period that shaped the content of the Agreement.

As the *Floyd* case moves towards a trial or settlement negotiations with the City, litigators involved in the case will be thinking carefully about how to develop an effective and meaningful judicial remedy. It is important for these litigators to gather input from experts about what kinds of concrete changes or additional measures the NYPD can make to increase accountability, transparency and fairness. These experts must include grassroots and base-building organizations that work directly with and in the communities most impacted by police practices. The project will provide a forum for experts to impact the *Floyd* case and future litigation in other jurisdictions. Although a settlement has already been reached in Philadelphia, the outcomes of the proposed remedies project have the potential to influence the settlement there too. The consent decree in Philadelphia could be amended or revised based upon new developments, including new theories of monitoring. Given the strong risk of non-compliance in any jurisdiction, the project will provide a solid framework for new thinking about effective enforcement of judicial remedies to resolve questionable police practices.

The experts leading the project have decades of experience in the areas of race, crime and law. Jeff Fagan, the Director of the Center for Crime, Community and Law and Columbia Law School, has long studied policing practices and is currently expert witness in the case challenging the New York Police Department's practice of stop-question-and-frisk (*Floyd v. City of New York*). He was a Soros Senior Justice Fellow in 2005-2006. David Rudovsky was co-counsel in the *Bailey* suit challenging the City of Philadelphia's stop-and-frisk practices and is an attorney who has practiced in the civil rights and criminal defense fields for 45 years, including cases on police and governmental misconduct, prisoners' rights and racial discrimination. Since 1987, he has been a Senior Fellow at the University of Pennsylvania School of Law.

For the above mentioned reasons, the Criminal Justice Fund recommends a project support grant to the Trustees of Columbia University in the City of New York in the amount of \$10,000 over 10 months.

² In *Daniels v. City of New York*, the Center for Constitutional Rights challenged the race-based policing practices of NYPD's Street Crimes Unit, in violation of the Fourth and Fourteen Amendments. Under the settlement agreement signed by the City and CCR, the NYPD was required to: 1) create a formal, written policy against racial profiling; 2) provide quarterly stop-and-frisk data to CCR; 3) create a system of internal audits of officer stop-and-frisk activity to determine if stops were based on reasonable suspicion; and 4) hold a series of community forums on stop-and-frisk in precincts with the highest stop activity.