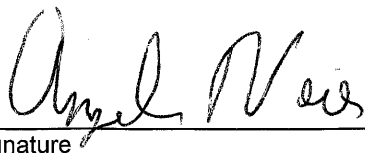
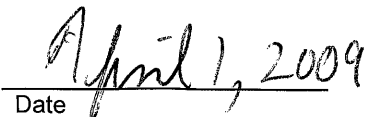


**U.S. PROGRAMS**  
**JEHT Foundation Emergency Fund**  
**Summary of Recommended Grants**  
**Docket I - April 1, 2009**

<u>Organization</u>	<u>Requested</u>	<u>Recommended</u>	<u>Term</u>
<b>JEHT Foundation Emergency Fund (Program Code 59959)</b>			
<b><u>Criminal Justice Fund (CJF)</u></b>			
Campaign for Youth Justice	\$ 135,000	\$ 135,000	1 year
Center for Children's Law and Policy	\$ 140,000	\$ 140,000	1 year
Corporation for Supportive Housing	\$ 400,000	\$ 400,000	1 year
Death Penalty Information Center	\$ 100,000	\$ 100,000	1 year
Equal Justice Initiative of Alabama	\$ 525,000	\$ 525,000	2 years
Innocence Project, Inc.	\$ 375,000	\$ 375,000	1 year
Texas Defender Service	\$ 147,500	\$ 147,500	1 year
The Defender Association <sup>1</sup>	\$ 150,000	\$ 150,000	1 year
The Regents of the University of California	\$ 50,000	\$ 50,000	15 mths.
	<b>Recommended:</b>	<b>\$ 2,022,500</b>	
<b><u>(CJF's) Fair Administration of Justice (Program Code 24420)</u></b>			
The Defender Association	\$ 150,000	\$ 150,000	1 year
	<b>Recommended:</b>	<b>\$ 150,000</b>	
<b><u>Equality and Opportunity Fund (EOF)</u></b>			
Advancement Project	N/A	\$ 60,275	1 year
Heartland Human Care Services (fiscal for National Immigrant Justice Ctr.)	\$ 241,000	\$ 120,000	1 year
	<b>Recommended:</b>	<b>\$ 180,275</b>	
<b><u>National Security and Human Rights Campaign (NSHR)</u></b>			
Center for Constitutional Rights	\$ 90,674	\$ 90,674	1 year
Crimes of War Education Project	\$ 100,000	\$ 100,000	1 year
Human Rights First	\$ 300,000	\$ 300,000	1 year
New York University School of Law	\$ 65,000	\$ 65,000	1 year
Yale University	\$ 75,000	\$ 75,000	1 year
	<b>Recommended:</b>	<b>\$ 630,674</b>	
<b><u>Transparency and Integrity Fund (TIF)</u></b>			
Center for Public Integrity	\$ 300,000	\$ 300,000	1 year
National Institute on Money in State Politics	\$ 290,000	\$ 290,000	1 year
William J. Brennan Center for Justice	\$ 68,414.35	\$ 68,414.35	1 year
	<b>Recommended:</b>	<b>\$ 658,414.35</b>	
		<b>TOTAL RECOMMENDED:</b>	<b>\$ 3,641,863.35</b>



Approval Signature



Date

<sup>1</sup> The Defender Association: total grant is \$300,000 for two years, with \$150,000 from JEHT Response Grantmaking (59959) and \$150,000 from Criminal Justice Fund's Fair Administration of Justice budget (24420).

## Memorandum

To: Aryeh Neier  
From: Ann Beeson & Erlin Ibreck  
Re: JEHT Emergency Fund Docket Meeting, April 1, 2009  
Date: March 25, 2009

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You will be meeting with U.S. Programs staff next week on April 1 from 3:00 to 4:00 pm to discuss recommendations for the JEHT Emergency Fund. Recommendations come from: the Criminal Justice Fund, the Equality and Opportunity Fund, the Transparency and Integrity Fund, and the National Security and Human Rights Campaign. This package contains the nineteen recommendations for your review in advance of that meeting.

As you are aware we have coordinated our grant recommendations with Atlantic Philanthropies and the Ford Foundation. We jointly hired a consultant in early February to review the impact of the JEHT Foundation closure on its former grantees. Organizations were asked a series of questions to determine the impact of JEHT's closure on their staffing levels, program activities being funded by JEHT, core program capacity, and their ongoing viability. Grantees were also asked to discuss their current funding sources, financial stability, and plans for dealing with the loss of JEHT funds. OSI's recommendations are therefore informed by the consultant's feedback. Staff expects to consider another round of JEHT Emergency Fund grants. Consideration will be given to funding a select number of former JEHT grantees that were expecting renewed funding; additional groups to be considered may not necessarily be OSI grantees but groups whose work is aligned with OSI priorities.

Joining us at the docket discussion will be the following staff:

Criminal Justice Fund: Leonard Noisette, Susan Tucker, William Johnston and Terrance Pitts

Equality and Opportunity Fund: Raquiba LaBrie and Maria Teresa Rojas

National Security and Human Rights Campaign: Nancy Chang and Sophia Conroy

Transparency and Integrity Fund: Laleh Ispahani

We have also invited Merrill Sovner to the docket meeting since NSHR has been coordinating their grantmaking with the President's Office.

We look forward to the meeting, and welcome any comments or questions ahead of time that you would like us to address.

# Memo

To: Aryeh Neier

From: Ann Beeson, Leonard Noisette, and CJF Staff

Date: 25 March 2009

Re: JEHT Emergency Fund Recommendations, Criminal Justice Fund

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For the first docket of the JEHT Emergency Fund grantmaking, the Criminal Justice Fund recommends nine grants. Eight of these grants are in support of on-going activity previously funded by the CJF. One is a new grant which supports an ongoing and highly successful campaign-based partnership with one of our current grantees. Five of these grants advance the Fund's goal of death penalty reform, while simultaneously supporting the development of independent and robust public defense systems and leadership capacity. Another grant builds upon OSI's previous investments in fostering successful reentry after jail and prison. All of the grants advance the Criminal Justice Fund's goal of promoting the fair treatment of people of color and the fair and equal administration of justice.

**Campaign for Youth Justice (C4YJ)** - \$135,000 project support grant for one year, to develop capacity for the timely and effective implementation of the federal Juvenile Justice and Delinquency Prevention Act (JJDP), which advocates expect to be reauthorized by mid-2009. C4YJ will provide technical assistance to key constituencies such as state and local officials and advocates. One such product includes an implementation guide for new leaders at the Department of Justice and the Office of Juvenile Justice and Delinquency Prevention (OJJDP). C4YJ will also help to develop strategies to ensure that states do not "opt out" of the JJDP. C4YJ will focus on the (1) sight and sound separation and (2) jail removal provisions of the JJDP. C4YJ has worked closely with the Center for Children's Law and Policy (CCLP) to develop advocacy strategies designed to improve juvenile justice policy at the state and national levels. The current project will be a natural continuation of this working relationship. When the JEHT Foundation shut its doors in December 2008, C4YJ lost \$135,000 in committed grantmaking – the entire budget for their JJDP implementation project. Preparing states for compliance with the Juvenile Justice Delinquency Prevention Act will advance the Criminal Justice Fund's goals of reducing over-reliance on incarceration and fair treatment of people of color and the poor.

**Center for Children's Law and Policy (CCLP)** - \$140,000 project support grant for one year, to develop a comprehensive strategic approach to prepare for the implementation of the federal Juvenile Justice and Delinquency Prevention Act (JJDP), which expired in 2007 and is expected to be reauthorized by mid-2009. Although CCLP has not received prior support from OSI, it will carry out this national effort in close coordination with the Campaign for Youth Justice (C4YJ), a current OSI grantee. OSI's funding will support CCLP's efforts to conduct legal, policy, and evaluation research, provide technical support, and develop written materials that explain new provisions of the JJDP and facilitate meetings and trainings with stakeholders. CCLP will focus on the 1) disproportionate minority contact and 2) conditions of confinement and isolation provisions of the JJDP. CCLP's efforts to ensure timely and adequate implementation of the JJDP support the Criminal Justice Fund's goal of reducing over-reliance on incarceration and fair treatment of people of color and the poor.

**Corporation for Supportive Housing (CSH)** - \$400,000 project grant over one year to continue replication, in Cook County, Illinois, of the successful *New York City Frequent Users of Jail and Shelter Initiative*, which integrates criminal justice, human services, and housing funding for creating and sustaining Reentry Supportive Housing, and to conduct a comprehensive feasibility analysis in up to five jurisdictions across the country to identify opportunities for making supportive housing a key component of coordinated reentry planning in those places. OSI funding will help replace a portion of committed funds that CSH lost with the closure of the JEHT Foundation this past December. This grant would build on OSI's previous investments in CSH's Reentry Supportive Housing efforts and would advance the Criminal Justice Fund's interest in fostering successful reentry after jail and prison by fostering cross-sector and multi-agency government accountability and collaboration for reinvesting criminal justice and other public dollars into reentry infrastructure for high-incarceration communities.

**Equal Justice Initiative of Alabama (EJI)** - \$525,000 general support grant for two years, for EJI's ongoing legal assistance to poor and disadvantaged people in the Deep South who are affected by the unfair administration of criminal justice. EJI uses strategic litigation, public education, training, and advocacy to promote civil and human rights and policy reform. Since its founding in 1989, EJI has provided direct legal assistance to death row prisoners, people who have received excessive prison terms, children sentenced to adult prisons, the mentally ill, and others who have been unfairly or illegally convicted. EJI's operations have been seriously undermined by the closing of the JEHT Foundation in December 2008. JEHT had committed \$1.5 million in funding over the next three years to EJI for its work on behalf of 13 and 14-year-olds confronting the sentence of Life without the Possibility of Parole, but had not made any payments on the grant at the time of its closure. General support from OSI would provide EJI with the funding and flexibility to continue this project and other critical work. This grant would advance a number of goals of the Criminal Justice Fund, including abolishing the death penalty, improving indigent defense systems, ending the over reliance on incarceration, and reducing prison sentencing. It would also advance the goal of the Equality and Opportunity Fund of addressing structural racism and ensuring justice and equality.

**The Defender Association (TDA)** - \$300,000 project support grant for two years, to the Racial Disparity Project, which aims to reduce systemic racial inequality in the justice system. The RDP proposes to make arrest a tactic of last resort for law enforcement in Seattle and King County responding to low-level drug activity such as use, possession and sales. Instead, law enforcement, as well as community groups and corrections officers, will refer would-be arrestees to robustly-funded community-based (as opposed to court-based) diversion programs able to assist participants with a wide range of needs in order to discontinue their involvement in street crime. This grant would renew OSI's support for the Defender Association's work in this area, as well as provide for the loss of the second payment of a two-year grant for this project, in the amount of \$150,000, pending when the JEHT Foundation collapsed in December 2008. This grant would further the Criminal Justice Fund's goals of improving indigent defense services, encouraging incarceration alternatives that emphasize rehabilitation and treatment, while combating racially disparate law enforcement. ,

**The Regents of the University of California** - \$50,000 general support grant to the UC Berkeley School of Law Death Penalty Clinic's Lethal Injection Project (the Project) for 15 months. The Criminal Justice Fund recommends its grant in partnership with a \$50,000 grant from Atlantic Philanthropies. Since its formation in 2001, the Clinic has been dedicated to ending the unfair and unequal administration of capital punishment in the United States. The Clinic currently represents clients in California, Alabama, and North Carolina and has played a key role in several capital cases before the United States Supreme Court, two of which involved the right to a jury selected free of race discrimination. For the past two years, the Clinic has played a central role in coordinating the more than two dozen pending cases that challenge lethal injection as a method of execution. When the JEHT Foundation ceased operations, the Clinic lost its grant of \$99,357 for

the lethal injection website. This grant supports the Criminal Justice Fund's goal to abolish the death penalty.

**Death Penalty Information Center (DPIC)** - \$100,000 general support grant for one year to assist DPIC's efforts to provide information and analysis on the use of capital punishment in the United States. DPIC regularly issues press releases and conducts briefings for journalists and is one of the most widely cited sources of information on the death penalty in the media. Since its inception, DPIC has produced and broadly disseminated 18 major reports on the death penalty and 14 annual reports. Three of the major reports have been based on commissioned national opinion polls. All of these reports have been widely covered in the media. DPIC also operates a state-of-the-art website. DPIC had received a grant of \$125,000 from the JEHT Foundation in 2008 and was encouraged to request a grant of \$100,000 for 2009. The loss of these funds would have a significant impact on DPIC's budget and its ability to continue its work. DPIC's efforts reinforce the Criminal Justice Fund's goal to abolish the death penalty and ensure the fair administration of justice.

**Innocence Project, Inc. (IP)** - \$375,000 general support for one year to assist the IP in its mission to exonerate wrongfully convicted people through DNA testing and to reform the criminal justice system to prevent future injustice. The organization has facilitated the freedom of 234 innocent people from prison, including 17 on death row. In February 2008, Kennedy Brewer of Noxubee County, Mississippi became the state's first person to be exonerated through post-conviction DNA testing. The IP has also raised awareness about the fallibility of the criminal justice system leading the charge to improve eyewitness identification procedures, regulate and oversee forensic sciences, improve access to post-conviction DNA testing, and improve evidence preservation systems. The Innocence Project lost \$750,000 in pledged general support grants from the JEHT Foundation over the next two fiscal years, a loss of one-eighth of their yearly budget. The organization's mission to free the wrongfully convicted and achieve policy reform aligns with the Criminal Justice Fund's commitment to the fair and equal administration of justice, including reduction of over-reliance on incarceration, fair treatment of people of color and the poor, death penalty reform, and improved public defense services.

**Texas Defender Service (TDS)** - \$147,500 general support grant for one year, in partnership with a \$22,500 grant to be recommended by Atlantic Philanthropies, to advance the work of the Texas Defender Service to identify and expose inaccuracies, injustices, and flaws in Texas' system of capital punishment. TDS's core strategy for suspending or limiting the application of the death penalty in Texas is to identify cases with compelling injustices and relate that information to policy makers and the public. The organization's leaders support reform efforts to improve the appointment standards for capital lawyers at all phases of the proceedings, establish fair procedures for addressing the question of mental retardation in capital cases, and alter the capital sentencing scheme by eliminating the use of future dangerousness in jury sentencing. The most recent OSI grant supported TDS's involvement with the development and organizational set-up and protocol for the West Texas Capital Defender Unit, the first-ever capital public defender unit in Texas. TDS lost a total of \$170,000 in committed and anticipated grants from the JEHT Foundation. TDS's mission advances the Criminal Justice Fund's goal to abolish the death penalty and improve and develop independent public defense systems.

<b><u>Name of Organization:</u></b>	Campaign for Youth Justice
<b><u>Tax Status:</u></b>	501(c)(3) public charity
<b><u>Purpose of Grant:</u></b>	to support planning and preparation for the implementation of the reauthorized Juvenile Justice and Delinquency Prevention Act (JJPDA) at the federal and state levels.
<b><u>Previous OSI Support:</u></b>	\$1,000,000 from Gideon Project (2007)
<b><u>Organizational Budget:</u></b>	\$1,550,000
<b><u>Project Budget:</u></b>	\$135,310
<b><u>Sources of Support:</u></b>	Sole project support
<b><u>Amount Requested:</u></b>	\$135,000
<b><u>Amount Recommended:</u></b>	\$135,000 (JEHT Response Grantmaking, T1: 59959)
<b><u>Term:</u></b>	One year (April 2009 – May 2010)

**Description of Organization:**

The Campaign for Youth Justice (C4YJ) was launched in 2005 to end the practice of trying, sentencing, and incarcerating youthful offenders under the age of 18 in the adult criminal justice system. The strategic goals of C4YJ are twofold: 1) to reduce the number of youth who are tried, sentenced, and incarcerated in the adult criminal justice system, rather than adjudicated in the juvenile justice system; and 2) to decrease the harmful impact of trying youth in adult court, especially the placement of youth in adult jails and prisons. OSI provided core funding support to C4YJ in 2007.

C4YJ uses both state-level and national advocacy strategies to achieve its goals. The state-level strategies employ a campaign model targeting reform that leverages the strengths of state-based organizations and builds campaign capacity to launch state-level reform efforts. Both the state and national level strategies promote research; create awareness of key decision-makers; engage youth, parents and families of those most impacted; use legislative education and advocacy; target media; facilitate organizing, outreach and coalition building. Some of C4YJ's campaigns in 2008 included reform of the juvenile justice system in Connecticut, Wisconsin, Virginia, the District of Columbia, North Carolina and Oregon.

Over the past 20 months, C4YJ has worked closely with the Center for Children's Law and Policy (CCLP) to create an effective ongoing means for national organizations to impact juvenile justice policy. In particular, both organizations utilized their core competencies to support state and local organizations and coalitions develop an advocacy infrastructure, including research, online capacity, and communications outreach to gain reauthorization of the federal Juvenile Justice and Delinquency Prevention Act (JJDPDA), the major federal legislation affecting the juvenile justice system. C4YJ led the way in organizing and managing the Act 4 Juvenile Justice working group and developing the capacity of state and local advocates and juvenile justice system stakeholders to contribute to policy discussions at the federal level. C4YJ also provided expertise on the issue of transfer of youth to adult criminal court and removal of juveniles from adult jails. CCLP

developed strategy with C4YJ, conducted research, and provided legal and policy advice on the core requirements and conditions of confinement, while providing expertise on the issues of Disproportionate Minority Contact (DMC) and conditions of confinement.<sup>1</sup>

**Description of the Project for Which Funding Is Sought:**

C4YJ is planning for the timely and effective implementation of the JJDPa by providing technical assistance to key constituencies such as state and local officials and advocates. Advocates expect the Act to be passed and signed into law by mid-2009. One of the Campaign's products will include an implementation guide for new leaders at the Department of Justice and the Office of Juvenile Justice and Delinquency Prevention (OJJDP). C4YJ will also help to develop strategies to ensure that states do not "opt out" of the JJDPa.

C4YJ will focus on the (1) Sight and Sound Separation and (2) Jail Removal provisions of the JJDPa. The organization's staff will conduct the necessary legal, policy, and evaluation research, and produce the written materials, on these topics. C4YJ will take the lead on work with state advocacy groups and state officials. In addition, C4YJ will contract with a consultant to develop media materials related to this project. Further, C4YJ will co-chair the Act 4 Juvenile Justice Working Group to support coordinating the work of C4YJ, the Center for Children Law and Policy (CCLP) and other advocacy organizations. Some of the coordination efforts by C4YJ and CCLP will include: 1) integrating their written products into seamless documents; 2) taking part in meetings with officials at the Office of Juvenile Justice and Delinquency Prevention (OJJDP), and federal agencies; 3) facilitating meetings with contacts in bellwether states; and 4) supporting other advocacy groups around the nation.

**Rationale for Recommendation:**

Preparing states for compliance with the Juvenile Justice Delinquency Prevention Act will advance the Criminal Justice Fund's goals of reducing over-reliance on incarceration and fair treatment of people of color and the poor.

There is an enormous opportunity for juvenile justice reform that will impact the justice system throughout the country. Successful organizing by seasoned advocates with knowledge of federal, state, and local constituencies and allies is critical to the successful implementation of a newly authorized JJDPa. C4YJ and its partners have the expertise needed to provide technical assistance and develop advocacy strategies to implement the Act after it is passed and signed in 2009. When the JEHT Foundation shut its doors in December 2008, C4YJ lost \$135,000 in committed grantmaking – the entire budget for their JJDPa implementation project. C4YJ, in partnership with CCLP, is perfectly poised to provide the guidance and materials necessary for effective implementation. For these reasons, CJF recommends funding the Campaign for Youth Justice in the amount of \$135,000 over one year.

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<sup>1</sup> The four core protections of the Act include: 1) deinstitutionalization of status offenders (DSO); 2) limitations on when juveniles may be held in adult jails or police station lock-ups; 3) sight and sound separation of juveniles from adult inmates; and 4) requirement that states must assess and address the over-representation and disproportionate involvement of youth of color at critical points in the juvenile justice system. C4YJ expects Congress to sign into law reauthorization of the JJDPa by mid-2009.

**Name of Organization:** Center for Children’s Law and Policy

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

**Purpose of Grant:** to support planning and preparation for the implementation of the reauthorized Juvenile Justice and Delinquency Prevention Act (JJDA) at the federal and state levels.

**Previous OSI Support:** None

**Organization Budget:** \$2,192,575

**Project Budget:** \$140,000

**Major Sources of Support:** None

**Amount Requested:** \$140,000

**Amount Recommended:** \$140,000 (JEHT Response Grantmaking, T1: 59959)

**Term:** One year (April 2009 – May 2010)

**Description of Organization**

The Center for Children’s Law and Policy (CCLP) was created in 2006 to focus on reform of juvenile justice and related systems that affect troubled and at-risk children, and to protect the rights and safety of children. CCLP’s strategies include research, public education, training, technical assistance, legislative and administrative advocacy and litigation. Prior to CCLP’s formation, the organization’s executive director, Mark Soler, had a long history with the Youth Law Center as a senior staff attorney and executive director. In 2006, Soler created a separate entity and formed the CCLP from the Youth Law Center’s Washington, DC office.

One of CCLP’s achievements is implementation of Building Blocks for Youth, a comprehensive, multi-strategy, multi-jurisdiction approach to reducing over-representation and racial and ethnic disparities affecting youth of color in the justice system. CCLP has also organized and supervised activities involving racial and ethnic disparities in the MacArthur Foundation’s Models for Change initiative, overseeing disproportionate minority contact reduction activities in twelve jurisdictions.

**Description of Program for Which Funding Is Sought**

CCLP is planning to develop a comprehensive advocacy campaign in alliance with its partners to ensure the effective implementation of the Juvenile Justice and Delinquency Prevention Act (JJDA). The JJDA is the primary vehicle through which the federal government sets standards for state and local juvenile justice systems and provides funding for states, research, training and technical assistance, and evaluation. The Act expired in 2007 and is expected to be reauthorized by mid-2009.

The JJDA contains four core protections, which are the most notable feature of the law not only because 25% of each state’s funding is tied to compliance with each protection, but also because these four requirements constitute the most powerful way the federal government influences juvenile justice systems. The four core protections include: 1) deinstitutionalization of status



offenders (DSO); 2) limitations on when juveniles may be held in adult jails or police station lock-ups; 3) sight and sound separation of juveniles from adult inmates; and 4) requirement that states must assess and address the over-representation and disproportionate involvement of youth of color at critical points in the juvenile justice system. When reauthorized, the JJDP Act has the potential to impact the 2.2 million youth who are arrested each year across the country. These young adults are disproportionately poor and ethnic minorities.

To ensure effective and timely implementation of JJDP Act, CCLP, in partnership with the Campaign for Youth Justice (C4YJ), will conduct legal, policy, and evaluation research, provide technical support, and develop written materials that explain new provisions of the Act and facilitate meetings and trainings with stakeholders. In particular, CCLP will focus on the 1) disproportionate minority contact and 2) conditions of confinement and isolation provisions of the Act. CCLP will contract other experts to develop similar work products for the deinstitutionalization of status offenders' component. CCLP will develop its work products, meetings, and trainings for the following groups: 1) the incoming administrator and executive staff of the Office of the Juvenile Justice and Delinquency Prevention Program (OJJDP); and 2) state and local officials who implement the JJDP Act.

### **Rationale for Recommendation**

CCLP's efforts to ensure timely and adequate implementation of the JJDP Act support the Criminal Justice Fund's goal of reducing over-reliance on incarceration and fair treatment of people of color and the poor.

CCLP has gained a national reputation in juvenile justice policy advocacy and has effectively worked with state, local, and national partners. By the time the JEHT Foundation announced its closure in December 2008, the Foundation had approved a grant to the CCLP, which anticipated funds to cover CCLP's important work supporting implementation of the JJDP Act. The JJDP Act is the single most important piece of federal legislation affecting youth in juvenile justice systems across the country. In the reauthorizations of the JJDP Act since its initial passage in 1974, there has never been an effort like this to mold implementation of the reauthorized legislation. With reauthorization of the JJDP Act almost certain, the next logical step is for CCLP and its partners to develop a comprehensive national campaign to ensure effective implementation of the Act. For these reasons, the Criminal Justice Fund recommends funding to the Center for Children's Law and Policy in the amount of \$140,000 over one year.

**Name of Organization:** Corporation for Supportive Housing

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

**Purpose of Grant:** To continue replication, in Cook County, Illinois, of the *New York City Frequent Users of Jail and Shelter Initiative*, which integrates public criminal justice, human services, and housing funding for creating and sustaining reentry supportive housing, and to assess replication opportunities in up to five other cities

**Previous OSI Support:** \$675,000 (\$50,000 Center on Crime, Communities & Culture; \$25,000 Criminal Justice Initiative; \$100,000 Criminal Justice Initiative; \$200,000 U.S. Justice Fund; \$300,000 U.S. Justice Fund)

**Organizational Budget:** \$20,779,155

**Project Budget:** \$987,266

**Sources of Support:** \$275,000 Robert Wood Johnson Foundation; \$191,000 The Jacob and Valeria Langeloth Foundation; Public Welfare Foundation (pending); Atlantic Philanthropies (pending)

**Amount Requested:** \$400,000

**Amount Recommended:** \$400,000 (JEHT Emergency Fund, T1: 59959)

**Term:** One year (January 2009 – December 2009)

**Matching Requirements:** None

**Description of Organization:**

The Corporation for Supportive Housing (CSH) was established in 1991 with funding from the Pew Charitable Trusts, the Robert Wood Johnson Foundation, and the Ford Foundation to support local nonprofits to develop service-supported housing for people coping with homelessness, extreme poverty, and chronic health conditions such as mental illness, addiction, and HIV/AIDS. Through its hubs in California, District of Columbia, Connecticut, Illinois, Indiana, Michigan, Minnesota, New Jersey, New York, Ohio, Rhode Island, and Texas; targeted initiatives in Kentucky, Maine, Oregon, and Washington; and assistance to other communities, CSH has created 23,000 units of operational supportive housing—with an additional 14,800 units currently in the pipeline—ending homelessness for at least 26,800 adults and children. CSH promotes coordinated systems and funding streams to foster the development and operation of supportive housing; provides financial and technical assistance to local partners to expand the supply, availability, and variety of supportive housing; enhances the supportive housing sector’s skills and knowledge to ensure high-quality housing and services over the long term; and documents and publicizes supportive housing’s efficient use of public resources and positive impacts on tenants, communities, and neighborhoods.

CSH has been an OSI grantee since 1997, and we have supported its work around supportive housing for people coming out of prison and jail since 2001. In 2007, OSI awarded CSH renewal funding to replicate in Connecticut, New Jersey, and Rhode Island its *New York City Frequent Users of Jail and Shelter Initiative*, a justice reinvestment strategy aimed at reducing the reliance

on incarceration by spurring and coordinating public investment in supportive housing for people after jail and prison.

**Description of the Project for Which Funding Is Sought:**

The Corporation for Supportive Housing requests project funding to help replace a portion of committed funds that CSH lost with the closure of the JEHT Foundation this past December, to continue the following projects:

*Cook County Frequent Users of Jail and Shelter Initiative.* CSH has begun to replicate, in Cook County, Illinois, its successful New York City Frequent Users of Jail and Shelter Initiative, which integrates public criminal justice, human services, and housing funding to create and sustain reentry supportive housing. CSH will provide technical and financial assistance to non-profit partners to stabilize the 120 replication project participants in permanent housing and to enhance the health and mental health care and employment service supports provided. CSH will track outcomes related to jail and/or prison, arrest, court appearance, homeless shelter and other system utilization reductions; the health status, housing stability, employment, and earnings of project participants; and outcomes less directly related to public costs (e.g., re-established family ties, civic participation, and client satisfaction) and will prepare a cost savings analysis to provide justification to criminal justice and other agencies for expanding the replication. To sustain the reentry supportive housing models and create new interventions targeted toward other populations, CSH will assist criminal justice and other agencies with developing and implementing reinvestment mechanisms that channel cost-savings realized from system usage reductions into ongoing integrated funding streams.

*Feasibility assessments for replication in three to five additional jurisdictions.* CSH will complete the preliminary scan it began in autumn 2008<sup>2</sup> and identify three to five sites to explore, in depth, readiness for *Frequent Users of Jail and Shelter Initiative* replication. In jurisdictions with demonstrated buy-in among and commitments by criminal justice, housing and other social service agencies, and community-based non-profits with the experience and capacity to develop and implement appropriate reentry housing models, CSH will conduct a thorough analysis of the budgetary constraints and opportunities. This inquiry will include an assessment of the possibilities for increasing investments and/or reallocating existing resources toward reentry supportive housing; the current level and potential for growing necessary support and commitments among key government stakeholders; and the capacity of the local non-profit housing and service delivery organizations that would be central to implementation, including strengths and current service gaps.

**Rationale for Recommendation:**

This grant would build on OSI's previous investments in CSH's reentry supportive housing efforts and would advance the Criminal Justice Fund's interest in supporting successful reentry after jail and prison. OSI funding will help replace a portion of committed funds that CSH lost with the closure of the JEHT Foundation this past December. Although this grant is intended to replace a portion of funding JEHT committed to CSH for 2009 only and will not be renewable from OSI's JEHT Emergency Fund budget in subsequent years, staff will consider renewing promising ongoing work from the Criminal Justice Fund Grantmaking budget in 2010 when its current grant to CSH comes to a close.

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<sup>2</sup> With what was to be the first of several installments of JEHT funding, CSH began its preliminary scan in King County, Washington; Houston, Fort Worth, Austin, and Dallas, Texas; Philadelphia, Pennsylvania; Alameda County, California; and Colorado and Kansas.

With past and current OSI funding, CSH has built close partnerships with other OSI grantees, such as the Council of State Governments, the Justice Mapping Center, and the Judge David L. Bazelon Center for Mental Health Law, and has developed a replicable justice reinvestment model that targets state and local criminal justice, housing, and other agencies and assists them in co-investing and blending existing resources to create a flexible, integrated funding stream for reentry supportive housing. We are impressed with CSH's sophisticated, yet practical, systems integration approach, which has provided a strong mechanism for bringing together relevant public agencies that often have trouble working together. CSH has been successful in brokering a collective response that fosters cross-agency accountability and more efficient and effective use of public funding to support the successful reentry of people from jail and prison.

OSI JEHT Emergency response funding at this time would not only build on past and current OSI investments in CSH's strategy and model, it would also help ensure that OSI's—and JEHT's—early investments in CSH's reentry efforts continue to leverage new private and new and existing public funding sources for reinvestment in supportive housing. Relatively new to criminal justice reform funding, the Jacob and Valeria Langeloth Foundation is set to approve funding to completely replace lost funds that JEHT had committed to enable CSH to undertake a three-year evaluation of the *New York City Frequent Users of Jail and Shelter Initiative* that OSI and JEHT originally seeded. OSI funding, recommended here, for the *Cook County Frequent Users of Jail and Shelter Initiative*, will enable the pilot program to engage and serve 120 program participants as originally planned. This minimum number of participants is necessary for ensuring that the random assignment evaluation of that program being undertaken by the Urban Institute, with a \$400,000 grant from the National Institute of Justice, will have the statistical power needed to provide meaningful results. In 2007, the Ohio Department of Rehabilitation and Corrections bought into CSH's reentry supportive housing strategy and funding model with a \$1,000,000 contract to assemble and support a network of supportive housing providers to provide housing and support services to homeless mentally ill parolees in Ohio. We believe that CSH will be well positioned to expand on these investments, especially when it has in hand two rigorous evaluations from two very different cities that Langeloth and OSI JEHT Response funding will make possible.

For these reasons, we recommend project funding from OSI's JEHT Emergency Fund budget in the amount of \$400,000 over one year to Corporation for Supportive Housing.

<b><u>Name of Organization:</u></b>	Equal Justice Initiative of Alabama
<b><u>Tax Status:</u></b>	501(c)(3) public charity
<b><u>Purpose of Grant:</u></b>	to provide general support
<b><u>Previous OSI Support:</u></b>	\$2,375,000 \$2,275,000 from Gideon Project (2000, 2002, 2004, 2007) \$100,000 from CCCC (1999)
<b><u>Organizational Budget:</u></b>	\$2,988,000
<b><u>Project Budget:</u></b>	n/a
<b><u>Sources of Support:</u></b>	\$1,327,500 Foundation grants; \$400,000 contributions
<b><u>Amount Requested:</u></b>	\$525,000
<b><u>Amount Recommended:</u></b>	\$525,000 (JEHT Response Grantmaking, T1: 59959)
<b><u>Term:</u></b>	2 years (March 2009-April 2011)
<b><u>Matching Requirements:</u></b>	None

**Description of Organization:**

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

Over the last 15 years, EJI has won reversals in more than 75 death penalty cases. In May 2004, the U.S. Supreme Court unanimously ruled that Alabama death row prisoner David L. Nelson could challenge the state's lethal injection procedure.<sup>3</sup> The decision spurred a spate of civil rights challenges to lethal injection, halting executions in several states. In 2007, EJI initiated a project extending to five southern states that combines research, litigation and public advocacy in an effort to expose the persistence of racial bias in the criminal justice system focusing on discriminatory jury selection practices.

In January 2009, EJI won relief for Glen Holladay, an Alabama death row inmate who suffers from mental retardation. EJI's Eleventh Circuit Court of Appeals win means that Glenn Holladay cannot be executed because he is mentally retarded. The decision makes Mr. Holladay the first death row prisoner in Alabama to win, over the State's opposition, a claim that the Constitution prohibits his execution because of his mental retardation.

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<sup>3</sup> *Nelson v. Campbell*, 541 U.S. 637 (2004).

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

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

Among EJI's more recent work is its focused and targeted litigation efforts to confront the imposition of the sentence of life without the possibility of parole. In 2005 EJI won a ruling from the Alabama Supreme Court that permitted non-violent offenders sentenced to life in prison without the possibility of parole (LWOP) to obtain reduced sentences. As a result, EJI secured relief for dozens of prisoners who would otherwise have died in prison for petty crimes like drug possession and small property crimes. In March 2008, EJI won a reversal in the United States District Court for the Eastern District of Missouri of the conviction and sentence of life imprisonment without possibility of parole imposed on Phillip Shaw for a crime that occurred when he was 14 years old. The JEHT Foundation had committed \$1.5 million in funding over the next three years for this work, but had not made any payments to EJI at the time of its closure.

**Description of the Project for Which Funding Is Sought:**

This recommendation seeks general support.

**Rationale for Recommendation:**

This grant would advance a number of goals of the Criminal Justice Fund, including abolishing the death penalty, improving indigent defense systems, ending the over reliance on incarceration, and reducing prison sentencing, particularly for juveniles sentenced to life without parole. EJI is supported by the Campaign to Abolish the Death Penalty by 2025, a collaborative initiated with OSI funding. The organization is a model for effective indigent defense and is an important resource in the Campaign's efforts to reduce capital sentencing in the southern states. This grant would also advance the goal of the Equality and Opportunity Fund to combat structural racism and to ensure justice and equality.

Through direct legal representation, strategic litigation, advocacy, and public education, EJI fights to achieve fairness and equality in the criminal justice systems of Alabama and the U.S. With support from OSI over the next two years, significant progress can be made in each of these program areas toward meaningful reforms and improving fair and equal treatment in the criminal justice system for the poor and people of color. EJI's operations have been seriously undermined by the closing of the JEHT Foundation in December 2008. Although the JEHT Foundation had committed \$1.5 million in funding over the next three years to support EJI's work to eliminate juvenile life without parole sentencing, the Foundation had not made any payments to EJI at the time of its closure. General support from OSI would permit critical functions at EJI to continue. In an area of the nation where the injustices of the criminal justice system are particularly stark, EJI, led by Executive Director Bryan Stevenson, has consistently been a significant resource and source of hope for poor, minority, and other disadvantaged individuals entangled in the justice system.

The impressive and inspiring work of EJI cuts across the priority areas of the Criminal Justice Fund (CJF) and U.S. Programs. For the above reasons, CJF staff recommends a two-year general support grant in the amount of \$525,000 to the Equal Justice Initiative of Alabama.

<b><u>Name of Organization:</u></b>	The Defender Association
<b><u>Tax Status:</u></b>	501(c)(3) public charity
<b><u>Purpose of Grant:</u></b>	to provide support to The Defender Association's Racial Disparity Project as it works to reduce racial bias on the part of law enforcement agencies in King County, Washington.
<b><u>Previous OSI Support:</u></b>	\$485,000 from Gideon Project (2000, 2001, 2003, 2006)
<b><u>Organizational Budget:</u></b>	\$12,728,759
<b><u>Project Budget:</u></b>	\$381,500
<b><u>Sources of Support:</u></b>	\$200,000 Ford Foundation; \$25,000 Drug Policy Alliance
<b><u>Amount Requested:</u></b>	\$150,000 CJF renewal \$150,000 JEHT Foundation emergency grantmaking
<b><u>Amount Recommended:</u></b>	\$150,000 (Gideon Grantmaking, T1: 24420) \$150,000 (JEHT Response Grantmaking, T1: 59959)
<b><u>Term:</u></b>	Two years (March 2009-April 2011)
<b><u>Matching Requirements:</u></b>	None

**Description of Organization:**

Since its inception in 1969, The Defender Association (TDA) has been pursuing law reform and structural change in the criminal justice system while providing top-caliber legal services to indigent clients in felony, misdemeanor, juvenile, dependency, and civil commitment proceedings.<sup>4</sup> With a staff of 80 attorneys who handle 11,000 cases per year, this Seattle-based organization has launched a number of innovative programs that serve as models for other defender agencies around the country. These programs include: TeamChild, an award-winning program that diverts youth from the criminal justice system by integrating criminal representation with civil advocacy; and the Death Penalty Assistance Center, which serves as a resource and back up center for counsel in capital cases throughout Washington State. TDA has been cited as one of the defender agencies setting a national standard of practice for poor clients.

**Description of the Project for Which Funding Is Sought:**

The Racial Disparity Project (RDP) of The Defender Association seeks a renewal grant of \$150,000 over two years, as well as a one year grant of \$150,000 to replace the JEHT funds that had been committed for 2008.

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<sup>4</sup> The Defender Association consistently attracts talented attorneys and works with outstanding experts in the criminal justice field. Its Executive Director, Bob Boruchowitz, was selected as a Soros Justice Fellow in 2002. Professor Katherine Beckett of the University of Washington, a sociologist who has collaborated with The Defender Association's Racial Disparity Project in the past and will do so again during the proposed grant period, was selected as a Soros Justice Fellow in 2005.



The Defender Association developed the Racial Disparity Project in 1998 to reduce systemic racial inequality in the justice system. The Project is now headed by Lisa Daugaard, an attorney committed to community lawyering and the creative use of the law.

The RDP proposes to make arrest a tactic of last resort for law enforcement in Seattle and King County responding to low-level drug activity such as use, possession and sales. Instead, law enforcement, as well as community groups and corrections officers, will refer would-be arrestees to robustly-funded community-based (as opposed to court-based) diversion programs, able to assist participants with a wide range of needs in order to discontinue their involvement in street crime. If successful, Seattle could become the first major jurisdiction in the United States to make arrest the tactic of last resort to respond to low-level drug activity.

Seattle's communities of color were outraged to learn of the extent to which police were targeting African-Americans for drug arrests while giving whites a free pass, information presented in the statistical showing RDP included in its selective enforcement litigation. At the same time, these communities were concerned about street crime and supported a strong police presence.

Staffed by RDP, the grassroots group Budget for Justice Campaign (BJC) successfully advocated in 2005 for the creation of a pilot program, "Clean Dreams," to divert young adults residing in the Rainier Beach<sup>5</sup> neighborhood from the criminal justice system. The RDP and BFJ subsequently obtained a King County commitment of \$120,000 for Clean Dreams in 2007 and secured continued funding from the City of Seattle through 2009. By reducing recidivism at a comparable rate to the court system, and without the significant accompanying costs, RDP has made the idea of a pre-booking diversion approach plausible to most analysts and policymakers.

Building on the strong performance of Clean Dreams, the RDP and the newly-formed Clean Dreams Coalition<sup>6</sup> laid the groundwork in 2008-2009 for expansion of the pre-arrest diversion model as a partial solution to King County's structural budget deficit. The RDP is now working with neighborhood leaders and law enforcement agencies in two areas: the Seattle Police Department in Seattle's Belltown neighborhood, and the King County Sheriff in the Skyway area, to propose and fund demonstration pre-booking diversion programs for 2010. If the Clean Dreams model continues to meet public safety needs while sharply reducing criminal justice costs, the model could be expanded county-wide for the 2011.

The RDP will coordinate the Coalition to promote this model at every level of policy development by:

- Providing information to the City of Seattle Jail Capacity Advisory Committee on opportunities to replace arrest with community-based diversion in RDP's capacity as a committee member;
- Providing technical assistance to community-law enforcement partnerships putting together diversion programs to fit the needs of their particular area and client population;
- Assisting in securing funding, training staff, organizing community support, documenting success, and getting positive media attention; and

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<sup>5</sup> Rainier Beach is the only area of Seattle in which people of color are in the majority.

<sup>6</sup> The Clear Dreams coalition includes the ACLU of Washington's Drug Policy Project, the King County Bar Association Drug Policy Project, the Real Change Organizing Project, the steering committee for Initiative 100 (a proposed Seattle ballot initiative conditioning jail planning on public discussion of whether changes to drug enforcement policy and other reforms could obviate the need for the jail), the American Friends Service Committee and the NAACP-Seattle/King County, as well as individual public health experts, academics and organizers.

- Hiring a new Diversion Program Director and a Coordinator to provide technical support to, and linkage among, the many neighborhood diversion efforts that would be created under the model.

In 2006, the RDP commenced a second round of selective enforcement litigation with the ACLU Drug Law Reform Project and private pro bono attorneys as co-counsel. The effort was again successful in compelling discovery to support the selective enforcement claim, and a comprehensive study of Seattle Police Department (SPD) drug arrests from 1999-2006 found that they concentrated overwhelmingly on black suspects – when white offenders were the clear majority of the actual offender population – and no evident race-neutral explanation for the arrest pattern.

RDP and co-counsel determined that SPD was on the cusp of committing to a pre-booking diversion effort for low-level drug offenders before the report's release. They concluded that the harm of racial disparity in drug enforcement would be reduced more effectively by partnering with SPD to bring that shift about, rather than by continued public focus on allegations of systematic racial bias. The King County Prosecutor has offered a favorable settlement for RDP's individual clients' cases, vacating their felony convictions and securing their immediate release, and has committed to work with the Coalition to make pre-booking diversion of drug suspects a reality in 2010.

During the proposed grant period, RDP will be supervised on a part-time basis by Ms. Daugaard and staffed by two full-time attorneys and a full-time organizer. With OSI funding, RDP intends to tackle the following projects with its distinct combination of direct client representation, impact litigation, community organizing, public education, and policy reform.

The project will continue to provide technical assistance to community organizations seeking to advance racial equality in the justice system, working with community partners on emerging issues and targets of opportunity.

**Rationale for Recommendation:**

This grant would further the Criminal Justice Fund's (CJF) goals of improving indigent defense services, encouraging incarceration alternatives that emphasize rehabilitation and treatment, and combating racially disparate law enforcement.

Drug cases are the largest driver of racial disparity in the Washington prison system, a trend represented across the country. Racial disparities in the enforcement of drug laws are particularly pronounced in Seattle, a city with a population that is 70% white and 8% African-American, but where over 60% of those arrested for drug crimes are African-American. Studies suggest that the most significant contributor to disparity in drug convictions in Washington is the disproportionate arrest of blacks and Latinos for drug crimes.

King County is experiencing a budget crisis. Currently, over 70% of the King County general fund is consumed by criminal justice costs with drug cases representing the most numerous category though producing the fewest constructive results for public safety. RDP sees an incredible opportunity to encourage the state to keep those cases out of the court system altogether rather than processing them through either traditional courts or drug diversion court.

The traditional reliance on arrest and prosecution has failed demonstrably to increase perceptions of public safety and public order. It costs more than local government can afford. And it sets back those

who are arrested in every component of life, dragging down not only those individuals but also their families, neighborhoods and communities in innumerable ways.

RDP is one of the most innovative projects in the country working to eliminate racial bias in policing. It employs a strategic combination of litigation, community organizing, public education, and policy reform that builds on the relationships of trust it has established over the past decade with grassroots organizations in King County's communities of color. It strives to raise public awareness of the reality of racial profiling and to propose alternatives to profiling that simultaneously improve public safety and racial justice. In addition, where necessary, RDP brings litigation that is supported by the work of a dedicated team of social scientists with which it partners. Given the Project's many successes, it is considered a model by other organizations around the nation.

The Defender Association lost the second the payment of a two-year grant in the amount of \$150,000 when the JEHT Foundation ceased operations. For these reasons, CJF staff recommends a renewal project support grant to The Defender Association of Seattle's Racial Disparity Project in the amount of \$150,000 over two years, and \$150,000 as part of the JEHT Emergency Fund grantmaking.

<b><u>Name of Organization:</u></b>	The Regents of the University of California
<b><u>Tax Status:</u></b>	501(c)(3) public charity
<b><u>Purpose of Grant:</u></b>	to provide general support to the University of California, Berkeley School of Law Death Penalty Clinic's Lethal Injection Project
<b><u>Previous OSI Support:</u></b>	\$100,000 \$50,000 from Gideon (2008) \$50,000 from Communications Fund (2008)
<b><u>Organizational Budget:</u></b>	\$378,200,000
<b><u>Project Budget:</u></b>	n/a
<b><u>Sources of Support:</u></b>	\$1,921,918 student tuition; \$2,910,560 grants and contracts; \$4,917,235 medical centers; \$1,375,961 educational activities
<b><u>Amount Requested:</u></b>	\$50,000
<b><u>Amount Recommended:</u></b>	\$50,000 (JEHT Response Grantmaking, T1: 59959)
<b><u>Term:</u></b>	Fifteen months (September 2009 – December 2010)
<b><u>Matching Requirements:</u></b>	\$49,357 from Atlantic Philanthropies

**Description of Organization:**

Since its formation in 2001, the U.C. Berkeley School of Law Death Penalty Clinic (Clinic) has been dedicated to ending the unfair and unequal administration of capital punishment in the United States. Under the supervision of Director Elisabeth Semel and Associate Director Ty Alper, the Clinic engages a class of 12 students each academic year. The faculty and students divide their time between representing capital defendants and serving as a national resource to capital litigators across the country.

The Clinic currently represents clients in California, Alabama, and North Carolina and has played a key role in several capital cases before the United States Supreme Court, two of which involved the right to a jury selected free of race discrimination. For the past two years, the Clinic has played a central role in coordinating the more than two dozen pending cases that challenge lethal injection as a method of execution. The Clinic also administers a listserv for lawyers representing Alabama death row inmates.

The Clinic's lethal injection project has a number of components: litigation; medical consultation; a web-based clearinghouse; communications; and an advisory committee, virtually all of which the JEHT Foundation and OSI have funded. Eighth Amendment Resource Counsel, Megan McCracken, is the only full-time national resource for lawyers litigating this issue, assisting in litigation and consulting with experts. She also assists in the coordination of state-based strategies to maximize communications and litigation opportunities presented by legislative and administrative reviews of lethal injection procedures.

The Clinic’s medical consultant, Dr. Mark Heath—the world’s foremost medical expert on lethal injection—allows the project to expand the universe of medical professionals who are available to counsel as expert witnesses in litigation or talk to the media.

The web-based clearinghouse, [www.lethalinjection.org](http://www.lethalinjection.org), is an important resource that has been visited over 18,000 times. The clearinghouse serves as a centralized site for lawyers to obtain documents such as pleadings, hearing transcripts, witness declarations, and scientific data that are necessary tools for pursuing lethal injection challenges on behalf of death row inmates. The web-based resource provides journalists and the public with a “one-stop shop” for up-to-the-minute lethal injection information.

With OSI support, the Clinic was able to maintain its Capital Litigation Communications Project to great success. The *Baze* Communications Campaign provided spokespeople designated by the Clinic with media training and talking points, facilitating the briefing of dozens of print and broadcast journalists, U.S. Supreme Court reporters, and editorial boards on the agonizing—and entirely unnecessary—pain that has resulted from the administration of the lethal injection drugs.

The fractured decision in *Baze* predictably led to the resumption of executions in some Southern states. Clinic spokespeople advance the message that the end of the moratorium that *Baze* created did not spell the end of legitimate challenges to lethal injection in numerous papers, including the *New York Times*, the *Washington Post*, and *USA Today*.

Additionally, the Clinic designed and implemented a defensive media strategy shaped around *Kennedy v. Louisiana*, which successfully presented an Eighth Amendment challenge to a Louisiana statute that permits the imposition of the death penalty for non-homicidal child rape. It is the rare capital case that has natural allies in the victims’ rights movement. Many victims’ advocates strongly oppose the use of the death penalty in child rape cases since defendants are often related to the victims and the specter of capital punishment both reduces the chances of successful prosecution and increases the likelihood and severity of long-term trauma for the victims. This partnership was integral to the *Kennedy* victory.

#### **Description of the Project for Which Funding Is Sought:**

This recommendation seeks general support.

#### **Rationale for Recommendation:**

This grant supports the Criminal Justice Fund’s (CJF) goal to abolish the death penalty. The U.C. Berkeley School of Law Death Penalty Clinic (the Clinic) is highly regarded for the quality of its capital litigation, and is guided by a renowned advisory board that includes the legendary Anthony Amsterdam of the New York University School of Law and George Kendall of Holland & Knight. Over the last year, the Clinic’s website has gained recognition for setting the “gold standard” in web-based litigation tools. Coordination and communication continue to be a crucial tool as litigation, legislative, and administrative activity have resumed following *Baze*, and the project provides indispensable expertise on lethal injection issues at a critical time for the movement. The Clinic’s overall work and litigation strategies have been an important strategic component of the Campaign to Abolish the Death Penalty by 2025, a national collaborative funded with OSI support.

When the JEHT Foundation unexpectedly shut its doors in December 2008, the Clinic lost their grant of \$99,357 for the lethal injection website. For the aforementioned reasons, CJF

recommends a grant in the amount of \$50,000, in partnership with a \$50,000 grant from Atlantic Philanthropies, to the U.C. Berkeley School of Law Death Penalty Clinic.

**Name of Organization:** Death Penalty Information Center

**Tax Status:** 501(c)(9) private foundation

**Purpose of Grant:** to provide general support

**Previous OSI Support:** \$580,000 from Gideon Project (1999-2001, 2003, 2006, 2008)

**Organizational Budget:** \$473,000

**Project Budget:** n/a

**Sources of Support:** \$275,000 MacArthur Foundation; \$100,000 Open Society Institute; \$2,500 Tides grant; \$6,000 Donations

**Amount Requested:** \$100,000

**Amount Recommended:** \$100,000 (JEHT Response Grantmaking, T1: 59959)

**Term:** One year (January 2009-December 2009)

**Matching Requirements:** None

**Description of Organization:**

The Death Penalty Information Center (DPIC) is a D.C.-based private foundation that serves the media and the public by providing information and analysis on the use of capital punishment in the United States. Formed in 1999, DPIC operates under the premise that the more the public knows about the death penalty, the more it will understand that this form of punishment is irremediably flawed and must be brought to an end.

With OSI support, DPIC regularly issues press releases and conducts briefings for journalists and is one of the most widely cited sources of information on the death penalty in the media. Since its inception, DPIC has produced, and broadly disseminated, 18 major reports on the death penalty and 14 annual reports. Three of the major reports have been based on commissioned national opinion polls. All of these reports have been widely covered in the media. The 2008 annual report was cited in articles in *The New York Times* and *USA Today*, and in editorials in *The Washington Post* and *Boston Globe*. The most recent major report was cited on the front page of *The New York Times*.<sup>7</sup>

DPIC also operates a state-of-the-art website. In 2008, the website received approximately 128 million hits. It is the first website given by search engines when “death penalty” is entered. Many national outlets have included links to the DPIC site, and the DPIC site is frequently referenced in court opinions, books, and articles. DPIC maintains four additional websites—two each for its high school and college curricula (in the case of each curriculum, one website is designed for students and the other for teachers). DPIC’s high school curriculum has been used by teachers in all 50 states and 36 countries. DPIC’s college curriculum has been used by professors in 46 states and the District of Columbia.

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<sup>7</sup> D. Frosch, "Executions in U.S. Decline to 13-Year Low, Study Finds," *New York Times*, December 19, 2007.

In addition, DPIC staff makes presentations at conferences and before journalists, school groups, international audiences, legislative bodies, and interested organizations including the European Parliament, the World Congress Against the Death Penalty in Paris and the Colorado Senate Judiciary Committee. DPIC also conducts briefings for journalists on U.S. Supreme Court cases. DPIC's executive director, Mr. Richard Dieter, currently serves as Chair of the Steering Committee of the Campaign to Abolish the Death Penalty by 2025, working closely with Funders Against the Death Penalty, a funding collaborative of which OSI is a participant.

**Description of the Project for Which Funding Is Sought:**

This recommendation seeks general support.

**Rationale for Recommendation:**

This grant supports the Criminal Justice Fund's goal to abolish the death penalty. DPIC had received a grant of \$125,000 from the JEHT Foundation in 2008 and was encouraged to request a grant of \$100,000 for 2009, which was not released when the foundation collapsed in December 2008. The loss of these funds would have a significant impact on DPIC's budget, and its ability to continue at the vigorous level their work demands.

DPIC was formed in 1991, at a time when the number of death sentences, the number of executions, and public support for the death penalty were on the rise. By the mid-1990s, the number of new death sentences had increased to more than 300 per year, the highest level it has reached since the death penalty was reinstated by the Supreme Court in 1976. Today, all of these trends have been reversed. In 2007, the number of persons executed was 42, a drop of 57% from 1999, when 98 persons were executed. In 2007, the number of death sentences dropped to 115, a substantial decrease from the 1999 level of 284, representing a drop of more than 60% from that year. The size of death row is also on the decline, from a high of 3,593 in 2000 to 3,350 in 2007. Public enthusiasm for capital punishment is also waning.

DPIC has played an instrumental role in bringing about these reversals. For 17 years, it has provided journalists, scholars, and the public with accurate and current information on the death penalty. DPIC has strategically shifted the debate over the death penalty from moral arguments to a demonstration that the death penalty is applied in an unfair and arbitrary manner. DPIC's fact-based reports document the cases of the more than 100 death row inmates who have been exonerated based on innocence, the sharp racial disparities in the application of the death penalty, the dearth of well-trained counsel, the astronomical costs of prosecuting death-eligible cases, the skewing and withholding of evidence by overzealous police and prosecutors, the availability of life without parole sentences as an alternative to death sentences, and the weaknesses of the jury system.

As a well known, much consulted, and well trusted source of information on the death penalty, DPIC is poised to continue raising doubts about the fairness of the death penalty. DPIC's efforts continue to reinforce the Criminal Justice Fund's (CJF) goal to abolish the death penalty and ensure the fair administration of justice. For these reasons, CJF staff recommends a one-year general support grant of \$100,000 to the Death Penalty Information Center.



<b><u>Name of Organization:</u></b>	Innocence Project Inc.
<b><u>Tax Status:</u></b>	501(c)(3) public charity
<b><u>Purpose of Grant:</u></b>	to provide general support.
<b><u>Previous OSI Support:</u></b>	\$1,075,000 from Gideon Project (1999, 2001, 2003, 2005, 2007)
<b><u>Organizational Budget:</u></b>	\$5,560,000
<b><u>Project Budget:</u></b>	n/a
<b><u>Sources of Support:</u></b>	\$250,000 Grousbeck Family Foundation; \$50,000 Mousetrap Foundation; \$45,000 Overbrook Foundation; \$26,000 Louise & Arde Bulova Fund.
<b><u>Amount Requested:</u></b>	\$375,000
<b><u>Amount Recommended:</u></b>	\$375,000 (JEHT Response Grantmaking, T1: 59959)
<b><u>Term:</u></b>	One year (July 2009-June 2010)
<b><u>Matching Requirement:</u></b>	None

**Description of Organization:**

The Innocence Project (IP) is a non-profit legal clinic engaged in national litigation and public policy, whose mission is to exonerate wrongfully convicted people through DNA testing and to reform the criminal justice system to prevent future injustice. The organization was founded in 1992 by Barry Scheck and Peter Neufeld at the Benjamin N. Cardozo School of Law.

Over the past decade, OSI has supported the Innocence Project’s incredible accomplishments:

- Facilitated the freedom of 234 innocent people from prison, including 17 on death row. In February 2008, Kennedy Brewer of Noxubee County, Mississippi became the state’s first person to be exonerated through post-conviction DNA testing;
- Raised awareness about the fallibility of the criminal justice system: leading the charge to improve eyewitness identification procedures, regulate and oversee forensic sciences, improve access post-conviction DNA testing, and improve evidence preservation systems; and
- Provided testimony and input, including from its clients, which has been instrumental in the fight to abolish the death penalty.<sup>8</sup>

With OSI’s support, the Innocence Project has expanded from a staff of eight to a staff of 48 full-time employees, allowing the Intake and Evaluation Department to accomplish its long-held goal of drastically reducing the amount of time it takes to evaluate potential cases. There are currently 8,200 cases in evaluation, and the IP has processed over 31,000 since its inception. The organization’s legal

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<sup>8</sup> This testimony and input has influenced the New York State Assembly’s decision not to reinstate the death penalty, the New Jersey State Legislature’s decision to abolish capital punishment, and the creation of the Pennsylvania Advisory Committee to Study Wrongful Convictions. It also helped shape the agendas of the New Jersey Death Penalty Study Commission and the California Commission on the Fair Administration of Justice, and IP reports and testimony have been requested at Death Penalty Commissions in states like Tennessee and Maryland.

department has also grown from three staff attorneys to six attorneys and one paralegal. Moving forward, the Innocence Project aims to decrease each attorney's caseload to allow for more time to be devoted to each case, by deepening the organization's engagement with the private bar and the legal community, including greater law firm participation. The Innocence Project is also a founding member of the Innocence Network, a nationwide network of more than 30 public defender offices and law and journalism schools assisting prisoners who are trying to prove their innocence (both with and without DNA evidence).

In March 2009, Mr. Neufeld argued before the U.S. Supreme Court in its review of an Alaska case regarding a prisoner's right to post conviction DNA testing that could prove innocence, a motion that had been fought by the state for 12 years. The Court's decision is likely to have a pivotal impact on the efforts of advocacy groups to ensure that all 50 states have meaningful post-conviction DNA testing statutes.

**Description of the Project for Which Funding Is Sought:**

This recommendation seeks general support.

**Rationale for Recommendation:**

The Innocence Project's mission to free the wrongfully convicted and achieve policy reform aligns with the Criminal Justice Fund's (CJF) commitment to the fair and equal administration of justice, including reduction of over-reliance on incarceration, fair treatment of people of color and the poor, death penalty reform, and improved public defense services.

The Innocence Project staff have changed the face of criminal justice in this country. The public, policymakers, and law enforcement have seen that our criminal justice system sometimes fails. This has provided a crucial opening to push for reforms in our criminal justice system.

The public's increased awareness of the justice system's flaws has been a major factor in Americans' waning support for capital punishment. In a 2007 RT Strategies/Death Penalty Information Center (DPIC) poll, 60 percent of respondents said that hearing about exonerations had lessened their support of, or increased their opposition to the death penalty. Eighty-seven percent of respondents believe that the U.S. has already executed innocent people. The spate of exonerations has also increased awareness about the importance of a well-balanced adversarial system, as ineffective representation is a major cause of wrongful convictions. The steady flow of exonerations has helped people to understand that competent and resourced defense attorneys are critical to the proper functioning of our criminal justice system.

Due to JEHT Foundation's unexpected closing in December 2008, the Innocence Project lost \$750,000 in pledged general support grants over the next two fiscal years, a loss of one-eighth of their yearly budget.

The IP has helped to salvage the lives of hundreds of innocent people in this country, spurred an innocence movement, altered public and policymaker opinion, and opened the door to broader criminal justice reform. CJF staff, therefore, recommends a one-year, general support grant in the amount of \$375,000 to the Innocence Project to continue its critical work.

<b><u>Name of Organization:</u></b>	Texas Defender Service
<b><u>Tax Status:</u></b>	501(c)(3) public charity
<b><u>Purpose of Grant:</u></b>	to provide general support
<b><u>Previous OSI Support:</u></b>	\$1,050,000 \$610,000 from Gideon Project (2001, 2003, 2005, 2007) \$440,000 from Strategic Opportunities Fund (2008)
<b><u>Organizational Budget:</u></b>	\$1,661,521
<b><u>Project Budget:</u></b>	n/a
<b><u>Sources of Support:</u></b>	\$719,619 Atlantic Philanthropies; \$10,000 Texas Bar Foundation; \$30,000 Butler Family Fund
<b><u>Amount Requested:</u></b>	\$147,500
<b><u>Amount Recommended:</u></b>	\$147,500 (JEHT Response Grantmaking, T1: 59959)
<b><u>Term:</u></b>	One year (April 2009-March 2010)

**Description of Organization:**

The Texas Defender Service (TDS) is a non-profit legal organization with offices in Houston and Austin that addresses the legal needs of indigent prisoners on Texas' death row. Since its founding in 1995, TDS provides representation to death row inmates, consults in capital cases at all phases of the proceedings, participates in attorney training, and conducts research and data collection.

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

Since 2000, the TDS's Trial Project staff have presented and planned defense team training seminars resulting in an increased number of attorneys and other members of capital defense teams better-equipped and trained to handle death penalty issues and cases. In 2008 alone, the Project staff reached approximately 3,000 capital defense team members.

The Trial Project also tracks cases progressing at the trial level and engages in individual case consultation to improve results in individual cases, including an increase in life pleas and verdicts. In 2008, the Trial Project was intensely involved in approximately 80 capital trials and contributed to more than 70 cases in which death was waived or life verdicts were returned.

Moreover, TDS works to identify and expose inaccuracies, injustices, and flaws in Texas' system of capital punishment. TDS's core strategy for suspending or limiting the application of the death

penalty in Texas is to identify cases with compelling injustices and relate that information to policymakers and the public. The organization's leaders support reform efforts to improve the appointment standards for capital lawyers at all phases of the proceedings, establish fair procedures for addressing the question of mental retardation in capital cases, and alter the capital sentencing scheme by eliminating the use of future dangerousness in jury sentencing.

TDS is also involved with efforts to develop an indigent defense system that works by implementing the Texas Capital Guidelines adopted in April 2006 by the Texas State Bar, and improving county compliance with the Texas Fair Defense Act. TDS consults with and trains trial and post-conviction lawyers to equip defense teams with the skills and materials necessary to implement a competent defense.

**Description of the Project for Which Funding Is Sought:**

This recommendation seeks general support.

**Rationale for Recommendation:**

TDS's mission—to promote a fair and just criminal justice system in Texas—directly relates to the mission of OSI's Criminal Justice Fund to abolish the death penalty, improve indigent defense systems and develop independent public defender systems. TDS's targeted work to reduce capital sentencing and provide adequate capital defense in Texas is an integral part of the overall strategy of the Campaign to Abolish the Death Penalty by 2025, a collaborative funded with OSI support.

Texas has been responsible for 40% of the executions in the nation between 2002 and 2006. These discouraging statistics would be far worse if not for the crisis case intervention practice developed by TDS. In 2008, 12 stays of execution were granted in Texas, with TDS contributing or directly litigating all 12 of those cases.

The indigent defendants represented by TDS are disproportionately people of color. African American and Hispanic offenders make up 68% of the current death row population in Texas, although the African American and Hispanic/Latino population of Texas is only 46.5%. Studies indicate that race continues to play a role in death sentencing to death in the United States. Experts also estimate that 12-15% of persons on death row nationwide are mentally retarded, which suggests that 50 to 60 of Texas' death row inmates are mentally retarded.

TDS's goal to suspend or limit the application of the death penalty is based on the inextricable link between the quality of representation and the risk of wrongful or unfair convictions and sentences. TDS's work impacts the criminal justice system as a whole, furthering the national debate on capital punishment by highlighting the unjust and inaccurate nature of the death penalty in Texas.

TDS had been the recipient of JEHT Foundation support for several years, including funding for TDS's development director position, associated activities, and funding for participation in the development of the West Texas Capital Defender Unit. When the JEHT Foundation closed its doors in December 2008, TDS lost a total of \$170,000 in committed and anticipated grants. Support for TDS's development activities will allow TDS to implement a strong and diverse development program to further their success to reform the capital punishment system in Texas. Continued funding will allow TDS to expand independent defender offices like the West Texas Unit. For the above reasons, the Criminal Justice Fund recommends a one year grant in the amount of \$147,000 to Texas Defender Service, in partnership with a \$22,500 grant to be recommended by Atlantic Philanthropies.

## MEMORANDUM

**TO:** Aryeh Neier  
**FROM:** Ann Beeson, Raquiba LaBrie; Maria Teresa Rojas  
**Cc:** Erlin Ibreck  
**DATE:** March 25, 2009  
**RE:** EQUALITY AND OPPORTUNITY FUND JEHT DOCKET

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The Equality and Opportunity Fund (EOF) embraces US Programs' grantmaking in the areas of racial justice, immigrant rights, LGBT rights, and women's rights. It also includes the work of two targeted initiatives: the Neighborhood Stabilization Initiative and the Campaign for Black Male Achievement.

Attached please find two grant recommendations prepared by EOF staff for inclusion in the JEHT docket. The first grant is to the National Immigrant Justice Center (NIJC) for its Detention, Deportation and Due Process Project. NIJC is currently a core grantee of EOF's Immigrant Rights portfolio. It is a national leader in protecting immigrants' due process rights, documenting violations of basic standards of human treatment in detention facilities, and forcing the government to divulge information on the scope, quality and procedures defining administrative detention.

For the period from July 2009 to June 2010, JEHT was to have provided \$241,000 to NIJC for the second year of a three-year grant to NIJC. OSI is partnering with Atlantic Philanthropies to fill this gap. Atlantic will provide \$120,000 to complement OSI's \$120,000 grant recommendation.

The second grant recommended in this docket is to Advancement Project (AP). AP is a national civil rights organization that seeks to build a fair and just multi-racial democracy in the U.S. through litigation, community organizing support, public policy reform, and strategic communications.

Although AP was funded by JEHT, this grant does not cover any unpaid JEHT funding. The full amount of JEHT's commitment to AP to support its voter protection work was paid before JEHT closed. Instead, this \$60,275 grant to AP covers OSI's portion of a pledged grant agreed upon through a joint arrangement with MoveOn.Org and Atlantic. In December of 2008, MoveOn.Org agreed to highlight the work of four leading social justice groups and solicit contributions for their work from MoveOn members. AP was selected as one of the four non-profits. This grant represents OSI's share.

We look forward to meeting with you on April 1, 2009.

<b><u>Name of Organization:</u></b>	Heartland Human Care Services, Inc. (fiscal agent for the National Immigrant Justice Center)
<b><u>Tax Status:</u></b>	501(c)(3) public charity
<b><u>Purpose of Grant:</u></b>	To support the National Immigrant Justice Center's Detention, Deportation and Due Process project.
<b><u>Previous OSI Support:</u></b>	\$450,000 (Immigrants' Rights) 7/1/07 through 6/30/2010
<b><u>Organizational Budget:</u></b>	\$3,500,000
<b><u>Project Budget:</u></b>	\$2,600,000 in three years
<b><u>Sources of Support:</u></b>	Atlantic Philanthropies, US Human Rights Fund, Joyce Foundation, the Chicago Community Trust and the Chicago Bar Foundation, JEHT Foundation (defunct)
<b><u>Amount Requested:</u></b>	\$241,000
<b><u>Amount Recommended:</u></b>	\$120,000
<b><u>Term:</u></b>	One year (July 2009 through June 2010)
<b><u>Matching Requirements:</u></b>	None

**Description of Organization:**

A program of Heartland Human Care Services, Inc., the National Immigrant Justice Center (NIJC) engages in strategic litigation and policy advocacy to defend the legal rights of non-citizens. Since the 1970s, NIJC has engaged in immigration reform through direct services, advocacy, and impact litigation. With a staff of 31 attorneys and paralegals and more than 700 active *pro bono* attorneys, NIJC is the largest legal service provider for low-income immigrants and refugees in the country. It organizes fact-finding missions to county jails and provides consultation to criminal attorneys regarding the immigration consequences that may result from guilty pleas. It meets regularly with U.S. Immigration and Customs Enforcement (ICE) representatives to negotiate for access to detainees and to advocate for more humane detention conditions.

Heartland Human Care Services, Inc. is a service-based human rights organization whose mission is to advance the human rights and to respond to the human needs of vulnerable populations, including new immigrants, refugees and the homeless, through the provision of comprehensive services to help individuals find stability.

### **Description of the Project for Which Funding Is Sought:**

This grant recommendation is to support impact litigation that challenges the denial of legal rights of non-citizens in administrative detention in the United States. The long-term goal of NIJC's Detention, Democracy and Due Process Project is to eliminate the two-tiered system of justice as applied to noncitizens held in administrative detention.

Today, 27,500 are held in detention facilities, a 400 percent increase since 1994. Less than half are represented by counsel in court proceedings. Detainees languish for months and sometimes years as they await an asylum decision or wait to be deported. They are detained in an overcrowded, patchwork system made up of county jails, privately run prisons, and federal facilities.

NIJC main areas of focus are:

- (1) **Extended detention:** Litigation of cases in which individuals are detained for long periods of time, particularly relative to the rationale for their detention. NIJC also seeks cases in which individuals are detained even after they are granted asylum and/or in which they are abused by government officials acting on unfounded security concerns.
- (2) **Abuses in administrative detention:** Documentation of cases involving a lack of access to medical care, including mental health treatment, overcrowding, unsanitary conditions, lack of telephone access, and the refusal to recognize individual religious practice.
- (3) **The use of remote, isolated jails for detention:** Advocacy to eliminate impediments that remote jails create, including less access to legal counsel, family members and expert witnesses. NIJC will also file a petition to establish standards regarding the appointment of legal counsel on immigration proceedings.

### **Rationale for Recommendation:**

This grant recommendation is part of a special package of emergency funding to cover the shortfall left in the project by the closing of the JEHT Foundation. NIJC is currently a core grantee of the Immigrants' Rights portfolio. OSI awarded a three year grant for \$450,000 (7/07 through 6/2010) for its Detention, Deportation and Due Process project.

For the period from July 2009 to June 2010, the JEHT Foundation was to have provided \$241,000 to NIJC for the second year of a three year grant. OSI is partnering with Atlantic Philanthropies to fill this gap. Atlantic Philanthropies will be providing \$120,000 to complement OSI's \$120,000 grant recommendation.

Seven years after September 11, severe detention policies are still in effect. The result is a two-tiered system of justice, in which basic legal and human rights required by U.S. and international law are violated for non-citizens. In the absence of immigration policy reform to address this at a federal level, litigation brought by the professional, experienced litigators at NIJC can have an impact on an individual's case while setting precedent for the system as a whole.

NIJC is well positioned to continue to assert and protect immigrants' due process rights, to document violations of basic standards of humane treatment in detention facilities across the country, and to force the government to divulge information on the scope, quality and procedures defining administrative detention. Through their direct communication with law enforcement, administrative authorities and oversight bodies, we expect that they will be able to negotiate alternatives to prolonged detention.



**Name of Organization:** Advancement Project

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

**Purpose of Grant:** To provide general operating support

**Previous OSI Support:** Total: **\$3,925,000**

Program on Law and Society	\$1,360,000	2000-5
U.S. Programs, General	\$50,000	2002-3
Governance and Public Policy	\$150,000	2002-3
CJI Policy and Research	\$150,000	2002-5
Racial Justice Initiative	\$600,000	2005-10
The After Prison Initiative	\$200,000	2005-7
Strategic Opportunities Fund	\$550,000	2006-8
Progressive Infrastructure	\$400,000	2006-8
OSI-B/Education and Youth Dev.	\$65,000	2007-8
Transparency and Integrity	\$400,000	2008-10

**Organizational Budget:** \$5,097,300

**Project Budget:** N/A

**Sources of Support :** 2009: Atlantic (\$60,000); Bauman (\$75,000); Carnegie (\$100,000); Ford (\$525,000); Herb Block (\$25,000); OSI (\$574,000); Stoneman (\$100,000); Election Admin Fund (\$85,000); Skadden (\$54,000)

**Amount Requested:** N/A

**Amount Recommended :** \$60,275

**Term:** One year, beginning January 1, 2009

**Matching Requirements:** None

**Description of Organization :**

The Advancement Project (AP) is a national civil rights organization that seeks to build a fair and just multi-racial democracy in America through litigation, community organizing support, public policy reform and strategic communications. Based in Washington, D.C., AP functions as an advocacy organization and intermediary providing technical assistance to communities to challenge systemic barriers. Strategically, AP represents a new model of lawyering that links communities with external resources such as legal support, journalists, policy analysts, data and relevant research to advance opportunity and social justice. AP seeks to address civil rights issues by cultivating long-standing relationships among grassroots initiatives and national policy and legal resources. The Advancement Project is co-directed by Judith Browne-Dianis and Penda Hair, both served with the NAACP Legal Defense and Education Fund. The Advancement

Project works in three core programmatic areas: (1) Power and Democracy, (2) Opportunity to Learn; and (3) Strategic Initiatives.

### **Power and Democracy**

AP's Power and Democracy initiative is built on the core belief that low-income and minority communities must establish an active electorate by increasing paths to civic participation and eliminating barriers that hamper these efforts. Since 2001, through its voter protection efforts, AP has identified multiple barriers to the franchise and a wide range of disparities. Going forward, it will take steps to promote the idea of an explicit and enshrined federal right to vote, including developing a national mapping project that will document disparities nationwide and mobilize a groundswell of support by building a coalition of national and local groups.

### **Opportunity to Learn**

AP has been a longtime advocate on issues relating to the experience of youth of color. Through its Opportunity to Learn project, AP addresses inequitable zero-tolerance policies that limit opportunities and funnel youth of color into the criminal justice system. The project supports community-based partners with legal and policy research, advocacy, litigation, and communications strategies that will increase their capacity to diagnose and address the institutional and structural barriers that contribute to the exclusion of youth of color and poor youth from quality K-12 education and college admission. This work is part of an expanded effort to develop multi-faceted, long-term strategies to help communities of color build schools that work for all youth. Over the next decade, the goal will be to improve by 10 to 15 percent the number of youth of color who are college-eligible. AP's work in this area focuses on three cities: Denver, Colorado; Chicago, Illinois; and Palm Beach County, Florida.

### **Strategic Initiatives**

As a national civil rights intermediary, AP will continue producing and disseminating the Community Justice Resource Center, an electronic newsletter with over 3,500 subscribers, that highlights and exchanges advocacy solutions on pressing domestic civil rights issues and promotes racial justice models that address systemic social change.

AP continues to assist community-based organizations, including in New Orleans, to meet the needs of survivors of Hurricane Katrina and the workers who moved there to rebuild the city. Advancement Project Co-Director Judith Browne-Dianis chairs the Grassroots Legal Network, a legal committee consisting of approximately 15 attorneys from public interest organizations (e.g., NAACP Legal Defense Fund, Southern Center for Human Rights, Mississippi Worker's Center), law professors, legal practitioners and other legal groups. The Network is charged with conducting legal research and designing legal strategies to complement organizing strategies and goals. AP's on-the-ground staff feeds issues from grassroots organizations into the Grassroots Legal Network to ensure legal resources can be deployed effectively.

### **Description of the Project for Which Funding Is Sought :**

AP seeks general operating support.

### **Rationale for Recommendation:**

Since 1999, AP has been a core grantee of several OSI portfolios, achieving success and national recognition in promoting open society values. In 2005, U.S. Programs began providing general support to AP through the Racial Justice Initiative and has since moved to consolidate funding across several funds and initiatives to provide general support. U.S. Programs' recent restructuring makes the connections between AP's work and OSI's work abundantly clear. AP's

work on voting rights, educational equity, government accountability, immigrant justice, and dismantling the school-to-prison pipeline tracks closely the work of the Equality and Opportunity, Democracy and Power, Transparency and Integrity, and Criminal Justice Funds, as well as the Campaign for Black Male Achievement and OSI-Baltimore.

In December of 2008, shortly after news broke of the devastating effects of the Madoff scandal on the non-profit sector, MoveOn.Org agreed to highlight the work of four leading social justice groups and solicit contributions for their work from MoveOn members, provided that OSI and Atlantic Philanthropies agreed to provide matching funds. The deal was made and AP was selected as one of the highlighted non-profits. This recommended grant covers OSI's portion of the pledged matching funds. This grant does not cover any unpaid JEHT funding. The full amount of the JEHT commitment for AP's voter protection work was paid before JEHT's demise.

OSI staff was pleased to see AP receive the exposure that MoveOn provided. AP has played a critical role in exposing how systemic failures in a variety of contexts from voting to education not only threaten the rights of minority groups but also threaten the foundations of our democracy. Consistently, AP has partnered with local groups, collected powerful stories of injustice, and provided the national exposure needed to inform state and national policy making. Its work in challenging racially discriminatory zero-tolerance school discipline policies offers one example of how AP succeeded in mainstreaming an issue that previously received very little coverage.

In 2009, AP is devoting an increasing amount of attention to the census process and redistricting. Again, AP's work will be grounded primarily in local black and Latino communities. It is providing legal, strategic, and communications advice, as well as mapping capacity to ensure a full and accurate 2010 census count. It is also targeting grassroots organizations that seek to build unity among communities of color to prevent blacks and Latinos from being pitted against one another in the redistricting process.

The body of work that AP has successfully undertaken in the past ten years speaks for itself. AP honors the legacy of traditional civil rights work while forging new ground in the contemporary racial justice movement. This grant will allow it to take further steps to solidify its standing as a major, national civil rights and racial justice institution in the mold of colleague institutions such as NAACP LDEF. Staff enthusiastically recommends a one-year general operating support grant in the amount of \$60,275.

## MEMORANDUM

To: Aryeh Neier  
From: Ann Beeson, Nancy Chang, Sophia Conroy, and Hyon Seo Kwon  
Date: March 25, 2009  
Subject: National Security and Human Rights Campaign's JEHT Foundation  
Emergency Fund Grant Recommendations

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The National Security and Human Rights Campaign recommend five grants from the JEHT Foundation Emergency Fund.

**Human Rights First** and the **Center for Constitutional Rights** are core Campaign grantees, and we are recommending general support grants, which will give them maximum flexibility during a difficult time. The recommended grant to CCR serves as OSI's match for Moveon.org's internet fundraising effort for selected organizations impacted by JEHT's closure.

We are recommending support for two law school clinics, one at **Yale Law School** and the other at **New York University School of Law**. Yale's National Litigation Project has been a grantee of both the Campaign and the Civil Liberties Portfolio. NYU School of Law's Center for Human Rights and Global Justice has engaged in impressive work challenging CIA "black sites" and extraordinary rendition. Although not a current grantee, OSI staff met with project staff in 2008 and had held off on funding the Center's work in the knowledge that JEHT was supporting the project's essential costs.

Finally, we are recommending general support for the **Crimes of War Education Project**, an organization that promotes knowledge and understanding of international humanitarian law among reporters and the general public. While not a grantee of the Campaign, this is a project of great interest that JEHT was funding significantly.

These recommendations advance the Campaign's priorities of restoring an absolute prohibition against torture, ending extraordinary rendition, and closing secret prisons; restoring habeas corpus rights and ending arbitrary and indefinite detention; holding government officials and private military contractors accountable for past abuses and violations of law; and advancing a progressive national security policy that respects civil liberties, human rights, and the rule of law.

**Name of Organization:** Center for Constitutional Rights

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

**Purpose of Grant:** To provide general support

**Previous OSI Support:** \$791,000  
\$400,000 from the NSHR Campaign (2008)  
\$50,000 from USJF Civil Liberties (2005)  
\$320,000 from the Burma Project (1997-2003)  
\$21,000 from Matching Gift Program (2005-2008)

**Organization Budget:** \$6,560,000

**Project Budget:** N/A

**Major Sources of Support:** Atlantic Philanthropies \$500,000; Oak Foundation \$500,000; Wellspring Advisors \$350,000; Ford Foundation \$200,000; CS Fund \$150,000; HKH Foundation \$100,000; Individual donors \$1,870,000; Attorney fees \$280,000

**Amount Requested:** \$90,674

**Amount Recommended:** \$90,674 [JEHT Foundation Emergency Fund, T1: 59959]

**Term:** One year (January 1, 2009 – December 31, 2009)

**Description of Organization:**

The Center for Constitutional Rights (“CCR”) is a nonprofit legal and educational organization dedicated to protecting and advancing the rights guaranteed by the U.S. Constitution and the Universal Declaration of Human Rights. Founded in 1966, CCR and its leaders provided critical legal support to civil rights movement activists in the South, and have since worked in support of numerous social justice movements.

Since 9/11, CCR emerged as an important leader in the effort to challenge the Bush administration policies of indefinite detention, extraordinary rendition, torture, racial profiling of Muslim, Arab, and South Asians, warrantless wiretapping, suppression of dissent, and privatization of the military through the use of contractors. CCR undertakes this work through litigation, public education, and partnerships with progressive organizations. CCR is based in New York City and is directed by Vincent Warren, a former attorney in the ACLU’s national office.

**Description of Program for Which Funding Is Sought:**

This recommendation seeks general support.

**Rationale for Recommendation:**

The Center for Constitutional Rights was one of the JEHT Foundation's key grantees, and JEHT has been a consistent source of project funding for the organization. JEHT's International Justice Program had three open grants to CCR at the start of this year. Two of these grants had 2009 payments pending, totaling \$188,740, to support CCR's litigation to hold the U.S. military contractors CACI International and Titan Corporation accountable for allegedly torturing Iraqi prisoners at Abu Ghraib, and its litigation under the Alien Tort Statute against Blackwater, the U.S. military contractor involved in the Nisoor Square shootings in Baghdad that killed 17 and injured 18 Iraqi civilians in 2007. In addition, ongoing JEHT support for CCR's Guantanamo Global Justice Project – which enabled CCR to bolster both its direct representation of and its coordination of habeas counsel seeking the release of Guantanamo detainees – expired in March 2009.

In late December 2008, Moveon.org selected CCR as one of four organizations that it would assist in an internet fundraising effort, with donations to be matched by both OSI and Atlantic Philanthropies. The recommended grant will serve as OSI's match.

This general support grant will help advance the National Security and Human Rights Campaign priorities of restoring an absolute prohibition against torture, ending extraordinary rendition, and closing secret prisons; restoring habeas corpus rights and ending arbitrary and indefinite detention; and holding government officials and private military contractors accountable for past abuses and violations of law.

For the above reasons, OSI staff recommends a general support grant of \$90,674 over one year to the Center for Constitutional Rights.

**Name of Organization:** Crimes of War Education Project

<b><u>Tax Status:</u></b>	501(c)(3) public charity
<b><u>Purpose of Grant:</u></b>	To provide general support
<b><u>Previous OSI Support:</u></b>	\$236,066 \$127,514 from the Presidential Grants (1999, 2001) \$58,552 from Central Eurasia Project (2003, 2006) \$50,000 from Middle East & N. Africa (2004)
<b><u>Organization Budget:</u></b>	\$210,000
<b><u>Project Budget:</u></b>	N/A
<b><u>Major Sources of Support:</u></b>	Oak Foundation £75,000; Book sales, royalties and miscellaneous income \$1,193
<b><u>Amount Requested:</u></b>	\$100,000
<b><u>Amount Recommended:</u></b>	\$100,000 [JEHT Foundation Emergency Fund, T1: 59959]
<b><u>Term:</u></b>	One year (January 1, 2009 – December 31, 2009)

**Description of Organization:**

The Crimes of War Project (the Project) was formed in 1999 by a small group of experienced journalists to promote knowledge and understanding of international humanitarian law among reporters and the general public. The Project provides clear and reliable information – tailored for those who lack formal training in international humanitarian law but who want to understand the rules and make sense of specific incidents in light of them – by writing and commissioning articles about the most important developments in war crimes, international justice, and the evolution of international humanitarian law.

The Project’s flagship resource is its *Crimes of War* handbook for journalists, available in hardcopy and online, which is a guide to international humanitarian law that explores the rules, legal terms, and case histories of significant recent conflicts. In 2007, the Project published *Crimes of War 2.0*, an A-Z handbook for journalists on international humanitarian law that included chapters on detention, interrogation, Guantanamo, terrorism, occupation, prisoners of war, and courts and tribunals.

The Project has three staff members and is headquartered in Washington, D.C. Anthony Dworkin, based in London, is the Project’s Executive Director and Co-Editor of *Crimes of War 2.0*. A journalist who has been published in *Prospect Magazine*, the *Times Literary Supplement*, the *New Statesman*, and the *Boston Globe*, Dworkin was previously a producer with BBC Current Affairs. Roy Guttman is Chairman of the Project’s board and Co-Editor of *Crimes of War. 2.0*. Guttman is also foreign editor of *Newsday*, a Pulitzer Prize winner for international journalism, and author of *A Witness to Genocide*.

**Description of Program for Which Funding Is Sought:**

This recommendation seeks general support.

**Rationale for Recommendation:**

The JEHT Foundation’s International Justice Program was a critical supporter of the Crimes of War Education Project, and the foundation’s closure is endangering the Project’s financial health. JEHT approved a two-year grant of \$200,000 in April 2008, of which \$100,000 remains unpaid for 2009.

This recommended grant to the Crimes of War Education Project will advance the National Security and Human Rights Campaign priorities of restoring an absolute prohibition against torture; ending arbitrary and indefinite detention domestically and internationally; and advancing a progressive national security policy that respects civil liberties, human rights, and the rule of law.

This is a project of interest to the NSHR Campaign which JEHT was funding significantly and Campaign staff did not previously consider supporting. OSI has provided support to Crimes of War for its general educational and awareness raising activities, an investigation of prison abuse by the U.S. military in Afghanistan, and, through several grants, the Arabic translation and promotion of its book and website.

JEHT support sought to enable the Project to build on the press network it developed through the distribution of *Crimes of War 2.0* to further raise the profile of the Project as the premier resource for providing clear explanations about complex questions regarding war crimes and the laws of war. The Project has faced fundraising challenges, and ongoing general support from JEHT was helping to sustain the Project as it conducted an Oak-funded strategic planning process, which was recently concluded. The primary recommendation from the plan was that the organization should seek out a program partnership to ensure the project’s future sustainability – and efforts to accomplish this are currently underway. But its JEHT funding shortfall has already required the Project to scale back the hours of all three of its current employees, and Executive Director Anthony Dworkin has acknowledged that the organization will not survive without funding assistance that will allow them time to negotiate a program partnership with a larger organization. Given these challenges, in addition to the current recommendation, OSI staff is exploring the possibility of a technical assistance grant that would be included in the next round of JEHT emergency grant recommendations.

For the above reasons, OSI staff recommends a general support grant of \$100,000 to the Crimes of War Education Project.

**Name of Organization:** Human Rights First



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

**Purpose of Grant:** To provide general support

**Previous OSI Support:** \$1,856,706  
\$450,000 from NSHR Campaign (2008, 2009)  
\$578,000 from U.S. Programs (2002-2004, 2007)  
\$10,350 from Central Eurasia Project (1999, 2008)  
\$10,000 from Charitable Events Fund (2007)  
\$265,000 from Chairman's Grants (1996-2006)  
\$313,510 from Presidential Grants (1995-2003)  
\$1,300 from General Counsel (2003)  
\$3,400 from Latin America Program (2003)  
\$9,950 from Medicine as a Profession (2001)  
\$167,500 from U.S. Charities (1995-2001)  
\$72,671 from International Program (1999)

**Organization Budget:** \$11,070,000

**Project Budget:** N/A

**Major Sources of Support:** Anonymous \$1,675,000; Atlantic Philanthropies \$500,000; Ford Foundation \$475,000; HWG Fund \$300,000; Picower Institute \$250,000; MacArthur Foundation \$150,000; Individual Donations \$2,956,920

**Amount Requested:** \$300,000

**Amount Recommended:** \$300,000 [JEHT Foundation Emergency Fund, T1: 59959]

**Term:** One year (January 1, 2009 – December 31, 2009)

**Description of Organization:**

Human Rights First (HRF) was founded in 1978, under the name Lawyers Committee for International Human Rights, to advance justice, human dignity, and respect for the rule of law. HRF works to close the gap between global legal standards and their enforcement and to promote concrete measures for making human rights standards relevant, enforceable, and permanent. HRF cultivates alliances across the political spectrum, advises policymakers, litigates, engages in public education, and mobilizes activists. HRF is based in New York City and maintains a policy office in Washington, D.C.

**Description of Program for Which Funding Is Sought:**

This recommendation seeks general support.

**Rationale for Recommendation:**

The JEHT Foundation's International Justice Program was a major supporter of Human Rights First, and the foundation's closure is having a severely adverse effect on HRF's financial health. JEHT had approved a three-year grant of \$2.4 million in December 2008 to support HRF's Law and Security Program and End Torture Campaign, of which \$800,000 would have been available in calendar year 2009. Fortunately, Atlantic Philanthropies has pledged an emergency grant to HRF of \$500,000, but this would still leave a shortfall of \$300,000 in the gap left by the loss of JEHT funding in 2009.

This recommended grant to HRF will advance the National Security and Human Rights Campaign priorities of restoring an absolute prohibition against torture; ending arbitrary and indefinite detention domestically and internationally; holding government officials and private actors accountable for past abuses and violations of the law; and supporting credible voices in the movement for a progressive national security policy.

Human Rights First is an important collaborator of the National Security and Human Rights Campaign. OSI supported HRF's Law and Security Program in 2007 out of the U.S. Justice Fund's Civil Liberties Portfolio, and last fall the NSHR Campaign provided a two year project support grant of \$400,000. Also, in February and March of this year, the NSHR Campaign made two time-sensitive out of docket grants to HRF to support its communications capacity.

Following a recent meeting with Elisa Massimino, HRF's executive director, Aryeh Neier, Ann Beeson, and Nancy Chang, OSI staff would like to give HRF maximum flexibility in the use of these funds and recommends general support.

For the above reasons, OSI staff recommends a general support grant of \$300,000 to Human Rights First over one year.

**Name of Organization:** New York University

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

**Purpose of Grant:** To support the project, Human Rights in Transition: Ensuring Truth and Justice in U.S. National Security

**Previous OSI Support:** \$4,846,911  
 \$856,720 from Presidential Grants (1997-2009)  
 \$294,537 from M. East & N. Africa (2004-2008)  
 \$420,000 from US Justice Fund (1991, 2001, 2007)  
 \$100,000 from China Grants (2006)  
 \$805,044 from NYC Community Fellowship (2006)  
 \$355,000 from Youth Development (1997-2005)  
 \$320,000 from US Programs (1998-2004)  
 \$141,644 from Chairman's Grants (2003)  
 \$15,332 from Central Eurasia Project (2002, 2003)  
 \$250,000 from OSI Institutional Grants (2001)  
 \$223,893 from Public Health (1996-2001)  
 \$793,550 from Crim. Just. Fellowships (1996-2001)  
 \$116,691 from PDIA (1998, 2000)  
 \$154,500 from misc. other OSI progs (1999-2007)

**Organization Budget:** \$584,474 (CHRGJ)

**Project Budget:** \$130,000

**Major Sources of Support:** In-kind support from New York University (CHRGJ)

**Amount Requested:** \$65,000

**Amount Recommended:** \$65,000 [JEHT Foundation Emergency Fund, T1: 59959]

**Term:** One year (June 1, 2009 – May 31, 2010)

**Description of Organization:**

The Center for Human Rights and Global Justice (CHRGJ or the Center) at the New York University School of Law was established in 2002 under the direction of Professor Philip Alston to bring together NYU's domestic and international litigation, investigations, teaching, research, advocacy, and publishing activities on issues of international human rights law. Margaret Satterthwaite and Smita Narula serve as Faculty Directors of CHRGJ, and also direct one of its key projects, NYU Law School's International Human Rights Clinic. The Center's staff has expertise on issues including transitional justice, counterterrorism, racial profiling, poverty, LGBT rights, human trafficking, and extrajudicial executions.

### **Description of Program for Which Funding Is Sought:**

The Center's project, Human Rights in Transition: Ensuring Truth and Justice in U.S. National Security, seeks truth and justice for abuses committed in the detention and interrogation of terrorism suspects under the "war on terror." The project builds on the Center's ongoing work on CIA "black sites," which has included: representation of two Yemeni men held in CIA "black sites" between 2003 and 2005, Mohamed Bashmilah and Mohammed al-Asad; work with an Afghanistan specialist to locate secret detention facilities in Afghanistan and identify potential former detainees; and the development of an initiative on detainee abuse and accountability that allows advocates to document credible allegations of torture in Iraq, Afghanistan, and Guantanamo, and track criminal and administrative sanctions.

Over the next year the Human Rights in Transition Project will seek accountability for U.S. torture and extraordinary rendition of terror suspects – in collaboration with NGOs such as Amnesty International, the Center for Constitutional Rights, and the ACLU. Specific activities will include: pursuing a comprehensive Freedom of Information Act suit seeking U.S. government disclosure of documents pertaining to extraordinary rendition, secret detention, and coercive interrogation programs; continuing litigation with the ACLU against a private company, Jeppesen Dataplan, that provided the air transport used in the CIA's rendition of Mohamed Bashmilah; continuing investigation of another "black site" case for a possible filing before the Inter-American Commission on Human Rights; and bringing landmark cases to the European Court of Human Rights and the African Commission on Human and Peoples' Rights against states that hosted "black sites" or otherwise cooperated with the U.S. in the torture and extraordinary rendition of terror suspects.

The project will also continue to gather information on the U.S. government's use of extraordinary rendition, secret detention, and coercive interrogation, including the fate and whereabouts of individuals who are missing after having been in U.S. custody, and to engage in public education and advocacy seeking accountability for these abuses. The project will also develop a standard protocol to be used by advocates in debriefing former CIA detainees that will help eliminate the need for multiple debriefings, which have had the effect of re-traumatizing former detainees.

### **Rationale for Recommendation:**

The JEHT Foundation's International Justice Program was providing critical support for the CHRGGJ's work on rendition. In the fall of 2008, the Center initiated an application for renewal funding for the project at a continued level of \$130,000 per year. JEHT internally approved these funds, but the grant was not formally awarded prior to JEHT's closure. JEHT's closure has significantly limited the capacity of the Center to continue this project – and the Center needs emergency funding and technical assistance to help devise a longer-term strategy for replacing the JEHT funding or to devise an exit strategy.

This grant will advance the National Security and Human Rights Campaign priorities of restoring an absolute prohibition against torture, ending extraordinary rendition, and closing secret prisons; and holding government officials and private actors accountable

for past abuses and violations of the law. Although not a current grantee, OSI staff have met with staff from the project and collaborating NGOs, and held off on funding the Center's work in the knowledge that JEHT was supporting its essential costs. A grant of \$65,000 from OSI would be matched by a grant in the same amount from Atlantic Philanthropies, and together these grants would cover the full amount of the anticipated lost JEHT funding for 2009 of \$130,000.

For the above reasons, OSI staff recommends a grant of \$65,000 to NYU School of Law's Center for Human Rights and Global Justice to support the project, Human Rights in Transition: Ensuring Truth and Justice in U.S. National Security.

**Name of Organization:** Yale University

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

**Purpose of Grant:** To support the National Litigation Project at Yale Law School

**Previous OSI Support:** \$597,625  
 \$24,949 from the NSHR Campaign (2008)  
 \$231,545 from US Justice Fund (2005-2007)  
 \$8,750 from OSI-Baltimore (2003)  
 \$28,290 from Burma Project (2001)  
 \$19,500 from OSIWA (2001)  
 \$153,000 from PDIA (1997-1998)  
 \$75,000 from Chairman's Grants (1997)  
 \$56,591 from Presidential Grants (1996-1997)

**Organization Budget:** \$88,000,000

**Project Budget:** \$429,231

**Major Sources of Support:** Project: Atlantic Philanthropies \$83,065; Ford Foundation \$75,000

**Amount Requested:** \$75,000

**Amount Recommended:** \$75,000 [JEHT Foundation Emergency Fund, T1: 59959]

**Term:** One year (January 1, 2009 – December 31, 2009)

**Description of Organization:**

Yale University, considered one of the premier academic institutions in the country, is comprised of an undergraduate college, a graduate school of arts and sciences, and ten professional schools. Yale Law School, led by Dean Harold Hongju Koh, is widely acknowledged as one of America's leading law schools, particularly in the fields of comparative constitutional law, corporate finance, environmental law, gender studies, international human rights, and legal history. The law school's Allard K. Lowenstein International Human Rights Clinic (Lowenstein Clinic) provides students first-hand experiences in human rights advocacy on behalf of human rights organizations and individual victims of human rights abuses.

The National Litigation Project (the NLP), a clinical program affiliated with the Allard K. Lowenstein International Human Rights Clinic, was formed shortly after 9/11 to protect civil liberties threatened by U.S. government policies enacted as part of the "war on terror." The NLP monitors legal and policy developments for issues of potential concern to human rights and the rule of law and engages in impact litigation.

### **Description of Program for Which Funding Is Sought:**

The National Litigation Project (the NLP) challenges unlawful U.S. counterterrorism policies through litigation, legislative advocacy, policy development, and public education. The NLP also serves as a strategist, convener, and occasional mediator between scholars and advocates on domestic human rights matters.

Over the coming year, the NLP will directly represent clients impacted by U.S. counterterrorism policies and serve as *amicus* counsel on behalf of such impacted persons. The project will continue its ongoing work to protect rights on several fronts: a) the unlawful detention of terrorism suspects without due process; b) discrimination against persons of Muslim, Arab, and South Asian descent; c) the misuse of domestic law enforcement tools for counterterrorism efforts; d) the use of torture and inhumane and degrading treatment by U.S. officials; and e) the right to redress for victims of grave human rights violations. The NLP will also develop transnational litigation strategies.

In addition, the NLP will continue to help build the capacity of the human rights litigation community through strategy sessions and other convenings. The NLP will expand its coalition-building and policy network, and collaborate with advocacy and academic communities to develop informed policy positions and solid scholarship regarding the application of human rights, humanitarian law, and constitutional principles to progressive national security policies.

### **Rationale for Recommendation:**

The JEHT Foundation's International Justice Program was planning to provide a \$300,000 grant for the National Litigation Project's work in 2009-2010. JEHT had previously supported a NLP fellowship position and litigation staff. Due to the NLP's litigation successes and additional demand for direct representation of clients, NLP's operating expenses have accumulated quickly and cannot be sustained by Yale Law School alone. A grant of \$75,000 from OSI will cover half of the NLP's anticipated loss of JEHT funds for 2009. Atlantic Philanthropies is planning to match OSI's grant with a grant of \$75,000 that will cover the other half of the NLP's anticipated loss of 2009 funding from JEHT. Support from OSI will be critical to sustaining the NLP in the next year.

This grant will advance the National Security and Human Rights Campaign priorities of combating racial and religious profiling of Muslims, Arabs, and South Asians in the name of national security; ending arbitrary and indefinite detention domestically and internationally; and strengthening the capacity of core organizations to advocate against a range of abusive counterterrorism policies and for a progressive national security policy that respects civil liberties, human rights, and the rule of law.

For the above reasons, OSI staff recommends a grant of \$75,000 to Yale Law School over one year to support the National Litigation Project.

## MEMORANDUM

**To:** Aryeh Neier  
**From:** Ann Beeson, Laleh Ispahani  
**Cc:** Erlin Ibreck  
**Date:** March 25, 2009  
**Re:** JEHT Emergency Fund Grant Recommendations

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Please find attached the first docket of emergency grants related to the sudden closure of the JEHT Foundation. The three groups in this docket are grantees of the Transparency and Integrity Fund (TIF) and were promised funds from JEHT through the first quarter of 2009.

OSI worked closely with JEHT's Fair and Participatory Elections Program, which was a major supporter of the **Brennan Center for Justice**. Brennan's fair courts project is a key grant in TIF's Judicial Independence portfolio. Its voting rights work has been central to TIF's election administration funding. The group's felony disfranchisement work and community-oriented defender projects align closely with the goals of the Criminal Justice Fund. Additionally, Brennan's Liberty and National Security project has been a core partner in the OSI National Security and Human Rights Campaign. As a result of these many shared priorities; support for Brennan in this funding crisis is a high priority for U.S. Programs.

**The National Institute on Money in State Politics** has long been a key grantee of U.S. Programs. OSI funding made possible its now invaluable collection, analysis, and dissemination of state judicial election contribution data. The Institute is playing a major role in tracking economic stimulus spending, serving as a watchdog to spot political corruption in the allocation of much needed dollars.

The general support grant from JEHT would have allowed the **Center for Public Integrity** to significantly increase its organizational capacity and maintain the flexibility to undertake unanticipated investigations. The Center is developing a consortium of state-level projects that would bring added oversight to state capitols and government. OSI's support would allow the Center to build capacity and test new innovations while it seeks additional support from other funders to fill the gap left by JEHT's closure.

Finally, the Transparency and Integrity Fund has engaged JEHT's former Fair and Participatory Elections Program manager as a consultant. Rachel Leon is helping TIF develop a strategy for supporting state level transparency work.



**Name of Organization:** Center for Public Integrity

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

**Purpose of Grant:** To provide general support.

**Previous OSI Support:** \$3,062,554  
 \$1,959,630 from Chairman’s Grants  
 (1999 – 2003)  
 \$433,124 from Presidential Grants  
 (1998, 2001, 2003)  
 \$375,000 from Governance and Public Policy  
 (1998, 2001, 2002)  
 \$294,000 from Law and Society  
 (2000, 2001)

**Organization Budget:** \$3,749,000

**Project Budget:** N/A

**Major Sources of Support:**

Carnegie Corporation	\$250,000
Popplestone Foundation	\$250,000
Park Foundation	\$250,000

**Amount Requested:** \$300,000 over one year

**Amount Recommended:** \$300,000 over one year

**Term:** May 1, 2009 – April 30, 2010

**Description of Organization:**

The Center for Public Integrity (the Center) is an award-winning non-profit investigative journalism organization. It was founded in 1989 by Charles Lewis and has produced over 400 investigative reports and 17 books since its inception. Located in Washington, D.C., the Center’s current executive director, William Buzenberg, is the former head of NPR News and Minnesota Public Radio News.

The mission of the Center is to produce investigative journalism about significant public issues to make institutional power more transparent and accountable. Its reportage goes beyond the daily news cycle to uncover the complexities of topical stories, and broadcast those findings in innovative ways. The Center’s most recent investigation examines 350 million mortgages (raw data from the US Department of Housing and Urban Development) to expose which banks fueled the sub-prime meltdown but are now receiving “bailout” funds. It will also examine, over the last decade, the connection between financial services industry lobbyists and legislators. Each of the Center’s investigative projects are produced in several mediums to maximize impact, including

print, audio, video and podcasts, and are distributed on multiple platforms, including collaborations with PBS's Frontline and other major media outlets.

**Description of Program for Which Funding Is Sought:**

This recommendation is for general support.

**Rationale for Recommendation:**

When the JEHT foundation announced in December 2008 that it would be closing immediately, the Center was in the first year of a three year, \$900,000 general support grant from the foundation. This recommended grant would cover the 2009 installment of that commitment.

The general support from JEHT would have allowed the Center to significantly increase its organizational capacity and maintain the flexibility to undertake unanticipated investigations. CPI was, in part, developing a consortium of state-level projects that would bring added oversight to state capitols and government and planning to hire a Director of Marketing and Communications to raise the Center's brand and increase the media exposure of its work. OSI's support would allow the Center to build capacity and test new innovations while it seeks additional support from other funders to fill the gap left by JEHT's closure.

This recommended grant would advance priorities of the Transparency and Integrity Fund by supporting an anchor in the nonprofit investigative journalism field. The Center's investigations (e.g., *Iraq: The War Card*, *The Climate Change Lobby*) examine issues of importance to other OSI funds, such as the National Security and Human Rights Campaign and Climate Change program.

The Center is under able leadership and continues to receive significant media and public attention. Its executive director, William Buzenberg, successfully launched *Talk of the Nation*, American Radio Works, *Speaking of Faith*, and *Public Insight Journalism* while at NPR and Minnesota Public Radio, and is well positioned to drive innovation at CPI. The organization itself has received numerous awards for its work. In the last year it received the online award from the National Press Foundation, whose judges described the Center's work as representing "the future of journalism."

**Name of Organization:** National Institute on Money in State Politics

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

**Purpose of Grant:** To provide general support.

**Previous OSI Support:** \$1,575,000

Judicial Independence	\$785,000 (p.s.) 2005-09
Law & Society	\$370,000 (p.s.) 2002-04
Governance & Public Policy	\$325,000 (g.s.) 2002-03
Prison Exp. & Sent. Reform	\$100,000 (p.s.) 2005-06

**Organization Budget:** \$1,846,700

**Project Budget:** N/A

**Major Sources of Support:**

Ford Foundation	\$195,000
Pew Charitable Trusts	\$200,000
Data Licensing Agreements	\$96,000

**Amount Requested:** \$290,000

**Amount Recommended:** \$290,000

**Term:** One year, beginning January 1, 2009

**Description of Organization:**

The Institute on Money in State Politics (the Institute) is a nonprofit organization providing data and analysis on state campaign financing. Working in close collaboration with the reform community, the Institute has developed the country's first and only free public-access archive of records on campaign contributions in state elections. Based in Helena, Montana, the Institute works proactively to make its data and research available to journalists, public interest lawyers, public officials, academics, and citizens' groups across the nation.

The Institute works with state officials and watchdogs in all fifty states of the U.S. to gather, code, and analyze campaign finance information in every state-wide election. This includes not only gubernatorial and legislative elections, but judicial elections as well. It engages in an arduous process of sorting data and reorganizing it in open source databases that allow for comprehensive searches of donors back to 1988. In 2007 and 2008, the Institute began to gather lists of registered lobbyists in every state, allowing for better connections between the statehouse work of lobbyists and donations from lobbyists and the clients they represent. And this past May the Institute launched the Legislative Committee Analysis tool, to better analyze donations to key legislative committee members from the industries impacted by legislative decisions made by those committees.

This data serves as the backbone of many watchdog efforts. Groups such as maplight.org and many of the projects of the Sunlight Foundation depend upon the data (and collaboration) of the Institute to connect the dots between money and political action. Thousands of journalists turn to the Institute's databases each year in the process of investigating political news stories. Most recently, the Institute has been collaborating with the Coalition for an Accountable Recovery to better track stimulus spending decisions at the state level.

**Description of Program for Which Funding Is Sought:**

N/A

**Rationale for Recommendation:**

When the JEHT Foundation announced its sudden closing in December 2008, the Institute was awaiting payment on two grants totaling \$290,000, more than 15% of their organizational budget. Without this funding, the Institute would be unable to engage in a highly valuable strategic planning process, evaluating ways expand its donor base to increase the number of individual donors supporting its work and expanding earned revenue through targeted research services. This planning process is all the more important since the Institute went to an open source data model a few years ago, eliminating many of its prior revenue streams. JEHT support would also have supported the Institute's ongoing work to better disseminate its data and increase awareness of its resources through collaborations with allies in the transparency, government reform, and journalism communities.

These activities are of great value to the goals of transparency and government integrity. The Institute has long been a key grantee within U.S. Programs, advancing many goals of a variety of funds. OSI funding made possible its now invaluable collection, analysis, and dissemination of state judicial election contribution data. The Institute is playing a major role in tracking economic stimulus spending, serving as a watchdog to spot political corruption in the allocation of much needed dollars. Due to its highly important place in a variety of coalitions and reform efforts, loss of the JEHT dollars would significantly hinder the Institute's ongoing work and thus impede the achievement of the Transparency & Integrity Fund's goals.

**Name of Organization:** William J. Brennan Center for Justice

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

**Purpose of Grant:** To provide general support.

**Previous OSI Support:** \$11,950,218  
\$5,421,218 from US Justice Fund (2000-08)  
\$800,000 from Progressive Infrastructure (2007)  
\$60,000 from OSI Baltimore (2006)  
\$656,000 from S.O.F. (2003, 2006, 2007)  
\$620,000 from US Programs (1997)  
\$3,393,000 from Law and Society (1997-2003)  
\$1,000,000 from Gov. and Public Policy (2000-02)

**Organization Budget:** \$7,357,278 (FY 2008)

**Project Budget:** N/A

**Major Sources of Support:**

Carnegie Corporation	\$600,000
Atlantic Philanthropies	\$450,000
Rockefeller Foundation	\$250,000

**Amount Requested:** \$68,414.35

**Amount Recommended:** \$68,414.35

**Term:** One year, beginning January 1, 2009

**Description of Organization:**

The Brennan Center is a hybrid policy institute/public interest law firm founded in 1996 by the former clerks of Justice William Brennan. Dedicated to Justice Brennan’s vision of a “living constitution” that enshrines human dignity, equal opportunity and democratic participation as its core values, the Center employs tools of law, scholarship, education and advocacy to advocate for those ideals. The Brennan Center is primarily based in New York, but in 2008 opened an office in Washington, DC in order to better engage in federal-level advocacy.

Over the past decade, OSI has supported a wide array of Brennan Center initiatives, including projects on campaign finance reform, voting rights, judicial independence, access to justice (community oriented defender services), criminal justice (felon disenfranchisement), and national security & human rights. That support has leveraged a number of noteworthy accomplishments, including:

- Successful defense of the Bipartisan Campaign Reform Act (also known as McCain-Feingold) in the case of *McConnell v. Federal Elections Commission*;

- Successful litigation in *Legal Services Corporation v. Velazquez*, a Supreme Court case overturning restrictions that barred federally-funded lawyers from challenging welfare laws on behalf of indigent clients;
- Co-authorship of seminal reports on *The New Politics of Judicial Elections* (in collaboration with Justice at Stake and the Institute on Money in State Politics);
- An ambitious public education and advocacy strategy around the Military Commissions Act of 2006, including publication of *Unchecked and Unbalanced: Presidential Power in a Time of Terror*, by Brennan Center staff members Frederick A.O. Schwarz and Aziz Huq (Feb. 2007);
- Release of the influential report, *Caught in the Net: The Impact of Drug Policies on Women and Families*, and organization of a successful *Caught in the Net Conference* (in partnership with the ACLU and Break the Chains, both OSI grantees); and
- The establishment of a Community-Oriented Defender Network Project that advocates for client-centered defender services throughout the US.

**Description of Program for Which Funding Is Sought:**

This recommendation seeks general support

**Rationale for Recommendation:**

When the JEHT Foundation announced its closure in December of 2008, the Brennan Center was significantly impacted. JEHT's Fair & Participatory Elections Program was a major supporter of Brennan's. JEHT gave a core support grant of \$450,000 to Brennan's Democracy Program that expired in December. And JEHT had given all but final approval to Brennan for a ballot design project. In late December, moveon.org selected Brennan as one of four organizations to assist in a fundraising effort. This recommendation will serve as a match to the donations raised by that solicitation.

Brennan's activities are of great importance to many of the funds within U.S. Programs. Brennan's fair courts project is a key grantee in the Transparency & Integrity Fund's Judicial Independence portfolio. Its voting rights work is at the core of TIF's election administration funding. The group's felon disenfranchisement work and community oriented defender project map closely to the grantmaking goals of the Criminal Justice Fund. And Brennan's Liberty & National Security project has been a core partner in U.S. Program's National Security & Human Rights Campaign. As a result of these many shared priorities; support for Brennan amidst this funding crisis is of top priority to U.S. Programs as a whole.