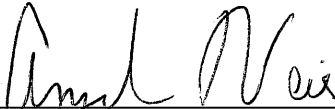
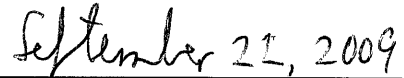


**US PROGRAMS**  
**National Security and Human Rights Campaign**  
**2009 Docket III - Summary of Recommended Grants**  
**September 22, 2009**

**National Security and Human Rights Campaign (T1: 21095)**

<b>Organization<sup>1</sup></b>	<b>Recommended</b>	<b>Term</b>	<b>2009</b>	<b>2010</b>
Constitution Project	225,000	21 months	125,000	100,000
Human Rights Watch	150,000	1 year	150,000	
International Center for Transitional Justice	125,000	1 year	125,000	
National Religious Campaign Against Torture <sup>2</sup>	30,000	4 months	30,000	
New York University	150,000	18 months	150,000	
Physicians for Human Rights	200,000	2 years	100,000	100,000
Tides Center / Rights Working Group <sup>3</sup>	350,000	16 months	275,000	75,000
<b>Total Recommended: \$</b>	<b>1,230,000</b>		<b>\$ 955,000</b>	<b>\$ 275,000</b>
<b>GRANTMAKING TOTAL THIS DOCKET: \$</b>				<b>1,230,000</b>

  
Approval Signature

  
Date

<sup>1</sup> The Democracy and Power Fund is recommending a set of US Programs grants to the Center for American Progress, including a NSHR Campaign project support grant of \$50,000.

<sup>2</sup> The total grant recommended to NRCAT is to be co-funded by the NSHR Campaign T1: 21095 (\$20,000) and the Criminal Justice Fund T1: 24027 (\$10,000).

<sup>3</sup> The total grant recommended to Tides Center is to be co-funded by the NSHR Campaign T1:21095 (\$200,000); the Equality and Opportunity Fund T1:24023 (\$100,000); and the Criminal Justice Fund T1:24027 (\$50,000).

## MEMORANDUM

To: Aryeh Neier  
From: Ann Beeson, Nancy Chang, Sophia Conroy, and Hyon Seo Kwon  
Date: September 15, 2009  
Subject: National Security and Human Rights Campaign's Grant  
Recommendations for Docket III of 2009

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The National Security and Human Rights Campaign recommends seven grants on its third docket of 2009, in addition to one grant that is being presented by the Criminal Justice Fund and one that is being presented by the Democracy and Power Fund.

In support of its goal of ensuring that the Guantanamo Bay detention center is shut down by January 2010 and that its detainees are either tried in criminal courts or released, the NSHR Campaign proposes grants to **Human Rights Watch** to support its Closing Guantanamo Responsibly Project, and the **Constitution Project** to support its Closing Guantanamo Validators Campaign and Rule of Law Program. Both organizations are working with NSHR Campaign grantees Human Rights First and the Center for International Policy on a set of coordinated campaigns to oppose the imposition of a regime of preventive detention and a substandard military commission system. We understand that the grant to Human Rights Watch would be an exception to the general prohibition against project support to organizations receiving sizable general support grants from the President's office. We will be sending you additional information about this grant shortly and welcome your feedback at the docket meeting.

To promote its goal of accountability for the torture and cruel, inhuman, and degrading treatment of detainees, the NSHR Campaign recommends grants to the **International Center for Transitional Justice** to support its U.S. Accountability Project, and to **Physicians for Human Rights** to support its Campaign for Justice. Also, with the Criminal Justice Fund, the Campaign recommends a planning grant to the **National Religious Campaign Against Torture** to support the organization in exploring the possibility of expanding its mission to cover two new areas of work – strengthening the role of the U.S. in ending torture by other nations, and ending torture and cruel, inhuman, and degrading treatment in U.S. prisons.

To advance the NSHR Campaign's priority of combating racial and religious profiling of Arab, Middle Eastern, Muslim, and South Asian communities and individuals in the name of national security, the Campaign is recommending a grant to **New York University** to support an empirical research study on the positive effects of procedural fairness on community trust in counterterrorism policing of Muslim communities in London and New York, and to support the dissemination of the researchers' findings and recommendations in policy circles. In addition, the NSHR Campaign, the Equality and Opportunity Fund, and the Criminal Justice Fund jointly recommend a grant to the **Tides Foundation** to support the **Rights Working Group's** Campaign to Stop Racial Profiling. Earlier this year, the NSHR Campaign provided a planning grant for the campaign, which

will educate policymakers, the media, and the public on the importance of ending racial, ethnic, and religious profiling by federal, state, and local law enforcement agencies, and mobilize affected communities and their allies to push for policy reforms.

The NSHR Campaign also recommends two grants that are being presented by other funds. The Campaign recommends a general support grant to the **Foundation for Criminal Justice** that is being presented by the Criminal Justice Fund. The Foundation and its sister organization, the National Association of Criminal Defense Lawyers, address threats to civil liberties posed by detention policies, including the detention of terrorism suspects in the “war on terror.” The Campaign also recommends a project support grant to the **Center for American Progress** that is being presented by the Democracy and Power Fund. This grant will support the Center’s U.S.-E.U. Dialogue on Counterterrorism and Human Rights Initiative, and will advance the Campaign’s priority of developing progressive counterterrorism policies that protect national security while respecting human rights.

The total grant amount for the seven grants on the National Security and Human Rights Campaign’s third docket of 2009 is \$1,230,000. Our grant write ups and financial summary are attached.

**National Security and Human Rights Campaign**

**Docket III of 2009**

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**Name of Organization:** Constitution Project

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

**Purpose of Grant:** To support the Recruiting Validators Campaign and the Rule of Law Program

**Previous OSI Support:** \$1,199,827  
\$150,000 from NSHR Campaign and CJF (2008)  
\$812,477 from US Programs (2000-2008)  
\$220,000 from Law & Society Program (2002-03)  
\$17,350 from Matching Gift Program (2003-2006)

**Organization Budget:** \$894,880

**Project Budget:** Recruiting Validators Campaign: \$125,000;  
Rule of Law Program: \$100,000

**Major Sources of Support:** Atlantic Philanthropies \$500,000; Community Foundation for the National Capital Region \$70,000; Anonymous Foundation \$56,000; Educational Foundation of America \$50,000; CS Fund/Warsh-Mott Legacy \$20,000

**Amount Requested:** \$225,000 [Recruiting Validators Campaign: \$125,000;  
Rule of Law Program: \$100,000]

**Amount Recommended:** \$225,000 [NSHR Campaign, T1: 21095]

**Term:** 21 months (August 1, 2009 – April 30, 2011)

**Description of Organization:**

Founded in 1997, the Constitution Project (CP) is an independent bipartisan think tank based in Washington, D.C., the mission of which is to advance institutional and systemic change at all levels of society, fight against diminishing governmental transparency and accountability, promote human rights, and advocate for the rule of law through reforms to our criminal justice system. CP utilizes a range of strategies including policy analysis, the publication of reports, media outreach, public education, and the submission of *amicus curiae* briefs.

CP's core work centers on restoring the rule of law, which has been eroded since September 11, 2001 as a result of the executive branch's virtually unchecked arrogation of power, and reforming the criminal justice system. With a staff of six full-time employees, CP conducts much of its work with the assistance of bipartisan committees composed of influential policymakers and experts working in coalition with allied organizations and individuals. While CP shares many policy goals with other progressive

organizations around the country, it is distinguished by its ability to recruit unlikely allies and work with them to develop consensus-based recommendations.

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

The Constitution Project requests funding to: (1) support the Recruiting Validators Program, which aims to build the political coalitions and provide the political cover necessary for the Obama administration to close Guantanamo in a constitutional manner; and (2) enhance and expand its Rule of Law Program.<sup>1</sup>

#### **1. The Recruiting Validators Campaign**

President Obama started his term in office on a high note, with the issuance of executive orders directing the closure of the Guantanamo Bay detention facility by January 2010, and halting the military commission proceedings used to try suspected terrorists. However, in his May 21, 2009 speech on national security, Obama wavered in his commitment to a constitutional detention policy by threatening to reinstate the use of military commissions and institute a system of preventive detention without charge for certain detainees. Obama has also been less than effective in rebutting former Vice President Richard Cheney's fear-laced missives.

To build support for the closure of Guantanamo in a constitutional manner, CP launched its Recruiting Validators Campaign in August 2009. In close collaboration with Human Rights First and the Center for International Policy, CP is identifying, recruiting, and strategically promoting a bipartisan group of highly credible and effective validators whose opinions will resonate with targeted administration officials and members of Congress.<sup>2</sup> With the assistance of consultant David Keene, Chair of the American Conservative Union and enthusiastic members of the CP Liberty and Security Committee – including former Ambassador Thomas Pickering, national security expert Suzanne Spaulding, former U.S. Attorney Earl Silbert, former Judge Patricia Wald, and former FBI Director and former Judge William S. Sessions – CP plans to focus on conservatives, Republicans, law enforcement officials, national security experts, prosecutors, judges, and diplomats.

CP and Human Rights First have jointly drafted a sign-on statement which asserts that terrorism prosecutions can and should be handled by traditional federal courts and urges the U.S. to end its system of indefinite detention. The statement has already gathered more than 30 signatures and will soon be circulated to administration officials and members of Congress as well as to the press and the public.

#### **2. The Rule of Law Program**

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<sup>1</sup> In 2008, the NSHR Campaign provided CP's Rule of Law Program with support in the amount of \$50,000 for the period from September 1, 2008 to August 31, 2010. If approved, this grant would support the Rule of Law Program for the period from January 1, 2010 to April 30, 2011.

<sup>2</sup> CP has submitted bifurcated project budgets for both the Recruiting Validators Campaign and the Rule of Law Program.

CP's Rule of Law Program challenges policies that threaten the rule of law and our system of checks and balances. These threats have been exacerbated by assertions of expansive presidential authority in the aftermath of the 9/11 attacks, Congress's failure to exercise its oversight duties and respect constitutional and human rights, and efforts by Congress and the executive branch to strip the courts of their jurisdiction to review the actions of the executive and legislative branches. The Program's areas of focus include:

Detention Policy: CP's work on detention policy includes briefings of key executive branch officials and members of Congress; placing opinion pieces in the media; preparing testimony and identifying witnesses for legislative hearings; and conducting public education efforts. In the event that legislation authorizing revised military commissions or legalizing a system of preventive detention is enacted, CP is prepared to fight to limit its impact by seeking to ensure that: (1) no detainees are tried by revised military commissions and that all terrorism prosecutions are brought in federal court; and (2) no detainees are actually subjected to indefinite detention without charge.

Accountability: In conjunction with OSI-DC, Human Rights Watch, Human Rights First, the Rutherford Institute, former military leaders, members of the 9/11 Commission, academics, and other experts, CP is advocating for the creation of a nonpartisan commission to examine U.S. interrogation and detention policies and to hold those responsible for torture and abuse of detainees to account.

Expiring Patriot Act Provisions: With three key provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 set to expire on December 31, 2009, CP has developed a statement describing the civil liberties threats these provisions pose, and recommending that they be reauthorized only if critical reforms are also enacted. The statement also recommends critical reforms for two additional provisions of the Patriot Act that are not scheduled to sunset. CP plans to release its recommendations and advocate for reforms when Congress begins consideration of the Patriot Act renewal later this year.

Due Process Concerns Regarding Detention and Removal Proceedings and the Lack of Access to Counsel for People in Immigration Removal Proceedings: CP has just completed a report which concludes that standards and procedures for detention in this country are inconsistent with constitutional principles and international instruments signed by the U.S. and provides a list of practical proposals to correct these deficiencies. CP is planning a roll-out strategy that may include events in New York, where Second Circuit Judge Robert Katzmann has led a call for greater *pro bono* representation of immigrants in removal proceedings.

Best Practices on State and Local Enforcement of Federal Immigration Law: CP is working on a report identifying constitutional and policy concerns associated with state and local enforcement of federal immigration laws, in particular section 287(g) of the Immigration and Nationality Act, and to provide recommendations addressing these concerns. CP intends to distribute the report to members of Congress, Department of Homeland Security officials,

and other relevant policymakers and officials at the federal, state, and local levels, and to conduct media outreach and host a panel discussion to launch the report.

**Rationale for Recommendation:**

This grant will advance the National Security and Human Rights Campaign priorities of increasing coordination among advocacy organizations; supporting credible voices in the movement for a progressive national security policy; cultivating persuasive messengers and thought leaders to challenge and dismantle the flawed “war on terror” paradigm; and stopping arbitrary and indefinite detention.

Though small in terms of staff size and budget, the Constitution Project has made important contributions to the national security and human rights field because of the wealth of relationships that Executive Director Virginia Sloan has cultivated over the years with respected political leaders, high level officials, and influential thinkers from a broad swath of the political spectrum, as well as because of Sloan’s talent for building bipartisan consensus for progressive policy positions.

In the case of the Validators Recruitment Campaign, CP – under the direction of Sloan and consultant David Keene of the American Conservative Union – has an invaluable role to play in the effort to close Guantanamo in a constitutional manner because of its ability to identify and recruit unusual allies and effectively promote their views. The coming months will offer ample opportunity for Congress to block the closure of Guantanamo by passing “NIMBY” legislation blocking the admission of Guantanamo detainees to the U.S., tweaking military commission legislation in ways that are calculated to win the support of the Obama administration yet fail to cure the procedural deficiencies at the heart of these proceedings, and authorizing preventive detention. The Recruiting Validators Campaign can provide political cover to administration officials and members of Congress who are inclined to support the administration in charging or releasing the remaining Guantanamo detainees and to oppose preventive detention and military commissions.

In the case of the Rule of Law Program, CP’s hard-hitting reports, statements, and policy recommendations are able to exert significant influence on public debate precisely because they reflect bipartisan opposition to proposals that sacrifice constitutional rights in misguided efforts to promote national security interests, and bipartisan support for policies that seek to preserve or restore these rights.

In the fall of 2008, the NSHR Campaign provided CP with funding to coordinate the production of a Human Rights/Liberty and Security Transition Catalogue and a Criminal Justice Transition Catalogue. CP deserves tremendous credit for having had the foresight to understand that with the change of administration, the progressive community needed to stop criticizing the Bush administration and start promoting positive solutions. Both catalogues have been widely acclaimed for their comprehensiveness and clarity, as well as for the speed with which they were compiled.



For the above reasons, NSHR staff recommends a grant of \$225,000 over 21 months to support the Constitution Project's Rule of Law Program and the Recruiting Validators Campaign.

**Name of Organization:** Human Rights Watch

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

**Purpose of Grant:** To support the Closing Guantanamo Responsibly Project

**Previous OSI Support:** \$22,880,788  
\$6,300,000 from HRW general support (2004-2009)  
\$6,038,860 from Chairman's Grants (2002-2009)  
\$734,640 from President's Grants (1996-2009)  
\$1,079,350 from US Programs (1999-2007)  
\$1,461,000 from Info New Opps (2001-2005)  
\$3,782,922 from CEP Grants (1997-2009)  
\$273,094 from Civil Society (2007-2008)  
\$360,850 from China Grants (2006-2009)  
\$51,150 from Matching Gift Grants (2001-2008)  
\$359,050 from Iran Grants (2004-2007)  
\$576,000 from Landmines Passive (1997-2000)  
\$1,710,672 from multiple programs (1995-2009)

**Organization Budget:** \$44,085,724

**Project Budget:** \$161,825

**Major Sources of Support:** Anonymous \$1,825,000; Sandler Foundation \$1,750,000; John D. and Catherine T. MacArthur Foundation \$1,325,000; The Sigrid Rausing Trust \$1,200,000; Arcadia Fund \$1,000,000; Oak Foundation \$1,000,000; Oxfam Novib \$828,965; Nduna Foundation \$500,000

**Amount Requested:** \$150,000

**Amount Recommended:** \$150,000 [NSHR Campaign, T1: 21095]

**Term:** One year (September 1, 2009 – August 31, 2010)

**Description of Organization:**

Human Rights Watch (HRW) was founded in 1978 as “Helsinki Watch” to support and protect individual dissidents and independent citizens’ groups in Eastern Europe and the former Soviet Union. Today, HRW conducts fact-finding investigations and advocates for an end to human rights abuses in over 80 countries around the world. HRW partners with local and international organizations to amplify the call for human rights, coordinate campaigns, and build coalitions.

HRW's notable achievements include: advocating for the establishment of the International Criminal Court; spearheading an international campaign to ban the use of child soldiers that resulted in a treaty ratified by 128 countries; mobilizing a global campaign to ban cluster munitions that resulted in a treaty signed by 98 countries; and conducting a successful campaign to ban landmines, for which HRW received the Nobel Peace Prize in 1997 along with its coalition partners. Based in New York City and with offices around the world, HRW's staff of 271 holds citizenship in 48 different countries and speaks 64 different languages.

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

Human Rights Watch requests support for its Closing Guantanamo Responsibly Project ("Project"). As part of HRW's Terrorism and Counterterrorism Program, the Project will work to ensure that President Obama meets his stated deadline of January 2010 for the closure of the Guantanamo detention facility, and to ensure that it is closed in a way that breaks the chain of human rights abuses in which it is entangled.

The Project will pursue the following three core objectives:

#### **1. Blocking the Preventive Detention of Guantanamo Detainees Who Remain in U.S. Custody and Trials by Military Commission**

In his May 21, 2009 speech on national security, President Obama stated that he would reserve the option of continuing to hold an unspecified number of Guantanamo detainees without trial. It remains unclear, however, whether the administration will work with Congress to pass legislation on preventive detention as Obama suggested in his speech, whether Obama will issue an executive order on preventive detention, whether the administration will simply continue to recite the wartime justifications for preventive detention that had been offered by the Bush administration, or whether due process will in fact be restored.

Given these uncertainties, HRW is actively preparing for the possibilities that legislation authorizing preventive detention will be introduced in Congress this fall or that the President will issue an executive order.<sup>3</sup> HRW is also working to oppose the trial of Guantanamo detainees by substandard military commissions. HRW will continue to provide legal analysis and briefing papers on these issues to its extensive contacts in the Obama administration, including Department of Defense General Counsel Jeh Johnson and Attorney General Holder's counterterrorism advisors, as well as to Congress. HRW will also engage in media advocacy, provide press interviews, draft op-eds, and present policy papers and memos to editorial boards across the country.

In addition, HRW will identify and engage judges, prosecutors, and other legal experts in speaking out in favor of handling terrorism cases through the existing criminal justice system instead of a preventive detention regime or military commission system. HRW is

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<sup>3</sup> HRW has submitted a bifurcated project budget. The budget does not include indirect costs.

currently working with former Judge Patricia Wald on an op-ed opposing preventive detention that HRW will seek to place at an opportune moment.

HRW is also mobilizing committees comprised of influential and politically-connected supporters in Chicago, San Francisco, and New York on this issue. HRW is preparing committee members with talking points on why preventive detention and military commissions must be blocked, as well as advice on how to approach senior administration officials and members of Congress, and plans to activate these members at key moments in the policy debate. HRW also plans to engage its members in writing amicus briefs in cases challenging preventive detention. HRW will continue to speak at high profile public events, publish articles, and work in collaboration with other human rights advocacy organizations to shape the policy debate.

## **2. Averting the Involuntary Return of Guantanamo Detainees to Torture or Other Abuse**

Over the past several years, HRW has published a series of reports, press releases, and other documents addressing the fate of detainees who were sent home from Guantanamo and CIA “black sites” to countries in which they faced abuse, including a report on detainees returned to Tunisia and a report on detainees returned to Russia. At present, 40 to 50 prisoners at Guantanamo, including Uzbeks, Libyans, Algerians, Tunisians, and Uighurs have told their lawyers that they do not want to return to their countries of origin for fear of being tortured and abused. HRW will continue its efforts to persuade government officials, including Special Envoy Dan Fried, the diplomat in charge of detainee resettlement efforts, not to transfer detainees based on unreliable diplomatic assurances that returning detainees will not be tortured, and it will continue to monitor the safety of detainees who are returned and report on any abuse.

HRW will also continue working with the Center for Constitutional Rights and European human rights groups to press for the resettlement of detainees in third countries where they will be safe from danger. HRW has already put considerable effort into lobbying European governments to accept detainees for resettlement. In specific cases of extreme hardship, HRW has drafted, and will continue to draft, op-eds for detainees and their lawyers to gain public support for their resettlement.

## **3. Averting the Return of Yemeni Guantanamo Detainees to Possible Proxy Detention in Yemen and Saudi Arabia**

Close to 100 of the approximately 226 detainees remaining at Guantanamo are Yemeni, making them the largest national group remaining at the prison, and the biggest obstacle to President Obama’s plan to close the detention facility. HRW issued a report in March 2009, *No Direction Home: Returns from Guantanamo to Yemen*, which criticizes U.S. and Yemeni proposals to transfer Guantanamo detainees to a detention center in Yemen where they have been imprisoned indefinitely under the pretense of rehabilitation. Based on weeks of field research in Yemen and dozens of interviews, the report recommended that the U.S. fund genuine rehabilitation for returned detainees that includes counseling,

medical care, and job training, and that Yemen allow the detainees to challenge restrictions on their liberty and allow independent, nongovernmental organizations to monitor their process of repatriation.

HRW will continue to press for the return of Yemenis detained in Guantanamo to Yemen while opposing plans to detain returnees in Yemeni prisons – or in Saudi Arabian facilities, another option that is now being discussed.

**Rationale for Recommendation:**

This grant will advance the National Security and Human Rights Campaign priorities of ending arbitrary and indefinite detention, and supporting credible voices in the movement for a progressive national security policy.

In his May 21, 2009 national security speech, President Obama announced that the closure of Guantanamo could come at the unacceptably steep price of a regime of preventive detention and a substandard military commission system. Since this speech, the NSHR Campaign has made it a top priority to provide the field's most sophisticated, effective, and connected advocates with the supplemental resources needed to campaign vigorously for the closure of Guantanamo in a manner that respects human rights.

Human Rights Watch's Closing Guantanamo Responsibly Project will be coordinated by Joanne Mariner, HRW's Director of the Terrorism and Counterterrorism Division, and will receive targeted assistance from Tom Malinowski, HRW's Washington, D.C. Advocacy Director, two of the NSHR field's most trusted and effective leaders. Mariner and her colleagues have been participating in weekly calls facilitated by two organizations that the NSHR Campaign funded on a rapid response basis this summer to spearhead a set of coordinated campaigns to close Guantanamo in a rights-respecting manner, Human Rights First and the Center for International Policy. Project support will allow Mariner and Malinowski to dedicate time on this critical set of issues and lend their human rights expertise and wide access to key decision makers to campaign efforts to remove detainees from Guantanamo and block preventive detention and military commission systems. HRW's nimble ability to take advantage of opportunities in the media, the administration, and Congress, as well as its ability to conduct on-site fact-finding investigations and issue reports with a strong reputation for trustworthiness are key to the success of the campaign effort.

The NSHR Campaign invited a proposal from HRW after learning that Mariner and Malinowski wished to dedicate a significant portion of their time working on this set of issues and were seeking funding in order to do so. The Campaign understands that this grant would be an exception to the general prohibition against project support to organizations receiving sizable general support grants from the President's office.

For the above reasons, OSI staff recommends a project support grant of \$150,000 over one year to support Human Rights Watch's Closing Guantanamo Responsibly Project.

**Name of Organization:** International Center for Transitional Justice

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

**Purpose of Grant:** To support the U.S. Accountability Project

**Previous OSI Support:** \$3,663,965  
 \$100,000 from JEHT Emergency Fund (2009)  
 \$125,000 from NSHR (2008)  
 \$30,350 from Afghanistan Grants (2006-2008)  
 \$2,333,254 from President's Grants (2001-2009)  
 \$524,728 from Indonesia Grants (2002, 2008-2009)  
 \$87,510 from Middle East Grants (2004)  
 \$41,125 from LA Mexico; LA Peru Offices (2002-2003)  
 \$169,643 from Latin America Grants (2001-2003)  
 \$100,117 from Burma Conf. & Travel (2001)  
 \$94,358 from SEA Transp & Accountability (2001)

**Organization Budget:** \$19,800,000

**Project Budget:** \$209,655

**Major Sources of Support:** John Merck Fund \$35,000; Blum Foundation \$11,050;  
 Tides Foundation \$8,892

**Amount Requested:** \$125,000

**Amount Recommended:** \$125,000 [NSHR Campaign, T1: 21095]

**Term:** One year (July 1, 2009 – June 30, 2010)

**Matching Requirements:** None

**Description of Organization**

The International Center for Transitional Justice (ICTJ) is an international human rights organization founded in 2001 to promote accountability by helping countries respond effectively to human rights abuses arising out of repressive rule, mass atrocity, and armed conflict. Headquartered in New York City and with offices around the world, ICTJ has 125 staff members and full-time consultants.

ICTJ works collaboratively with governments, nongovernmental organizations, and international associations to develop comprehensive localized approaches to transitional justice that further five objectives: prosecuting perpetrators, documenting and acknowledging violations through non-judicial means such as truth commissions,

reforming abusive institutions, providing reparations to victims, and facilitating reconciliation processes. ICTJ is currently engaged in transitional justice projects in more than 30 countries where historical injustices or systematic abuses remain unresolved, including both developing nations and established democracies.

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

ICTJ seeks renewed project support for its U.S. Accountability Project (“Project”), which it launched in June 2008 with OSI support to share its expertise with advocacy organizations in the U.S. that seek accountability for violations of rights committed by the U.S. in pursuit of counterterrorism policies following September 11, 2001.<sup>4</sup>

During the proposed grant period, ICTJ will continue to lend its expertise to the fight for U.S. accountability for “war on terror” abuses by writing research papers, developing policy agendas, and advocating for truth-seeking, prosecutions, and reparations. In late September, ICTJ will release a detailed, well-sourced, and richly annexed policy brief on the value of prosecutions for human rights violations that will expose the *de facto* impunity that has operated to date in the face of clear evidence that high-level U.S. officials have committed rights violations in conducting the “war on terror.” A more accessible executive summary of the paper will also be printed and widely disseminated.

Building on its past work, ICTJ will offer proposals for an overarching accountability strategy for the U.S. that ensures transparency, reasserts norms to prevent human rights abuses from being committed in the future, demands justice for human rights violators, and provides reparations to victims. In pursuing the Project, ICTJ will strive to advance the following objectives:

- Contribute to the strengthening of a human rights culture in the U.S. that demands accountability for violations of international human rights and international humanitarian law standards in the conduct of the “war on terror.”
- Broaden the array of tools and analysis available to advocates and policymakers in the U.S. to address systemic abuse of international human rights and humanitarian law by bringing comparative experience to the debate while recognizing the unique strengths of the U.S.
- Contribute to the strengthening of demands for U.S. accountability by NGOs, policymakers, and other key actors by anticipating barriers to accountability and bringing lessons learned from comparative experience to bear on current problems.

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<sup>4</sup> The NSHR Campaign provided ICTJ’s U.S. Accountability Project with a grant for the period from June 11, 2008 to November 30, 2009. However, due to the intensity of the Project’s work in the turbulent period leading to the end of the Bush administration, when research on the scope of presidential pardons was needed, and during the equally turbulent first six months of the Obama administration, OSI’s funds were expended by the end of June 2009. ICTJ is requesting renewed support for the period from July 1, 2009 through June 30, 2010 to address challenges to accountability under the Obama administration.

- Participate in the development of a vision and understanding of accountability that contemplates short- and medium-term steps toward end goals and that breaks with a tradition of exceptionalism that has tended to inform U.S. accountability policies.

### **Rationale for Recommendation**

This grant will advance the National Security and Human Rights Campaign priority of holding government officials and private actors accountable for past abuses and violations of law including the use of torture, secret CIA detention, extraordinary rendition, preventive detention without due process, and violations of international humanitarian law.

Eight months into the new administration, much remains to be done to achieve accountability for violations of international human rights and humanitarian law committed in the U.S. “war on terror.” A major obstacle has been, and continues to be, President Barack Obama’s reluctance to “look backward” at the actions of the Bush administration out of fear of being charged with political partisanship and setting back progress on his domestic agenda. However, due to the tireless work and dogged persistence of a coalition of advocates that includes ICTJ, an accountability process may be attainable, and this effort is strengthened with each new revelation of torture and abuse of power.

The accountability debate took on a new dimension on August 24, 2009, when Attorney General Eric Holder announced, after reviewing a 2004 CIA Inspector General report documenting horrific detainee abuses in CIA “black sites,” that he would open a preliminary inquiry into whether Justice Department legal guidance had been exceeded. The announcement is discouraging to advocates for accountability as it remains unclear whether the inquiry will extend beyond a handful of “rogue” agents who operated outside the bounds of legal guidance when the legal guidance itself is considered by experts to fall beyond the bounds of the law.

As a well-respected leader in transitional justice, ICTJ will speak with authority as it makes the point that the widespread documentation of torture and abuse across U.S. detention sites in Guantanamo, CIA prisons, and Iraq and Afghanistan requires an investigation as to whether these abuses emanate from official U.S. policy. And it will carry weight when it points to the need to prosecute abuses sanctioned by the U.S. government as crimes in order to fulfill international and domestic legal obligations, restore the rule of law within the U.S., and reestablish global credibility. ICTJ will also offer guidance to advocates on navigating a multi-pronged approach to accountability that advances both a commission on accountability and a prosecution that reaches the policymakers who established the framework under which abuses took place.

The U.S. Accountability Project will continue to be headed by Lisa Magarrell, Director of ICTJ’s Reparations Unit. Magarrell has worked on truth and reconciliation commissions in Peru and Greensboro, North Carolina, the peace process in Guatemala, and the Human



Rights Commission of El Salvador. Lisa and her staff are valued participants in strategy discussions facilitated by OSI-DC and joined by Human Rights Watch, Human Rights First, Amnesty International USA, and other Campaign grantees that are pushing for the appointment of a non-partisan commission to inquire into the torture and abuse of detainees. ICTJ consistently brings value to these discussions through its production of high quality research, policy briefs, and advocacy materials which it generously shares with colleagues in the human rights community.

For these reasons, NSHR Campaign staff recommend a renewed project support grant of \$125,000 over one year to support ICTJ's U.S. Accountability Project.

**Name of Organization:** National Religious Campaign Against Torture

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

**Purpose of Grant:** To support research and plans for the possibility of expansion into two new areas of work: (1) encouraging the U.S. to use its influence to end torture by other nations; and (2) ending torture in U.S. prisons

**Previous OSI Support:** \$465,000  
\$340,000 from NSHR Campaign (2007-2009)  
\$50,000 from Civil Liberties (2007-2008)  
\$25,000 from USJF General Grantmaking (2007)  
\$75,000 from OSI-DC International Advocacy (2006-2007)

**Organization Budget:** \$807,929

**Project Budget:** \$30,000

**Major Sources of Support:** None

**Amount Requested:** \$30,000

**Amount Recommended:** \$30,000  
\$20,000 [NSHR Campaign, T1: 21095]  
\$10,000 [Criminal Justice Fund, T1: 24027]

**Term:** Four months (October 1, 2009 – January 31, 2010)

**Matching Requirements:** None

**Description of Organization:**

Founded in January 2006 and based in Washington, D.C., the National Religious Campaign Against Torture's (NRCAT) mission is to bring a permanent end to the use of torture and cruel, inhuman, and degrading treatment in the detention of terrorism suspects by the U.S. Since its founding, NRCAT's membership has grown dramatically to more than 250 religious organizations and over 46,000 individual people of faith, including members from the Roman Catholic, Evangelical Christian, Protestant, Unitarian Universalist, Quaker, Orthodox Christian, Jewish, Muslim, Buddhist, Baha'i, and Sikh communities. Endorsers of NRCAT include such prominent figures as former President Jimmy Carter, Elie Weisel, and Rick Warren.

NRCAT's core goals are to: (1) work for the prohibition of all U.S.-sponsored torture and cruel, inhuman, and degrading treatment of detainees; (2) expand the moral consensus among the American people that torture is never acceptable; and (3) encourage and

enable national denominations and faith groups, regional religious bodies, congregations, and individual people of faith to engage actively in efforts to end U.S.-sponsored torture.

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

The National Religious Campaign Against Torture requests support to research and plan for a possible expansion of its work into two new areas in 2010 and 2011: encouraging the U.S. government to use its influence to end torture by other nations; and working for an end of torture in U.S. prisons with a focus on SuperMax prisons. NRCAT will produce a paper and action plan on each of these areas for its Board of Directors by December 1, 2009. By the end of 2009, NRCAT's Board will decide whether the organization will pursue work in these areas.

#### **1. Encouraging the U.S. Government to Use Its Influence to End Torture by Other Nations**

NRCAT will commission research to assess what can be done to move the U.S. government to become a more vocal and effective opponent of torture and use its influence to end torture by other nations – and what added value NRCAT could bring to such efforts. NRCAT will retain a senior researcher to analyze relevant U.S. laws, practices, and funding streams, and identify areas that are ripe for policy reform. The consultant will also interview staff at international organizations such as the U.N. Office of the Special Rapporteur on Torture, and at human rights advocacy organizations such as Human Rights Watch, Human Rights First, and the Center for Victims of Torture, to understand the strategies these organizations are pursuing and gauge interest in collaboration with NRCAT. In addition, the consultant will explore the willingness of the Obama administration, including the Departments of State and Defense, to show leadership on these issues and engage in discussions with the human rights community.

This research will culminate in a white paper that will be presented to NRCAT's Board by December 1, 2009. The paper will describe areas where the U.S. government might use its influence to persuade other nations to end torture; catalog the work being done by other organizations on this issue; identify goals, objectives, and rationales for NRCAT's engagement in this effort; and recommend a plan of action for NRCAT should its Board decide to pursue work in this area. Executive Director Richard Killmer has consulted with Douglas Johnson, the Executive Director of the Center for Victims of Torture, and other human rights leaders for advice on NRCAT's research and planning process.

#### **2. Working for an End to Torture in U.S. Prisons**

NRCAT will engage in a planning process to assess the value of, and need for, a national interfaith voice against the extreme isolation and abusive treatment that occurs in U.S. prisons, especially SuperMax or Special Housing Unit prisons. Torture and cruel, inhuman, and degrading treatment in U.S. prisons takes a number of forms, including the use of prolonged isolation, a form of psychological torture with enduring effects, and such measures as the placement of prisoners, while naked, in restraint chairs for as long

as 24 hours at a stretch. Tens of thousands of people in 40 states are housed in SuperMax facilities designed to isolate prisoners from human contact, and many are expected to remain in isolation for the duration of their terms. According to the U.S. Department of Justice, some states maintain more than 20% of their prison populations in solitary confinement. The current population of incarcerated adults in the U.S. is 2.38 million, and this represents 25% of people in prison world-wide in a country with only 5% of the world's population.

In the spring of 2009, NRCAT formed a planning team consisting of Bobby Dellelo, who spent 40 years in prison including five years in a SuperMax facility; George Swanson, a retired Episcopal priest; Bonnie Kerness, who is actively involved with the American Friends Service Committee program on SuperMax prisons; and Reverend Sala Nolan, a member of the United Church of Christ national staff in Cleveland. NRCAT will sponsor a community planning meeting on November 4 and 5, 2009 in Washington, D.C. to: (1) develop a common analysis on torture and cruel, inhuman, and degrading treatment in U.S. prisons and clarify the roles that key spokespersons and organizations could take to halt these practices; (2) review and discuss the implications of NRCAT's expansion into this area of work; and (3) develop goals, objectives, and an action plan for a NRCAT effort to end torture and cruel, inhuman, and degrading treatment in U.S. prisons. NRCAT is actively reaching out to advocates, experts, and funders to ensure diverse and expert representation at the planning meeting.

### **Rationale for Recommendation:**

This grant will advance the National Security and Human Rights Campaign priorities of restoring an absolute prohibition against torture; 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. The grant will also advance the Criminal Justice Fund's priorities of eliminating harsh punishment and securing a fair and equitable system of justice in the U.S. by ending the use of solitary confinement for the purpose of punishment.

In the short time since its founding in 2006, the National Religious Campaign Against Torture has emerged as a powerful voice against U.S.-sponsored torture in the "war on terror." NRCAT has succeeded in uniting a broad and diverse range of religious organizations, denominations, and people of faith that cross the progressive-conservative divide and across race and ethnicity. NRCAT has also built an impressive set of allies both within and outside of the religious community and has demonstrated the ability to garner media coverage for its causes. NRCAT has also developed the trust of Obama administration officials and key policy makers.

Leading experts in the struggle to change U.S. policy on the use of torture globally are eager to see NRCAT, a religious campaign with the proven ability to mobilize the grassroots, join its efforts to oppose military aid to security forces that torture, call for improved oversight and accountability over taxpayer-funded foreign aid and military assistance, and demand that Department of State watchdogs against torture be properly

funded and trained. Similarly, leading experts in the struggle to end torture in U.S. prisons are eager to see NRCAT join their efforts to end the abuses that take place behind the walls of SuperMax prisons.

As NRCAT accomplishes its original goal of ending U.S.-sponsored torture in the “war on terror” and makes progress toward its goal of accountability for torture, it is exploring ways to ensure that the invaluable assets, skills, and relationships it has worked so hard to develop are channeled in positive new directions. This research and planning grant will allow NRCAT to work toward these goals.

For the above reasons, NSHR Campaign and Criminal Justice Fund staff jointly recommend a research and planning grant of \$30,000 over four months to the National Religious Campaign Against Torture.

**Name of Organization:** New York University

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

**Purpose of Grant:** To support the completion of an empirical research study on counterterrorism policing in Muslim communities in New York and London, and the dissemination of the study's findings and recommendations

**Previous OSI Support:** \$5,091,910  
\$245,000 from NSHR Campaign (2009)  
\$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 other OSI Programs (1999-2007)

**Organization Budget:** \$2,100,000,000

**Project Budget:** \$537,000

**Major Sources of Support:** National Science Foundation \$387,000

**Amount Requested:** \$150,000

**Amount Recommended:** \$150,000 [NSHR Campaign, T1: 21095]

**Term:** 18 months (October 1, 2009 – March 31, 2011)

**Matching Requirements:** None

**Description of Organization:**

Founded in 1831, New York University (NYU) is the largest private university in the U.S. Composed of 14 schools, colleges, and divisions, NYU occupies five major centers in Manhattan. It also operates branch campus and research programs in other parts of the

U.S. and abroad, as well as study abroad programs in more than 25 countries. NYU has an enrollment of over 40,000 students and has over 3,100 full-time faculty members.

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

New York University requests support for the completion of an empirical research study on the effects of procedural fairness and legitimacy on counterterrorism policing in Muslim communities in London and New York, and the dissemination of the researchers' findings and recommendations to policymakers, experts on policing, the media, advocates, and the public.

The project is being conducted under the auspices of the NYU Psychology and Law Departments. The research is being led by Professor Tom Tyler of NYU, Professor Stephen Schulhofer of NYU Law School, and Professor Aziz Huq of the University of Chicago Law School.

The project was initially structured in two stages. During stage one, 100 in-person interviews with individuals identified and approached through Muslim community organizations in New York and London were conducted to (a) generate information to inform the creation of a telephone survey instrument for random sampling that accurately captures the concerns expressed within minority communities, and (b) provide a source of qualitative data that could be drawn upon to interpret and annotate the quantitative results of the telephone surveys. This first stage of the project began in the summer of 2008 and was completed in early 2009. During stage two, 300 telephone interviews on counterterrorism tactics were then conducted with a random sample of Muslim individuals in New York, and 300 will be conducted in London beginning in September.<sup>5</sup>

The quantitative data collected to date via telephone interviews in New York shows that policing measures perceived by the Muslim American community to be unfair or to provide unequal treatment have a large negative effect on trust and willingness to cooperate, while religiosity and national origin have no significant effect. The data undermines the pervasive "rational choice" model that is widely applied in counterterrorism policing, which assumes that increasing the intensity of policing measures yields gains in security. The initial findings demonstrate and quantify the extent to which security measures that disregard fairness undermine the efficacy of the security effort itself. The data suggest that "tough" approaches to counterterrorism policing can be self-defeating because they undermine trust and chill cooperation within the communities that are targeted by such policing tactics.

In 2010, the researchers plan to write a series of articles based on their findings<sup>6</sup> and publish them in a book in 2011. The researchers hope that their data will shed light on

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<sup>5</sup> The researchers have worked with Tufyal Chaudry and the OSI London team to ensure that the research is not duplicative of and complements an OSI effort that includes extensive polling of Muslims in more than a dozen cities on a variety of social and political issues.

<sup>6</sup> The researchers plan to publish the initial results from the New York findings in a quantitative social science journal, the initial results of the British study in a British criminal justice forum, and at least one piece in a law review giving a broad overview and examining the policy implications of the work.

the public debate over procedural justice versus deterrence theories and lead to progressive changes to the institutional architecture of anti-terrorism policing as it is manifested in such tactics as stop-and-search encounters, the use of informants in mosques, and the targeting of Muslim charities.

The researchers request support to expand the New York empirical research in two ways:

(1) To conduct 200 telephone interviews with a random sample of **Muslim individuals in New York to examine attitudes about police legitimacy and community cooperation in the context of ordinary policing measures.** This will allow the researchers to benchmark the findings of their existing research against attitudes and reactions to ordinary policing measures among New York's Muslim communities – and therefore to place the counterterrorism findings in the context of the full range of policing measures. The ability to respond knowledgeably to questions about whether or in what ways counterterrorism tactics are distinctive will not only enhance academic understanding but will significantly add to the credibility and power of the results when they are presented and tested in the arena of public debate and policy.

(2) To conduct 200 telephone interviews with a random sample of **the general public in New York City to examine attitudes and reactions to counterterrorism policing measures.** This will allow the researchers to benchmark the findings of their existing research against attitudes and reactions to counterterrorism policing measures among New York's general population – and therefore to examine the extent to which perceived fairness and its impact on cooperation amongst the general population converge with that amongst Muslim Americans. The research results to date suggest that this new data will allow the researchers to test and challenge the assumption that Muslim Americans respond differently than other Americans to issues of terrorism or to issues of fairness in counterterrorism policing.

In addition, the researchers request support to engage in a coordinated strategy for disseminating the research findings and recommendations that will include: (1) meetings among law enforcement, policy-makers, and other stakeholders in the U.S. and U.K.; (2) meetings between the researchers and policymakers in both countries; (3) work with an editor and publicist to complete and disseminate the work products including research papers; and (4) conversion of the research papers into policy papers and more accessible pieces for the general public, including potentially publishing a report for policymakers in conjunction with an established and credible organization such as the Brennan Center.

### **Rationale for Recommendation:**

This grant will advance the National Security and Human Rights Campaign priorities of: combating racial and religious profiling of Arab, Middle Eastern, Muslim, and South Asian (AMEMSA) communities and individuals in the name of national security; and developing progressive policing policies that protect national security while respecting human rights. In addition, this grant will advance the priorities of the Equality and

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Opportunity Fund and the Criminal Justice Fund in combating racial and ethnic profiling in law enforcement and immigration enforcement.

It is well-established in social science literature that the government's choice of policies, and in particular whether they are fair and even-handed, influences its perceived legitimacy, which in turn influences public willingness to comply with the law and cooperate with law enforcement.<sup>7</sup> What is unique about the NYU study is that it focuses explicitly on the impact of counterterrorism policing on the Muslim community, which has so frequently been targeted by law enforcement since the terrorist attacks of September 11, 2001. OSI support will enable the researchers to amplify the research they have completed and leverage the study in ways that could have a direct impact on American and British debates about the choice of national security tactics.

This project is also significant in that it will provide an empirical contribution in a field where policy is crafted largely on the basis of intuition and anecdotal experience of police officers and other officials, which are tainted by biases and unconscious assumptions. This research will provide needed empirical evidence which is expected to promote progressive reforms – evidence that researchers, policy advocates, and policymakers seeking to advance progressive reforms will be able to utilize in making the case that proposed reforms are rooted in fact rather than ideology. The Obama administration has shown interest in improving counterterrorism policing and Tom Tyler met recently with the Department of Justice and the Police Executive Research Forum regarding potential training models for the FBI. Tyler found much interest and enthusiasm regarding the team's preliminary results.

This study is designed and undertaken by a stellar team. Tom Tyler brings expertise in survey research and the empirical study of policing, and his work on legitimacy and procedural justice is consistently cited as the leading alternative to rational choice models of policing and societal control. Stephen Schulhofer specializes in criminal justice, criminal procedure, and the legal regime that governs intelligence gathering and counterterrorism measures. Aziz Huq, previously the Director of the Liberty and National Security Project of the Brennan Center, has experience and credibility within the Muslim community, has represented detainees in Iraq and the U.S., and has researched and written about policing policy in Muslim communities in the U.S. and U.K. and comparative legal structures for the pursuit of counterterrorism policy.

OSI funding will not support researcher salary or overhead costs, but will build on existing funds from the National Science Foundation and the researchers' university departments to allow the researchers to meaningfully expand the scope of the research and more vigorously inject their findings into the policy debate.

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<sup>7</sup> Tom Tyler, over two decades of research, has compiled numerous and robust data concerning the effects of procedural justice on policing. In a series of studies conducted in Chicago, Oakland, and New York, Tyler has demonstrated that procedural justice, not the severity of sanctions, drives compliance with the law and cooperation with law enforcement, and his books, including *Trust in the Law* (2002), *Why People Obey the Law* (2006), and *Psychology and the Design of Legal Institutions* (2007), are respected empirical studies of policing dynamics.

For the above reasons, OSI staff recommends a grant of \$150,000 over 18 months to New York University to support empirical research and the dissemination of findings on counterterrorism policing.

**Name of Organization:** Physicians for Human Rights

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

**Purpose of Grant:** To support the Campaign for Justice Project

**Previous OSI Support:** \$3,661,769  
 \$25,000 from NSHR Campaign (2009)  
 \$2,100,032 from President's Grants (1994-2009)  
 \$145,020 from Harm Reduction Policy (2005-2008)  
 \$17,530 from African Initiative (2008-2009)  
 \$40,535 from Iran Grants (2008)  
 \$54,496 from OSI DC International Advocacy (2007)  
 \$30,000 from Public Health Global (2006)  
 \$46,700 from OSJI International Justice (2004-2005)  
 \$25,817 from Latin America (2004)  
 \$540,639 from Medicine as Profession (1998-2003)  
 \$506,000 from Landmines Grants (1997-2001)  
 \$100,000 from USJ Policy & Research (2002)  
 \$30,000 from Multilateralism Project (2003)

**Organization Budget:** \$4,177,319

**Project Budget:** \$1,062,899

**Major Sources of Support:** Atlantic Philanthropies \$233,334; Merck Foundation \$150,000; Connect US Fund \$40,000; Herb Block Foundation \$50,000; Tides Foundation \$37,500; MacArthur Foundation \$33,136

**Amount Requested:** \$200,000

**Amount Recommended:** \$200,000 [NSHR Campaign, T1: 21095]

**Term:** Two years (September 1, 2009 – August 31, 2011)

**Matching Requirements:** None

**Description of Organization:**

Physicians for Human Rights (PHR) was founded in 1986 on the idea that health professionals, with their specialized skills, ethical duties, and credible voices, are uniquely positioned to investigate the health consequences of human rights violations and work to stop them. PHR is based in Cambridge, Massachusetts, maintains a policy office in Washington, D.C., has a staff of 33, and runs 66 student chapters.

A co-recipient of the Nobel Peace Prize in 1997, PHR has worked in over 40 countries to expose human rights violations that impair health and advocate for meaningful interventions and sound policies to end and prevent such violations. PHR's work centers on three program areas: (1) promoting the right to health and ending discrimination in the provision of health services; (2) protecting the rights of particularly vulnerable populations, including people in custody and torture survivors; and (3) protecting human rights during armed conflict. PHR works closely with thousands of participating professionals and students in the health professions and mobilizes them to advance health, dignity, and justice.

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

Physicians for Human Rights requests support for its Campaign for Justice, the successor to its Campaign Against Torture, which operated from 2003 to 2008.

PHR actively investigates and documents the torture of terrorism suspects in the context of the "war on terror" and has channeled the specialized skills and expertise of doctors, nurses, public health specialists, and scientists to this issue. Employing a range of strategies including investigation, communications, advocacy, and mobilization, PHR's Campaign for Justice will work to achieve the following goals:

**(1) Obtain a full public accounting of U.S. interrogation abuses, apology and redress for torture survivors, and reforms to prevent similar abuses from occurring again.**

PHR will work with allies in the human rights advocacy community to implement a mechanism for obtaining justice for victims of U.S.-sponsored torture and to design a package of reforms to ensure that these abuses are never again committed. PHR will focus on exposing and ending the role played by psychologists and other health professionals in designing and implementing torture, and eliminating the abusive detainee treatment practices permitted under Appendix M of the 2006 Army Field Manual.

**(2) Secure a full investigation of the circumstances surrounding the November 2001 massacre in Dasht-e-Leili, Afghanistan, and lay the groundwork for transitional justice policies in Afghanistan that would prevent war criminals from participating in government.**

PHR has conducted a thorough investigation of the Dasht-e-Leili massacre and has shared its findings with leading investigative journalists who have written stories on the incident and its subsequent cover up. PHR has also undertaken an aggressive communications campaign that includes the placement of op-eds in the print media, placement of stories on radio and television, blogging, and outreach via social networking channels. PHR will continue to press U.S. and Afghan authorities, NATO officials, and international organizations to protect surviving witnesses to the Dasht-e-Leili massacre, secure the gravesite from further destruction, and assist the Afghan government in launching a full investigation. In addition, PHR will continue to press the Obama administration to probe whether the U.S. played a role in the incident or in impeding an investigation of the incident.

**(3) Restore U.S. adherence to basic standards of medical neutrality.** PHR will work with human rights organizations to eliminate the Bush administration’s expansion of the “material support to terrorism” bar on admission to the U.S. PHR opposes the use of this bar to deny asylum seekers and refugees safe haven in the U.S. simply because they have complied with international principles of medical ethics in providing medical treatment to wounded and ill parties to conflict.

**(4) Block indefinite detention of national security detainees.** PHR will work with two NSHR Campaign grantees, the Center for Victims of Torture and the Bellevue/NYU Program for Survivors of Torture, to investigate, analyze, and describe the profound psychological harm caused by indefinite detention with the goal of opposing the indefinite detention of national security detainees.

**(5) Advocate for state legislation that prohibits health professionals from engaging in torture and coercive interrogation.** PHR will use its expertise in medical ethics to support campaigns that are underway in New York and Massachusetts to pass model laws prohibiting health professionals from participating in the design or implementation of highly coercive interrogation. Such laws would also authorize state licensing boards to revoke the licenses of health professionals found to have engaged in prohibited conduct.<sup>8</sup>

To date, over 5,000 health professionals and students have participated in PHR’s anti-torture work. The Campaign for Justice will continue to mobilize its constituents at critical junctures to e-mail, call, and meet with policymakers, and to create blog posts and submit letters to the editor of their local newspapers.

### **Rationale for Recommendation:**

This grant will advance the National Security and Human Rights Campaign priorities of: supporting credible voices in the movement for a progressive national security policy; and holding government officials and private actors accountable for past abuses and violations of law, including the use of torture, secret CIA detention, extraordinary rendition, preventive detention without due process, and violations of international humanitarian law.

In June 2009, the NSHR Campaign provided Physicians for Human Rights with a rapid response grant to support a short-term campaign to publicize new findings on the November 2001 massacre at Dasht-e-Leili, Afghanistan, of approximately 2,000 Taliban prisoners of war captured by Northern Alliance warlord Abdul Rashid Dostum. PHR’s work on this campaign was impressive in all respects – from its meticulous and thorough research on the massacre and the subsequent refusals of the Bush and Karzai administrations to investigate, to its careful cultivation of leading investigative journalists who have published a set of groundbreaking articles that link the massacre to a larger narrative of willful evasion of laws of war and abuse of power under the Bush administration. The PHR team succeeded beyond expectation in gaining access to key

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<sup>8</sup> PHR has provided OSI with a bifurcated project budget.

policymakers in the Obama administration, Congress, and the U.N. in its pursuit of policy reforms.

With dual expertise in health care and human rights, PHR plays a vital and unique role in the effort to investigate and expose U.S. complicity and participation in torture and hold those responsible to account. PHR's D.C. policy office has long worked in partnership with OSI-DC in calling for the appointment of an independent, non-partisan commission on accountability to examine and report on the torture of detainees since September 11, 2001. As illustrated by the above description of the Campaign for Justice's agenda, PHR intends to take full advantage of the organization's expertise as it works to expose and seek accountability for health professionals in U.S.-sponsored torture and other human rights abuses committed in the "war on terror."

A recent example of PHR's value can be found in its August 31, 2009 publication of a white paper, *Aiding Torture: Health Professionals' Ethics and Human Rights Violations Demonstrated in the May 2004 CIA Inspector General's Report*, just one week after the release of a CIA Inspector General report by the Department of Justice documenting the torture of detainees held in secret prisons. Authored by a team of PHR doctors, the paper shows how the CIA relied on medical expertise to rationalize and implement abusive interrogation methods and aggregate data on detainee reactions to these methods. PHR has called for an investigation into whether this activity amounts to human experimentation and whether ethical violations were committed by the physicians and psychologists involved. Similarly, in 2008, PHR released a 130-page report detailing the treatment of 11 prisoners who had been wrongfully detained in Afghanistan, Iraq, and Guantanamo Bay between 2001 and 2004 and who were subsequently released without charges having been filed. The report, *Broken Laws, Broken Lives: Medical Evidence of Torture by U.S. Personnel and Its Impact*, garnered extensive media coverage and acclaim.

PHR has suffered severe financial setbacks as the result of the closing of the JEHT Foundation and the economic downturn. Earlier this year, PHR cut 14 staff positions and instituted deep cuts in salary, benefits, and expenditures. These circumstances threaten PHR's ability to pursue its national security program at a moment when documentation on the torture of detainees is being released and the need for expertise in health and human rights is urgently needed.

For the above reasons, NSHR Campaign staff recommend a project support grant of \$200,000 over two years to Physicians for Human Rights for its Campaign for Justice.

**Name of Organization:** Tides Center

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

**Purpose of Grant:** To support the Rights Working Group’s Campaign to Stop Racial Profiling

**Previous OSI Support:** \$760,000  
\$60,000 from NSHR Campaign (2009)  
\$700,000 from Immigrants’ Rights (2007-2009)

**Organization Budget:** \$2,344,855

**Project Budget:** Stop Racial Profiling Campaign: \$938,503 over 16 months

**Major Sources of Support:** Stop Racial Profiling Campaign: Atlantic Philanthropies  
\$350,000

**Amount Requested:** \$350,000

**Amount Recommended:** \$350,000  
\$200,000 [NSHR Campaign, T1: 21095]  
\$100,000 [Equality & Opportunity Fund, T1: 24023]  
\$50,000 [Criminal Justice Fund, T1: 24027]

**Term:** 16 months (September 1, 2009 – December 31, 2010)

**Matching Requirements:** None

**Description of Organization:**

Founded in 2004 and based in Washington, D.C., the Rights Working Group (RWG) is a national coalition of more than 250 civil liberties, national security, immigrants’ rights, and human rights member organizations. RWG is committed to protecting the rights of all people in the U.S., particularly those of Arab, Middle Eastern, Muslim, and South Asian (AMEMSA) and immigrant communities, which have become the targets of profiling by law enforcement agencies since September 11, 2001. Core to RWG’s mission is ensuring that everyone in the U.S. is guaranteed human rights protections, regardless of citizenship status, race, national origin, religion, ethnicity, or belief. RWG operates with a staff of five full-time employees, and contracts with Field Coordinators to implement the grassroots organizing component of the coalition’s campaigns.

RWG is a project of the Tides Center (Tides). Tides provides services to hundreds of nonprofit projects across the country that vary in size from one volunteer to a staff of hundreds, and that are working for progressive change in the areas of social justice, economic development, civic engagement, environmental sustainability, environmental

justice, human rights, community development, international affairs, and non-profit capacity building.

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

The Rights Working Group seeks funding for its Campaign to Stop Racial Profiling, the planning phase of which was undertaken with NSHR Campaign support between January and August of 2009. With its public launch in September 2009, the campaign will work to educate policymakers, the media, and the public on the importance of ending racial, ethnic, and religious profiling by federal, state, and local law enforcement agencies, and will mobilize affected communities and their allies to push for concrete policy reforms.

The campaign will pursue three key policy goals:

- First, the campaign will seek the elimination of the exception for terrorism investigations in the Department of Justice's otherwise helpful 2003 *Guidance Banning Racial Profiling by Federal Law Enforcement*. Similarly, the campaign will seek the elimination of overbroad language in the 2008 Attorney General's guidelines for domestic FBI investigations, which permit the FBI to engage in intrusive surveillance and discriminatory profiling of religious and political activities protected under the First Amendment.
- Second, the campaign will work to establish clear mechanisms of accountability to prevent racial profiling in immigration enforcement by opposing agreements under Section 287g of the Immigration and Nationality Act, which authorizes state and local criminal justice agencies to enforce federal civil immigration laws. The campaign will also oppose a new program of U.S. Immigration and Customs Enforcement (ICE), Secure Communities: A Comprehensive Plan to Identify and Remove Criminal Alien Program, through which local law enforcement conduct biometric checks against Department of Homeland Security databases to determine the immigration status of individuals in state and local custody so that those who are found to be in the U.S. unlawfully can be transferred to ICE custody. The campaign will advocate for data collection requirements on all agencies with law enforcement and domestic intelligence operations, including ICE, so that measures that are disproportionately deployed along racial, ethnic, or religious lines can be identified and investigated. To end targeting by Customs and Border Protection (CBP) of AMEMSA travelers for aggressive searches and interrogations, the campaign will seek regulations requiring CBP agents to have reasonable suspicion before conducting searches and probable cause before seizing electronic devices and copying data.
- Finally, the campaign will seek the enactment of the End Racial Profiling Act, which Congress nearly passed right before the 9/11 terrorist attacks, and which is expected to be reintroduced this year.<sup>9</sup>

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<sup>9</sup> RWG has provided OSI with a bifurcated project budget.



The Campaign to Stop Racial Profiling is built on collaboration between two groups that do not usually work together: (1) traditional civil rights groups that have long led the fight against racial profiling in law enforcement, most of which inhabit the D.C. policy world; and (2) emerging groups representing the AMEMSA and immigrant communities that have become targets of profiling since 9/11, many of which engage in grassroots work at the state and local level.

During its campaign planning phase, RWG conducted dozens of interviews with key stakeholders, including member and allied organizations and policymakers, in order to map out where, how, and by whom profiling is taking place, and which groups are working to fight profiling at the local, state, and national levels. With a planning grant from OSI, the organization convened strategic planning meetings in February and June 2009 that brought together over 40 advocates representing the civil rights, AMEMSA, immigrants' rights, and human rights organizations, built a diverse and committed campaign coalition, and developed a collaborative plan of action for the campaign. RWG also established strong relationships with key congressional leaders and administration officials, and developed a campaign webpage.

The campaign will employ a range of strategies and activities to advance its goals. With its key national allies, including the ACLU, Muslim Advocates, NAACP, and the Leadership Conference for Civil Rights, RWG will engage in policy advocacy. In addition, RWG will regularly convene regional and national meetings and conference calls with campaign allies and members to provide updates on the campaign and foster collaboration, and will develop shared messaging and communication resources. RWG also plans to build alliances with groups representing law enforcement agencies that have expressed concerns about racial profiling, including the Police Foundation and the National Organization of Black Law Enforcement Executives. Finally, RWG will offer training and capacity-building assistance to grassroots groups and work closely with eight core partner organizations in targeted regions across the U.S. to build grassroots support.

### **Rationale for Recommendation:**

This grant will advance the National Security and Human Rights Campaign priorities of combating racial and religious profiling of Arab, Middle Eastern, Muslim, and South Asian (AMEMSA) communities and individuals in the name of national security, and building the capacity of AMEMSA organizations to fight abusive national security policies that are disproportionately directed at them. In addition, this grant will advance the priorities of the Equality and Opportunity Fund and the Criminal Justice Fund in combating racial and ethnic profiling in law and immigration enforcement.

The arrival of the Obama administration and the publicly stated commitments of President Obama and Attorney General Holder to end racial profiling make this an opportune moment to revive the movement against racial profiling in the U.S., which has been in limbo since the 9/11 attacks. Field organizing and public education efforts are needed, however, to win broad support both for an outright prohibition against racial profiling and for an end to immigration enforcement practices that open the door to

targeting on the basis of race and ethnicity. Unfortunately, the Department of Homeland Security (DHS) has refused to end the much-criticized National Security Entry-Exit Registration System (NSEERS), which requires people of certain national origin to participate in a special registration program. In July 2009, DHS expanded the Section 287g program, which allows state and local law enforcement officers to enforce immigration laws. At the same time, through a program launched by DHS in March 2008 and not mandated by law, state and local law enforcement continue to be encouraged to check arrestees' fingerprints against DHS databases, rather than only FBI criminal databases, through which Immigration and Customs Enforcement is automatically notified of matches.

The Rights Working Group and the national organizations with which it works have identified ending racial profiling as a high priority that they hope will be achieved during President Obama's first term. At the same time, a number of community-based organizations have voiced to RWG their determination to fight racial profiling at the local level. RWG is uniquely situated to bring these diverse voices to the table to work collaboratively for reform. Key stakeholders working to combat racial profiling are already members or close allies of RWG, including leaders of civil rights organizations that have been leading the fight against racial profiling for decades. RWG will bring new constituencies to the campaign, including groups that represent AMEMSA and immigration communities that have not previously worked on national advocacy against racial profiling. In addition to advancing federal policy goals, RWG plans to support state and local partners working to stop racial profiling in their communities in hopes of demonstrating that eradicating profiling in law enforcement creates safer communities.

RWG has shown itself to be a savvy and effective coalition-builder. It has a diverse membership,<sup>10</sup> and has been strategic in linking civil liberties, civil rights, and immigration advocates, and in securing state and local organizations' seat at the table with national advocates. RWG recognizes that while national groups can offer policy and legal expertise, it is the local groups that build the momentum for change at the national level and that serve as an echo chamber in support of reforms in Washington D.C.

For the above reasons, NSHR Campaign, Equality and Opportunity Fund, and Criminal Justice Fund staff recommend a grant of \$350,000 over 16 months to support the Tides Center's project, the Rights Working Group, in its Campaign to Stop Racial Profiling.

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<sup>10</sup> The diversity of RWG's constituencies is reflected in the organizations that make up its Steering Committee: the American-Arab Anti-Discrimination Committee; ACLU; American Immigration Lawyers Association; Arab American Institute; Arab Community Center for Economic and Social Services; Asian American Justice Center; Bill of Rights Defense Committee; Let's Breakthrough; Center for National Security Studies; Coalition for Humane Immigrant Rights of Los Angeles; Human Rights First; Human Rights Watch; Illinois Coalition for Immigrant and Refugee Rights; Leadership Conference on Civil Rights; Muslim Public Affairs Council; National Council of La Raza; National Immigration Forum; National Immigration Law Center; New Jersey Immigration Policy Network; New York Immigration Coalition; OneAmerica; South Asian Americans Leading Together; and Tennessee Immigrant and Refugee Rights Coalition.