

Memorandum

To: U.S Programs Board
From: Diana Morris; Laleh Ispahani & the Transparency & Integrity Fund
Date: May 31, 2011
Re: Renewal Grant to Brennan Center for Justice at NYU

The Brennan Center for Justice at New York University (Brennan Center) is an anchor grantee of U.S. Programs¹. The Transparency & Integrity Fund, which monitors this grant on behalf of U.S. Programs, recommends renewing the Brennan Center's general support funding in an amount of \$2,000,000 over two years. A renewal grant will allow the Brennan Center to continue its important work on democracy and justice, from voting rights to campaign finance reform and from racial justice in criminal law to presidential power in the fight against terrorism. The Brennan Center's work advances U.S. Programs goals on access to justice, the integrity of the judiciary, money in politics, voting rights, and national security. Led since 2005 by Michael Waldman, former Director of Speechwriting for President Bill Clinton from 1995–1999, the Center is a singular institution – part think tank, part public interest law firm, part advocacy group. It combines scholarship, legislative and legal advocacy, and communications to win meaningful, measurable change in the public sector. Aryeh Neier has approved this grant subject to the approval of the U.S. Programs Board (which is required because the grant is for \$2 million).

¹ Starting in 2011, U.S. Program has a new line in the budget for Anchor Grants, which provide support to organizations that receive more than \$500,000 a year to advance multiple priorities. A total of nine key grantees with long-term relationships with U.S. Programs are funded through this line.

Grant ID: 20032195

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

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

Purpose of Grant: To provide general support

Grant Description: The Brennan Center is an anchor grantee of U.S. Programs. This recommended grant would provide renewed general support. Brennan's research, litigation, advocacy, and communications work is central to goals of criminal justice reform, money in politics, broad and equal access to the ballot, voting rights, redistricting, judicial independence, transparency, and national security. Brennan collaborates with many U.S. Programs grantees in these fields, providing both leadership and support to efforts at the federal and state level.

Previous OSF Support: \$13,620,347
\$2,000,000 from Transparency and Integrity Fund (2009-2010)
\$807,715 from Strategic Opportunities Fund (2003-2009)
\$223,414 from JEHT Emergency Fund (2009)
\$2,881,218 from U.S. Justice Fund (2008-2004, 2002-2000, 1997)
\$2,625,000 from Progressive Infrastructure (2007, 2006)
\$60,000 from OSI-Baltimore (2006)
\$1,223,000 from Independence of Judiciary (2004-2002, 1997)
\$1,000,000 from Governance and Policy (2002)
\$2,270,000 from Law and Society (2001-1997)

Organization Budget: \$7,605,134

Major Sources of Support:

Atlantic Philanthropies	\$134,000
Joyce Foundation	\$400,000
Ford Foundation	\$200,000

Amount Requested: \$2,000,000 over two years

Amount Recommended: \$2,000,000 from U.S. Programs Anchor Grant Fund (T1: 21104)

Contingent Grant: No

Term: Two years (July 1, 2011 – June 30, 2013)

Description of Organization

The William J. Brennan Jr. Center for Justice at New York University School of Law (the Brennan Center) is a non-partisan public policy and law institute that focuses on fundamental issues of democracy and justice. Founded in 1996 by former law clerks of Justice William Brennan, the Brennan Center honors the Justice's vision of a nation that respects human dignity, provides equal opportunity, and assures full democratic participation. Based in New York (with an office in Washington, D.C.), the Brennan Center's work ranges from voting rights to redistricting reform, from access to justice to presidential power in the fight against terrorism. A singular institution – part think tank, part public interest law firm, part advocacy organization – the Brennan Center combines scholarship, legislative and legal advocacy, and communications to defend fundamental American values and win meaningful and measurable change in the public sector.

The Brennan Center's work is divided across three main areas:

- *Democracy*: Brennan seeks an electoral system with full citizen participation through modernizing voter registration processes and laws (including reform of felony disenfranchisement policies), countering the influence of money in politics, and promoting fair redistricting procedures;
- *Justice*: Brennan works to ensure the criminal justice system is both effective and fair, that public defender systems provide quality representation while challenging the root causes of crime, a fair and impartial court system, and access to justice for all regardless of wealth or background; and
- *National Security*: Brennan seeks an accountable executive branch that will protect the nation while respecting the Constitution and rule of law by increasing government transparency and accountability, protecting privacy rights, and combating the use of racial and ethnic profiling.

Brennan uses a mix of strategies in pursuit of its goals, as evidenced for example, by Brennan's nuanced work on money in politics. Brennan is litigating to defend remaining campaign finance regulations, and pursuing an aggressive communications strategy to highlight the damage done by money in politics does to our democracy. With Transparency & Integrity Fund grantees Justice at Stake and the National Institute on Money in State Politics, Brennan released *The New Politics of Judicial Elections, 2000-2009*, a report that tracked the exponential rise of corporate spending in state judicial elections and received widespread major media attention last fall. Brennan is also fostering idea generation by law professors and lawyers, soliciting their development of new First Amendment jurisprudence for use in efforts to overturn *Citizens United* (or narrow its scope). Finally, Brennan is leading research efforts to explore corporate law and governance standards to force greater transparency and shareholder voice in corporate political spending.

Description of Program for Which Funding Is Sought

This recommendation seeks general support.

Rationale for Recommendation

On behalf of U.S. Programs, the Transparency and Integrity Fund recommends a general support grant of \$2 million over two years. The grant would advance the Transparency and Integrity Fund's goals of ensuring the integrity of the electoral system and the judiciary through research, education, advocacy, and litigation to reduce the influence of money on all branches of government. The grant would also advance the National Security and Human Rights Campaign's goal of strengthening the capacity of core organizations to advocate against a range of abusive counterterrorism policies and for more progressive national security policies that respect civil liberties, human rights, and the rule of law. The grant would advance the Criminal Justice Fund's (CJF) interest in eliminating racial disparities and securing a fair and equitable justice system by improving indigent defense services and systems. The grant would also further CJF's interest in reducing harsh punishment by supporting the successful reentry, voting rights, and civic engagement of people with criminal records.

When U.S. Programs began its effort to identify and provide ongoing support to "anchor" grantees, there was little question that the Brennan Center would be among those groups. OSF began funding Brennan for its judicial independence work in 1999, and since then has awarded the organization over fifty grants from multiple funds for work on a wide range of U.S. Programs priorities. In addition to the breadth and depth of Brennan's relationship to OSF, Brennan's "anchor" status is also based on its willingness to partner or otherwise work with a large number of organizations (OSF grantees and others) on a range of issues. We are also impressed by Brennan's mastery of multiple strategies and tactics that makes it one of the most effective organizations in its areas of advocacy.

Brennan's work on judicial and electoral integrity make it central to the Transparency and Integrity Fund's grantmaking strategies. Before and since *Citizens United*, Brennan's staff has been ubiquitous: leading amicus brief efforts; explaining the decision and its impact in the media; finding viable reforms to reduce corporate political spending and gathering leading thinkers to generate new First Amendment scholarship to convince courts to overturn or limit the decision. Brennan also provides essential legal assistance to those defending judicial ethics and campaign regulations, an area often overlooked by campaign reformers. Brennan's collaboration on *The New Politics of Judicial Elections* is one demonstration of its centrality to the Justice at Stake coalition: it provides high-quality legal, research, and communications support to smaller JAS partner groups that lack these capacities.

The Brennan Center's Justice Program has been an important leader in the national indigent defense reform movement, in its dedication to and expertise in strengthening defender services and securing the promise of *Gideon v. Wainwright*. The Justice Program directs the *Community Oriented Defender Network* (COD), which helps public defenders achieve important policy reforms, even as they represent their clients in individual cases. Through the COD network, Brennan researches racial disparities in police and prosecution practices; works with defender programs to achieve racial justice reform; and promotes best practices that constitute the "Community Oriented Defense" model.

The Brennan Center is also a leader in efforts to ensure that punitive criminal court "fees and fines" do not unfairly shift the costs of criminal justice systems onto those least able to shoulder them and that a criminal conviction does not result in "civic death." Through initiatives in Florida and Maryland, Brennan's Justice Program is documenting the barriers to successful

reentry that imposing “legal financial obligations” on people charged with crimes represent, and the alarming increase in poor people being jailed for failure to pay such criminal justice-related fines and fees. The Brennan Center Democracy Program’s Right to Vote project (RTV) conducts litigation, public education, and legislative and administrative advocacy, at the federal and state levels, to restore the vote to people with criminal convictions. RTV has been critical to bringing about changes to eligibility rules in states across the country, reducing the number of permanent disenfranchisement states from five to two since 2005, opening the polls to hundreds of thousands of potential new voters. Brennan also helped to streamline restoration procedures in Tennessee and to enforce compliance with the law in Alabama and New York.

The Brennan Center's Liberty and National Security Program's staff attorneys are valued members of the National Security and Human Rights Campaign advocacy community. The program has recently issued two influential reports and is actively promoting them. The first of these reports, "Domestic Intelligence: New Power, New Risks," was the subject of a full-day symposium on March 18 that featured John Brennan, Deputy National Security Advisor for Homeland Security and Counterterrorism, Rep. Bennie Thompson, Ranking Member of the House Committee on Homeland Security, and Los Angeles Sheriff Leroy Baca. The second of these reports, "Rethinking Radicalization," was timed for release before Congressman Peter King’s divisive March 10 hearing, “The Extent of Radicalization in the American Muslim Community and That Community’s Response,” and examines the important question of whether a community may simultaneously be treated as a law enforcement suspect and a partner.

The past year has seen a great deal of turnover on the Brennan Center’s senior staff. The heads of Brennan’s Democracy and Justice programs left the organization as did the organization’s Communications Director and the Chief Operating Officer. Such significant staff changes present opportunities to attract new leadership and ideas but also raise concerns about organizational stability and management. While we remain confident in the continued leadership of Michael Waldman, Brennan’s Executive Director, we intend to commission an evaluation of Brennan’s work and operations following the first year of this grant to help assess how to best assist the Brennan Center and ensure its long-term vitality

We are not using the contingent mechanism because this option was developed after the Board approved our budget for 2011, and we had already accounted for this grant in that budget. Because we specifically accounted for this grant in that budget, a change now would create significant problems in funding other organizations as intended in 2012.

Grant ID: 20032703

Legal Name of Organization: Planned Parenthood Federation of America

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

Name of Fiscal Sponsor: N/A

Purpose of Grant: To address health disparities in the South and Southeast regions of the United States by building health centers and other infrastructure that are key to expanding access to critical reproductive health services

Grant Description: A project support grant to Planned Parenthood Federation of America will strengthen its efforts to improve reproductive health and alleviate poverty among low-income women in U.S. Southern states. Its three-pronged approach consists of the following: 1) building health care centers in the nation's most underserved states; 2) creating new jobs and training professionals to fill them as a means of attracting additional resources to underserved communities; and 3) helping women enroll in federal benefits programs. The recommended grant will advance the Open Society Foundations' overarching goals of protecting and improving the lives of marginalized people as well as the Special Fund for Poverty Alleviation's goal of expanding access to benefits for low and moderate income people.

Previous OSI Support: \$3,170,000 [1998 – 2009]
\$2,423,737 Reproductive Rights Grants Domestic [1999–2006]
\$300,000 Chairman's Special Projects [2009]
\$200,000 USJ-Women's Rights [2004-2006]
\$200,000 USP-Independence of Judiciary [2005-2006]

Organization Budget: \$101,069,000

Project Budget: \$40,000,000

Major Sources of Support: Anonymous, Clayton Fund, Educational Foundation of America, FM Kirby Foundation, William and Flora Hewlett Foundation, Irving Harris Foundation, David and Lucile Packard Foundation, Unitarian Universalist Congregation at Shelter Rock, United Nations Foundation

Amount Requested: \$20,000,000

Contingent Grant: No

Amount Recommended: up to \$20,000,000¹: grant split with \$11,400,000 from Chairman's and Board's Special Grants, T1: 21105; \$2,000,000 from the Special Fund for Poverty Alleviation - Improve Access to Benefits, T1:21137; and \$6,600,000 from Soros family member contributions. The combined

¹ Soros family members may make grants directly to Planned Parenthood or through an OSF entity. For this reason, the amount recommended is identified as *up to* \$20,000,000.

amount of up to \$20,000,000 will constitute a single grant through the appropriate OSF entity or entities.

Term: Four years, July 1, 2011- June 30, 2015

Matching Requirements: OSF's contribution of \$13,400,000 plus Soros family members' combined contribution of \$6,600,000 total **\$20,000,000, which is to be matched 1:1 by PPFA**. The contributions from the Soros family members are to be anonymous.

PPFA is required to provide evidence of matching funds *at the end of each year* of the grant term in the following amounts: \$3,500,000 (Year 1); \$6,500,000 (Year 2); \$5,000,000 (Year 3); and \$5,000,000 (Year 4).

Description of Organization:

Planned Parenthood Federation of America (PPFA) is a trusted provider of quality, affordable care to millions of women and men, the largest provider of sexuality education in the country and a powerful advocate for women's health and rights at the local, state and national levels. With an emphasis on prevention, it strives to ensure that all women have access to the services and education they need to protect their health, prevent unplanned pregnancy and sexually transmitted diseases and make informed, responsible sexual and reproductive health decisions. Its nationwide network includes the national organization, PPFA, and 84 independently incorporated affiliates operating 820 health centers across the U.S.

PPFA serves a diverse and vulnerable population. Of the three million patients PPFA sees annually, 55 percent are under the age of 24 and over 36 percent (1.02 million) are Latino or African American. In addition, 75 percent of its patients live at or below 150 percent of the Federal Poverty Level and 37 percent receive Medicaid.

Description of Program for Which Funding Is Sought:

PPFA requests project support for its efforts to improve reproductive health and alleviate poverty among low-income women in U.S. Southern states. Its three-pronged approach consists of the following: 1) building health care centers in the nation's most underserved states; 2) creating new jobs and training professionals to fill them as a means of attracting additional resources to underserved communities; and 3) helping women enroll in federal benefits programs.

Building Health Care Centers

Weak health care infrastructure in the South drives poor health outcomes and contributes to continued poverty for women. To strengthen Southern health care infrastructure, PPFA plans to build 15 new health care centers in Mississippi, Louisiana, South Carolina, Alabama, border communities in Texas and New Mexico, and a hub center in one other state, to be determined. It also plans to establish telemedicine infrastructure so that health care professionals can remotely communicate with and monitor patients. PPFA used the following criteria to select its geographic targets:

- Highest poverty levels;
- Largest undocumented immigrant populations;
- Lowest Medicaid thresholds;

- Highest teen birth rates;
- Highest rates of chlamydia infection; and
- Proven ability of PPFA leadership within the area to expand education and health services.

Creating New Jobs

PPFA's new health centers will create an estimated 11.5 full-time jobs per center – a total of 196 new positions. PPFA is currently engaged in efforts to ensure its centers are eligible for the National Health Service Corps tuition repayment program offered by the U.S. Department of Health and Human Services to encourage health care providers to work in underserved areas. PPFA will offer comparable tuition loan repayment benefits for doctors and clinical staff.

Expanding Benefits Access

PPFA plans to build in enrollment functions and relevant staff capacity to help patients obtain access to a range of benefits including Medicaid, WIC (the federally funded health and nutrition program for women, infants and children), subsidized health insurance plans (by 2014), HIV care coordination, and access to legal services.

Rationale for Recommendation:

The recommended grant to PPFA advances OSF's overarching goals of protecting and improving the lives of marginalized people as well as the Special Fund for Poverty Alleviation's goal of expanding access to benefits for low and moderate income people.

A major impetus for PPFA's focus on expanding access to reproductive health care services in the South is recently enacted health care reform. Many previously uninsured poor people will become insured under new health care policies, but will not be able to access services because of the dearth of health care providers in low-income communities. PPFA's proposed project will fill this gap by building clinics that offer services to low-income, immigrant and young women in underserved communities in the poorest parts of the South.

PPFA's reasons for targeting the South are clear and compelling. The South has the highest number of individuals and families living below the federal poverty line, the most children living in poverty, and the lowest median household income in the nation.

The reasons for focusing on reproductive health as a means of addressing the broader needs of young, low-income women are also evident. For many women, particularly those between the ages of 18 and 29, reproductive health services are their first, and perhaps the least expensive, entry point into comprehensive health care. One in six women who obtain a pelvic exam do so at a family planning center. One-third of women who have an HIV test or who receive counseling, testing, or treatment for a sexually transmitted disease other than HIV do so at a family planning center.

OSF's strong support for PPFA's commitment to ensuring access to reproductive health care for low-income women comes at a critical time. We are faced with an unprecedented nationwide effort to restrict funding and access to reproductive health services. According to the Guttmacher Institute, 56 percent of state bills regarding reproductive health introduced this year seeks to restrict abortion access, up from 38 percent last year. As the federal budget negotiations illustrated, PPFA's work to expand access to

reproductive health services has made it a prime target for anti-choice advocates. The debates over PPFA funding were notable for the non-fact based tenor of the discourse. PPFA's wide range of preventative and reproductive health care was ignored and its work inaccurately characterized as solely focused on abortion. Policymakers boldly used false statistics to advance their goal of stripping PPFA of funding.

PPFA is well-positioned to address the failures of open society to which poor women in the South are subjected. It is the most experienced and most recognized provider of reproductive health care in the United States. It is skilled in combining direct services and policy advocacy to solve women's health problems. OSF staff is confident that PPFA can sustain the proposed work over time because it will generate income through the following sources: fee-for-service income from Medicaid reimbursements, private insurance, or patients' out-of-pocket payments; and, in some cases, the federal government may reimburse centers for enrolling individuals in benefits programs. For all these reasons, staff recommends a project support grant to PPFA in the total amount of \$20,000,000 over four years.



OVERVIEW OF \$20 MILLION GRANT PAYOUT

JULY 2011 TO JUNE 2015	TOTAL	YEAR 1	YEAR 2	YEAR 3	YEAR 4
Anonymous Lead Family Grant	13,400,000	2,345,000	4,355,000	3,350,000	3,350,000
Committed Matching Gift	2,200,000	385,000	715,000	550,000	550,000
Committed Matching Gift	2,200,000	385,000	715,000	550,000	550,000
Committed Matching Gift	2,200,000	385,000	715,000	550,000	550,000
Total Anonymous Family Funds	20,000,000	3,500,000	6,500,000	5,000,000	5,000,000
Matching Dollars Needed	20,000,000	3,500,000	6,500,000	5,000,000	5,000,000

Name of Organization: American Library Association

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

Grant Description: The American Library Association's Office for Intellectual Freedom will design and execute a campaign, to be piloted in up to three cities, to (1) raise public awareness of the corrosive effects of increasing polarization on civic discourse; 2) to strengthen the "immune system" of the public, particularly young people, against misinformation and deceptive media practices; and 3) increase critical thinking and information evaluation skills essential to informed civic participation.

Previous OSI Support: \$469,150
\$455,650 NSHR Campaign (2008, 2010)
\$13,500 Civil Liberties (2004)

Organization Budget: \$47,225,000

Project Budget: [Depending on the scope of activities desired by OSF, ALA will prepare a detailed budget for approval, but based on preliminary discussions, if the ALA were to conduct most of the activities described below, we estimate that the budget is likely to be in the range of \$375,000 per year, for a two-year pilot in three cities.]

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

Description of Organization:

The American Library Association (ALA) was founded in 1876 to provide leadership for the development, promotion, and improvement of library and information services and the profession of librarianship in order to enhance learning and ensure access to information for all. The ALA has a nationwide membership of 64,000 individuals, public and academic libraries, and other organizations interested in library service.

The ALA's Office for Intellectual Freedom (OIF), founded in 1967, is charged with implementing relevant ALA policies, which are embodied in the Library Bill of Rights, the ALA's policy statement on free access to libraries and library materials. The Office educates libraries and the general public about the nature and importance of intellectual freedom.

Description of Project for which Funding Is Sought:

At OSF's request, the ALA is developing a campaign designed to 1) raise awareness of the corrosive effects of increasing polarization on civic discourse; 2) to strengthen the "immune system" of the public, particularly young people, against misinformation and deceptive media practices; and 3) increase critical thinking and information evaluation skills necessary for informed civic participation.

OSF has asked the ALA to suggest a range of ideas for pilot programs in Chicago and Baltimore, and a third city, either New Orleans or a Western city in California or Arizona. If OSF decides to move forward with support by early June, the ALA is prepared to launch the three-city campaign in early 2012. Based on experience with other public awareness campaigns, the ALA recommends a minimum two year time frame for the pilot campaign.

The ALA would launch the pilot campaign with a city-wide day of awareness and public engagement. In each city, the campaign would be organized in cooperation with a wide array of community partners, including city and suburban schools and libraries, state press associations, universities, local foundations, and local media outlets. National partners could include the NEH American Civility Tour, the Annenberg Foundation, Media Matters for America, the National Coalition against Censorship, the National Student Rights Association, and national news literacy organizations.

The following is a summary of possible components of a citywide ALA general public awareness campaign, as well as a set of programs designed for young people. The ALA seeks OSF guidance on the following: 1) which specific components of the campaign are of most interest to OSF; 2) do these proposed activities address OSF's concerns; and 3) are there additional activities that should be developed?

- *Orwell Week.* A named week, possibly called "Orwell Week" that adapts the model of ALA's highly successful Banned Books Week.
- "*Meet the Manipulators*" *public lecture series.* Possibly hosted by Steven Colbert or Jon Stewart. For example, Wendell Potter is a former health insurance executive who now describes and speaks out against the public relations tactics used by the insurance industry to influence public opinion through the traditional news media. Another event could raise awareness of the proliferation of online techniques of deception and misinformation.
- *Civic engagement forums on media literacy and critical thinking.* The ALA has partnered with the Kettering Foundation as a designated Center for Public Life and has conducted successful community meetings using Kettering's problem-solving dialogue techniques to engage the public in such issues as health care reform. The community meetings, much as the old town meeting, provide a respectful forum for fact-based debate and discussion.
- *Connect young people in closed and open societies.* A series of in-person or online events to connect young people in the pilot cities with young people in countries with restrictive or manipulative media, including outreach to local immigrant communities and ethnic media outlets. This series could also highlight the similarities and differences of the techniques of misinformation and media manipulation in both closed and open societies.
- *Open Media in the Middle East.* A program to connect young people in the pilot cities with young people in Egypt, who are faced with the opportunity to help shape a new, more open and diverse media system in a country long dominated by state media, which has long played a critical role in shaping public discourse in Egypt.
- *Media literacy and critical thinking skills training.* A series of programs designed for young people, based in the public library systems of the three pilot cities, to teach media literacy and critical thinking skills. Programs will recognize young people as active producers of media, as well as consumers. The ALA would develop a survey to establish a base-line assessment of media literacy, including awareness of the rhetorical devices used by the mass media across the political spectrum.

- *Contests and awards.* A range of contests, awards, and/or cash incentives for young people to identify and protest media manipulation and propaganda, or to create models of productive civic discourse and engagement. For example, high school students might create in-depth media projects with examples of “conflating facts and opinions,” and then provide alternative positive projects using facts and evidence to create news stories, and opinions for others types of stories.
- *Leadership training.* Trainings, developed in collaboration with the National Association of Student Councils and other school organizations, to create leadership in the area of fact-based civic discourse and public engagement. Trainings will equip students to conduct Kettering-style forums in schools and community centers.

The ALA has long recognized the vital role played by America’s public and academic libraries as trusted protectors of freedom of information and the ability of the library system to reach a large segment of the American population. The ALA has the existing infrastructure and experience to frame media literacy issues and to use public, school, and academic libraries as community platforms to disseminate this information. And most libraries contain specific programs, equipment, and services for young people—not only to receive but also to create information.

The ALA is committed to the goal of creating a participatory information environment that gives community members an opportunity to be proactive information consumers and better citizens as a result. ALA’s Banned Books Week and Campaign for Reader Privacy, a coalition advocacy effort launched in 2004 to restore safeguards to reader privacy that were eliminated by the 2001 PATRIOT Act, have demonstrated how libraries and librarians can inspire and provide momentum to public education and advocacy campaigns.

Current surveys reveal that libraries are considered one of the most trusted community resources for diverse information. A recent Harris poll revealed that Americans value the democratic nature of libraries as places that level the playing field for all Americans in the provision of materials free of charge. There are over 16,000 public libraries and outlets in the United States. Over 68 percent of American adults today have a library card. Public libraries increasingly emphasize civic and media training and serve as key centers for community dialogue. Nearly all public libraries offer free Internet access. The availability of wireless Internet in public libraries is approaching 85 percent, and about two-thirds of them extend wireless access outside the library. Almost three quarters of libraries in the U.S. are the only providers of free public computer and Internet access in their communities.

The National Security and Human Rights Campaign has supported the ALA’s Privacy for All Campaign for the past two years. Although the quality of the ALA’s programmatic work has generally been high, NSHR staff has observed that ALA staff may be overextended. If the OSF Board decides to move forward with support for this new initiative, it will be important that ALA hire dedicated staff to manage the campaign in each of the pilot cities.

Grant ID: Not generated yet

Legal Name of Organization: Research Foundation of the City of New York

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

Purpose of Grant: To provide project support for the Task Force on the State Budget Crisis

Grant Description: To provide \$500,000 in project support for the Task Force on the State Budget Crisis, a high level bipartisan, one year effort to dissect contributing factors to the state budget crisis, identify potential structural solutions, and spotlight the crisis in five of the nation's largest states. OSF funding will support data gathering and analysis, targeted outreach to key stakeholders, and a final report.

Previous OSI Support: None

Organization Budget: \$218,508,610 (2010)

Project Budget: \$1,930,040

Major Sources of Support: Peter G. Peterson Foundation \$500,000
Ian Cumming \$250,000
Proposals are pending with the MacArthur, Smith Richardson, and Bill and Melinda Gates foundations

Amount Requested: \$500,000 over one year

Is this a contingent grant: No

Amount Recommended: \$500,000 over one year (21105: Chairman's Special Grants)

Term: One year, beginning May 1, 2011

Description of Organization

The Research Foundation of the City University of New York is a not-for-profit educational corporation that manages private and government sponsored programs at The City University of New York (CUNY). Since 1963, the Research Foundation has provided CUNY – and, more recently, its new non-CUNY clients – with administrative

infrastructure to support their program activities. The Research Foundation is the fiscal sponsor for the Task Force on the State Budget Crisis.

Description of Program for Which Funding Is Sought

States and their budgets are on an unsustainable path. With deficits in nearly all states and many radical proposals for cutting vital public functions, particularly those that focus on K-12 education, community colleges and public universities, and health and social services for low- and moderate-income populations, a broader assessment of state fiscal structures and potential reforms is warranted. An effort that transcends the partisan gridlock that plagues Washington, DC could have broad appeal beyond existing advocacy efforts.

Working nationally, with a deeper examination of the state budget crisis in five large states including California, Illinois, and New York and possibly Florida, Michigan, New Jersey, Texas, or Virginia, the Task Force on the State Budget Crisis, a one year project, seeks to do the following:

- **Document the extent of structural deficits faced by states and the causes of those deficits.** It will document nonrecurring resources treated as revenue, make the link between pension liabilities and state budgets, and spotlight when – and how – tax and spending policies may need to shift in order to have more sustainable state budgets. The Task Force will create replicable templates that will allow other advocates and scholars to analyze budgets elsewhere;
- **Document how existing budgeting practices not only hide state deficits, but encourage them.** This will lead to recommendations for improved budgeting and planning and enhance budget transparency so that structural deficits can be more directly addressed; and
- **Reach audiences who can change the state budget crisis.** The Task Force is explicitly committed to not being an academic project. Via outreach efforts, it seeks to educate state and local government policymakers, those who are affected by them, and those who can influence them.

The Task Force comprises highly regarded fiscal policy intellectuals who have had lengthy public service careers; it has been carefully constructed to have bipartisan membership and reach. This composition, the project's supporters believe, will give the Task Force broad credibility in making the point that confronting the budget crisis will require support from a variety of political perspectives. It will be overseen by a board chaired by Paul Volcker, Chairman of the Federal Reserve Board from 1979-87 and the recent chair of President-elect Obama's Economic Recovery Board Chair, and Richard Ravitch, a lawyer, businessman, and public official who recently served as Lieutenant Governor for the State of New York. Other board members include Nicholas Brady, a former investment bank chairman and Secretary of the Treasury under Presidents Reagan and George H.W. Bush; Joseph Califano, former Secretary of Health Education and Welfare under President Carter and founder and chairman of the National Center on

Addiction and Substance Abuse; and Alice Rivlin, chair of President Clinton's Financial Responsibility and Management Assistance Authority and a Senior Fellow at Brookings.

The board will shape the questions addressed by the Task Force, review and critique its work, and, when satisfied, approve a final report and any associated recommendations. The project expects Board members to carry extraordinary weight with the media, elected officials, and advocacy leaders and to participate actively in outreach to these audiences.

The Task Force's executive director will be Don Boyd, a senior fellow at the Nelson A. Rockefeller Institute of Government at the State University of New York at Albany. Boyd has more than 30 years of experience in analyzing state and local government fiscal issues. He has worked in New York state government as the director of the economic and revenue staff for the state budget office and as director of the tax staff for the New York State Assembly Ways and Means Committee. Boyd will be on leave from the Rockefeller Institute for the one year duration of the Task Force.

The Task Force will conduct extensive research in the five priority states and disseminate its findings to key opinion leaders. It will focus on reaching mainstream media as well as the financial press, stakeholders in programs that are at risk, public finance economists, and organizations serving government officials, focusing on the oversight of regulatory influence, or analyzing state and local finances or the creditworthiness of governments. At the conclusion of the one year project, it will issue a final report and conduct broad scale outreach to ensure that the report's recommendations have impact.

The five state case studies will address two key questions: (1) what are the state's fiscal condition, outlook, and exposure; and (2) in what ways do fiscal rules, institutions, and procedures contribute to or reduce the likelihood of structural deficits. Each case study will be conducted by a small team of analysts who are deeply familiar with the state's fiscal conditions and procedures as well as key players in the state's budgetary climate. The analysts could include former budget directors, legislative analysts, NGO leaders, or academic experts. The states will be selected based on size, national significance, degree of budgetary complexity or dysfunction, and the need for budgeting transparency.

Rationale for Recommendation

U.S. Programs, at the request of George Soros, recommends a \$500,000 grant over one year to the Research Foundation of the City University of New York for its sponsorship of the Task Force on the State Budget Crisis. The Task Force is a promising, high level effort to dissect contributing factors to the state budget crisis nationwide, identify potential structural solutions, and spotlight the crisis in five of the nation's largest states. The Task Force seeks to complement existing work by filling gaps in data collection and producing bipartisan consensus around structural reforms.

OSF funding will support the initial phase of data gathering and analysis and the identification of structural solutions to the state budget crisis. A second phase, which may include a partnership with the Franklin and Eleanor Roosevelt Institute (a U.S.

Programs grantee that includes both Rob Johnson and Jonathan Soros among its senior fellows), will focus on data dissemination and the promotion of recommendations.

The state budget crisis has an impact on most OSF priorities that relate to an appropriate role of government as a provider of key structures, systems, and supports. In rare instances e.g., the California effort to utilize the state budget crisis to advance criminal justice reforms – the budget crisis can present opportunities to elevate an open society agenda. More typically, however, the budget crisis and subsequent public deficits are connected to unfair and outmoded tax structures that adversely affect low- and moderate-income populations. The crisis then leads to cost cutting proposals that slash K-12 public education, community colleges and public universities, the provision of health services, public transportation, regulatory agencies, and services and supports for low-income families.

While conducting due diligence for this recommendation, USP staff consulted with colleagues from the Bill and Melinda Gates Foundation who expressed both interest in the project and concerns with its initial proposal. They, and USP staff agreed, that the initial proposal featured a disproportionate emphasis on public pensions as a contributor to the state budget crisis. While pensions are indeed a part of the structural challenge in state budgeting, they are not the sole or even leading driver of the current crisis. USP staff was concerned that such an emphasis from the Task Force could leave OSF and Mr. Soros vulnerable to attacks that they are supporting an effort that places disproportionate blame on public employees. These concerns were brought to the Task Force's director and co-chair Richard Ravitch by Gates and MacArthur Foundation representatives and by Rob Johnson, on behalf of OSF. Staff are now satisfied that a revised proposal from the Task Force places pensions more appropriately among several budget crisis drivers.

USP staff also discussed with the Gates representative that a project with a heavy focus on budget deficits – and that includes support from Pete Peterson's foundation, a noted supporter of entitlement reforms – could lead to a heavy emphasis on chopping important public services as a solution to the crisis. This would have an unfair impact on low-income populations. Both the Gates representative and Rob Johnson brought these concerns and a recommendation to work more closely with the Center on Budget and Policy Priorities (another leading USP grantee) to the Task Force director. This partnership should ensure that low-income communities and services will not be forgotten – or unfairly targeted – as the Task Force develops its recommendations. This concern has been heard by the Task Force's leadership.

The Task Force has a high level board, strong leadership, a targeted purpose, and a short window in which to conduct its work. From our due diligence, it is a worthwhile and thoughtfully constructed effort to spotlight the structural roots of the crisis and identify a balanced set of possible solutions. The Task Force's bipartisan composition, and the reach that its recommendations will have due to its influential board, lead us to recommend that this early investment in intensive data collection and high level analysis is a worthy one.

MEMORANDUM

TO: The U.S. Programs Board
FROM: Raquiba LaBrie
cc: Diana Morris
DATE: May 12, 2011
RE: National Citizenship Initiative

With this memorandum staff submits to the Open Society Foundations (OSF) U.S. Programs Board a funding request to support a national citizenship initiative that would invest primarily in naturalization services and policy advocacy. The memo is organized into four parts:

- Background
- Open Society Benefits of Citizenship
- Barriers to Citizenship
- Strategy for Promoting Increased Citizenship

I. Background

Comprehensive immigration reform remains a necessary cornerstone of the immigrant rights agenda. However, given the current political landscape and pressing needs of immigrants in the U.S., funders and advocates are exploring a broader range of strategies for securing the full participation of immigrants in economic, social and political life. There is an emerging consensus that greater attention and resources should be directed to the states as the new immigration battleground. There is also a renewed interest in naturalization as a proactive means of facilitating immigrant integration.

As an immigrant rights strategy, naturalization is attractive for several reasons. First and foremost, it increases the number of immigrants able to weigh in on policy issues that directly affect them by making it possible for them to vote. It generates bi-partisan support. And it attracts funders who are less inclined to support controversial or unpopular immigrant rights issues. Beyond this, the timing is right for OSF to invest in naturalization because it will complement efforts the foundation may undertake to strengthen civic participation leading up to the 2012 elections.

According to the most recent data available from the U.S. Citizenship and Immigration Services, an estimated 8.2 million documented immigrants are currently eligible for citizenship.¹ As the following chart reveals, most live in California, New York, Texas and Florida. More than a dozen other states are home to at least 100,000 citizenship-eligible people.

¹ To become eligible for citizenship, an immigrant must: a) be 18 years of age or older; b) be a legal permanent resident for at least five years; c) maintain a continuous residence in the U.S.; d) have good moral character; e) be able to pay the application fee of \$680; and f) be able to read, write, and speak English and demonstrate knowledge of U.S. history and government (i.e., pass the citizenship test).

Immigrants Eligible to Naturalize by State²		
Geographic Area	Number Eligible to Naturalize	Percent of Total
California	2,460,000	30%
New York	950,000	12%
Texas	900,000	11%
Florida	690,000	8%
Illinois	350,000	4%
New Jersey	340,000	4%
Massachusetts	180,000	2%
Virginia	170,000	2%
Arizona	160,000	2%
Washington	140,000	2%
Maryland	120,000	1%
Michigan	120,000	1%
Pennsylvania	120,000	1%
Other states	1,280,000	16%

The profile of citizenship-eligible immigrants underscores the need for expanded services and advocacy to promote naturalization:

- 55% of legal permanent residents need to improve their English skills in order to pass the citizenship test.
- 24% live below 100% of the federal poverty threshold, making it highly unlikely they can pay the \$680 application fee.
- 38% have less than a high school education.

The work of the Emma Lazarus Fund, OSF's \$50 million naturalization initiative (1997-99), helped establish OSF as a well-respected philanthropic leader in the field of naturalization and immigrant rights. Created in response to 1996 welfare reform policies that denied documented immigrants access to food stamps, Supplemental Security Income (SSI) and other social safety net benefits, the Emma Lazarus Fund invested in the twin strategies of naturalization services and advocacy. The results were impressive. By the end of 1999, the Fund's grantmaking helped over 500,000 immigrants enter the naturalization pipeline; millions more received services that enabled them to pursue naturalization on their own. Ultimately, the advocacy of Emma Lazarus grantees helped to restore SSI and food stamp benefits to a large category of immigrants.

One important critique of the Emma Lazarus Fund is that insufficient attention was paid to the sustainability of organizations in the naturalization field. A number of its smaller grantees no longer exist. If OSF decides to re-invest in naturalization, there are a number of approaches that could be considered to reduce concerns about sustainability. OSF could place a priority on support for technological advances or engagement of volunteers that would not require extra funding to be sustained. OSF could also target geographic areas with engaged state and local funders who are willing to co-fund, and possibly sustain, increased staff capacity.

² Rob Paral and Associates. *Benchmarks of Immigrant Civic Engagement*. New York, NY: July 2010.

II. Open Society Benefits of Citizenship

Increased citizenship advances a number of open society goals.

Civic Engagement. While overall voter registration rates of naturalized citizens currently lag those of native-born citizens by more than 10%, the percentages of registered naturalized immigrants and natives *who vote* are almost identical.³ In fact, the turnout of registered, foreign-born whites, Latinos, and blacks exceeds that of natives.⁴

Economic Security. Naturalization affords immigrants better jobs and accelerated wage growth. The average income of adult citizen immigrants is 33% higher than that of non-citizens.⁵ As the 21st century labor market becomes more unequal and segmented, naturalization helps to prevent immigrant communities from being shut out of living wage jobs and viable career ladders.

Strengthening Families. Family reunification is an important goal of the immigrant rights field and is in the national interest. Families are the most basic learning institutions, teaching children values as well as skills to succeed in school, society, and work. Historically, families have facilitated the integration of immigrants into American political, social, and economic life.

Education. Citizenship increases access to post-secondary educational resources, thereby strengthening immigrants' ability to become politically engaged and informed members of society.

III. Barriers to Citizenship

There are four major barriers to citizenship for eligible immigrants:

- The high cost of the naturalization application process.⁶
- The shortage of high-quality, accessible English language and civics instruction.
- Immigrants' lack of knowledge of the benefits of citizenship and how to apply.
- Limited availability of legal services and citizenship application assistance.

IV. Strategy for Promoting Increased Citizenship

Possible Funding Partners

Staff has consulted funders interested in developing a coordinated national strategy to scale up naturalization efforts. A handful are close to making substantial commitments to invest in naturalization over the next three or more years. In June, the Board of the Carnegie Corporation will consider dedicating \$5 million in new funds over three years to naturalization and the Board of the Knight Foundation will consider dedicating \$3 million over three years. The Haas Jr. Foundation has committed \$1.5 million over three years to naturalization efforts in California. An anonymous national funder is considering up to \$5 million over eight years. State and local funders have also expressed interest.

³ Id.

⁴ Id. The turnout of registered naturalized Asian Americans tends to lag behind native-born Asian Americans.

⁵ Shierholdz, Heidi. "The Effects of Citizenship on Family Income and Poverty." EPI Paper 256. February 24, 2010.

⁶ The \$680 application fee plus preparatory and legal expenses deter many low-income immigrants.

Budget and Possible Grantees

With a total budget of roughly \$4 million for two years (2011 and 2012), OSF could make a small number of large grants annually in coordination with the funders identified above.

Potential grantees on the short list include:

- the Migration Policy Institute, an independent think tank dedicated to the movement of people worldwide;
- the National Citizenship Collaboration, which comprises six members: the Catholic Legal Immigration Network; the Immigrant Legal Resource Center; the Immigration Advocates Network; the Asian Pacific American Legal Center; the National Association of Latino Elected Officials Educational Fund; and Pro Bono Net;
- the National Partnership for New Americans, a collection of the 11 leading statewide immigrant rights coalitions; and
- the National Immigration Forum, as coordinator of the Naturalization Working Group, a collection of naturalization advocacy groups.

Grantmaking Priorities

To reduce barriers to citizenship and encourage as many legal permanent residents as possible to become citizens, staff has identified the following priorities.

a. Direct Services

Investment in scaled-up direct services would substantially reduce some of the barriers immigrants confront in seeking citizenship. In addition, investment in the strategic use of technology can help to improve the quality, efficiency and sustainability of service delivery. Relevant services include: legal screening for citizenship eligibility⁷; assistance in completing naturalization applications; preparation for interviews with immigration officials; citizenship and English classes; legal clinics and one-on-one legal representation; lawyer trainings; and hotline services.

b. Policy Advocacy

It is critical that service providers and advocates work with the U.S. Citizenship and Immigration Services to address the following barriers to citizenship: expanding access to waivers of the \$680 naturalization application fee; examining the impact of mandatory electronic filing on immigrants who lack access to the Internet; challenging regulations that limit the ability of federally-funded legal service providers to assist immigrants with filing citizenship applications; expanding access to interpretation services and materials about the naturalization process translated into multiple languages; and combating fraudulent practices used by unscrupulous immigration practitioners who take advantage of immigrants for monetary gain.

c. Financial Support to Defray Application Costs

⁷ Legal screenings of naturalization applicants are critical to identify potential risks as well as eligibility for additional benefits. One significant risk is that legal permanent residents with criminal records may make themselves vulnerable to deportation when applying for naturalization. On the other hand, legal screenings can help applicants identify special benefits, such as waivers of certain requirements for people with disabilities.

As mentioned above, the naturalization application fee and preparatory and legal expenses can be prohibitive for low and moderate income immigrants. OSF might consider funding innovative financial support programs such as micro-credit and revolving loan funds and social network fundraising (e.g., through Facebook) to help immigrants cover these costs.

d. Outreach and Communication

Public education and media outreach campaigns can build public and immigrant support for naturalization and increase citizenship numbers. OSF grantee, Migration Policy Institute, plans to convene a bipartisan group of distinguished leaders from different sectors, including business, faith, government, philanthropy, and journalism, to provide high-level voice and visibility for local citizenship drives and highlight naturalization as an essential element of sound immigration policies. The co-chairs of the bi-partisan group would be two former Commissioners of the Immigration and Naturalization Service, Doris Meissner and James Ziglar. Members might include individuals such as Henry Cisneros, Arnold Schwarzenegger, Cardinal Roger Mahony, and Jennifer Granholm. Other possible investments include the use of mainstream and ethnic media, and new technologies to educate immigrants on the value of U.S. citizenship.

e. Research and Evaluation

A clear and nuanced understanding of the benefits of naturalization to immigrant economic and social stability and success would add to any strategy designed to motivate immigrants to naturalize. It would also highlight the benefits of naturalization to U.S. society overall. There is a need to review the emergent literature and evidence on the “value added” of naturalization to immigrant integration. In addition, there is a need to develop metrics that could be used to assess the progress of service providers and advocates in improving the naturalization process and increasing citizenship. Key performance measure could include: reach and level of outreach activities; removal of policy and administrative barriers to naturalization; and approval, denial, and withdrawal rates of naturalization applications.

Geographic Targets

Tier One

Metropolitan regions in the four states with the largest concentrations of immigrants – California, New York, Texas and Florida – would likely yield the biggest return on investment. Carnegie, Knight, and Haas have already placed priority on these states. Accordingly, OSF staff would determine whether there are significant gaps in proposed funding by those foundations or whether it makes sense to invest in second tier states.

Tier Two

Staff considers Illinois, Maryland, Washington, Michigan, Massachusetts and Georgia to be viable second tier states because they all have at least one metro area with 70,000+ citizenship-eligible immigrants, local funding partners, and adequate direct services and advocacy capacity.

V. Conclusion

The time is ripe to invest in efforts to naturalize the more than eight million eligible immigrants in the U.S. A range of factors – from significant numbers of eligible immigrants to renewed interest among funders – have converged to create opportunities to leverage OSF funding and demonstrate that the benefits of citizenship accrue not only to those who naturalize but also to society as a whole.

Non-Partisan Voter Participation Proposal for Board Consideration

(Memo from Bill Vandenberg, Program Director, Democracy and Power Fund,
to Deepak Bhargava and Andy Stern; May 31, 2011)

Advancing open society in any policymaking climate is challenging. As we've witnessed in recent years, it gets even more difficult in a hostile advocacy climate. Simply put, without high levels of voter participation from people of color, new citizen, and youth voters in 2012, it is likely that every single OSF priority, domestically and globally, will face a tougher battle.

The 2008 election brought historically high voter participation from key constituencies – namely African Americans, Latinos, and young people – but we now are confronted by an “enthusiasm gap,” where many first-time voters in 2008 are uninspired to vote again. This gap was underscored by the low turnout in 2010 of the “Rising American Electorate,” the people of color, youth, and unmarried women that now comprise the majority of the American eligible voting population – 52.8% of the U.S.'s adult citizen population – but not yet the majority of voters (only 47.1% of the number of registered voters). On a positive note, there are many newly eligible voters – naturalized citizens and people turning 18 – who are potential additions to the voter rolls. Every day for example, 13,000 young people turn 18 and, underscoring the Latino community's potential power, each month 50,000 young Latinos turn 18.

OSF is one of the three largest c3 voter participation funders in the nation, prioritizing support for non-partisan voter registration, education, and mobilization along with advocacy on voting rights, election systems reforms, and voter protection. With our funding history, board commitment, deep staff expertise, strong grantee partners, and strategies to catalyze participation from people of color, new citizen, and youth constituencies, we seek to maximize our impact in the 2012 election cycle. **Our specific goal should be to have voter participation rates of the Rising American Electorate in 2012 at least meet 2008 levels and, preferably, comprise the appropriate share of the adult citizen population.**

While some USP funding is projected for 2011-12 non-partisan voter work, plans for the upcoming election have not been extensively discussed and, I believe, our current budget is insufficient. To ensure that voter turnout from the Rising American Electorate at least meets 2008 levels, and, preferably, comprises the appropriate share of the adult citizen population, we should consider a special commitment of \$12.25m in new funding, \$4.75m in 2011 and \$7.5m in 2012, to address the following needs.

For 2011, non-partisan voter organizations would most benefit from these early OSF investments:

- **PLANNING & TOOLS:** We should, as soon as possible, consider underwriting “shared tools” for our grantees so that they may have early access to the highest quality and most comprehensive data, voting lists, commercial and census data, technical assistance, and analytical expertise;
- **VOTER PARTICIPATION:** With early support for building the most promising large scale voter participation efforts, there's a greater likelihood of ensuring that people of color, new citizens, and youth organizations can grow quickly to scale and begin registering voters; and
- **VOTER PROTECTION:** We could fill a needed gap in advocacy funding to address the barriers to voting being erected in over 30 states. These attacks include nefarious voter identification proposals – adopted or being considered in 2/3's of the states – that hit people of color, new citizen, and youth voters hardest.

For 2012, the best investment from OSF would be to support large scale, rigorous voter participation efforts that would focus on non-partisan voter registration, education, and mobilization in historically undervoting constituencies. Current OSF funding prioritizes support for African American, Arab American, Asian American, Latino, new citizen, low-income, and youth voter participation. In 2008, such grantees registered more than two million voters and conducted extensive turnout work.

With early support from OSF and our funding peers these numbers can increase significantly. It is likely that the Ford Foundation will add a special, \$10 million commitment above its existing civic engagement budget to support voter registration. I suggest that we match the Ford Foundation's pledge by pledging \$10m in voter participation funding plus \$2.25m for voter "shared tools" and voter protection advocacy.

Proposal for 2011 and 2012 Board/Chair Budget Consideration

The total cost of three of the primary, highest quality "shared tools" for c3 organizations – Catalist (comprehensive voter data), the Voter Activation Network (voter list interface), and ISSI (state-based technical assistance staff) – is \$4 million annually, a figure that could be covered via the leadership of OSF and our leading partners, Atlantic, Ford, and Wellspring. Additionally, The Atlas Project is a voter technical assistance service that provides widely acclaimed reports on state issues and demography that can lead our grantees to more effectively prioritize their work and increase their impact. OSF could join in partnership with other funders to fund the "shared tools" and could itself subscribe to Atlas and then underwrite subscriptions for several of our key grantees.

Attacks on voting access – including onerous voter identification and scaling back early voting – could adversely impact people of color, new citizen, and youth voters in 2012. With targeted OSF investment in 2011, we could support research, public education, and advocacy on the impacts of these attacks.

Total 2011 recommendation: \$4.75 million. This could include:

- \$1 million to a funder collaborative to support shared tools (Catalist, VAN, ISSI)
- \$750,000 for research, public education, and advocacy on voting access attacks
- \$500,000 for an OSF subscription to Atlas and provision of subscriptions for several grantees
- \$2.5 million in early voter participation funding for the most promising and large scale efforts

For 2012, a key role for OSF will be to invest early in large scale efforts to ensure high levels of voter registration, education, and mobilization among people of color, new citizen, and youth constituencies. An early commitment of OSF funding could leverage millions more from other funders.

Total 2012 recommendation: \$7.5 million. This would allow us to invest in several of the largest, most promising, and rigorous efforts to maximize voter registration and turnout in African American, Asian, Latino, new citizen, and youth constituencies. We should also consider funding for fair election administration so that elections run smoothly and barrier free. With some funding going into strong efforts in 2011 and the majority in early 2012, we'll give our grantees the early funding that they need – and so rarely get, since most funders don't get money into the field until much later – to quickly build their voter work to scale.

With your approval, USP staff will research each of these components for additional detail. Thank you.

Memo

To: George Soros; Bryan Stevenson; Sherrilyn Ifill; Aryeh Neier
From: Lenny Noisette, Director, Criminal Justice Fund
cc: Diana Morris
Re: Criminal Justice Reform Opportunities in California
Date: May 4, 2011

As you are aware, late last month Criminal Fund staff visited California to conduct a series of meetings to further assist us in our assessment of the opportunity for strategic investments to advance criminal justice reform in that state. Based on discussions with our board advisors charged with guiding this effort, our meetings were focused on four priorities we identified: 1) technical parole revocation reform and other efforts to reduce the prison population; 2) the closing of state juvenile detention facilities and the shifting of juvenile justice supervision to the counties; 3) the reform of current “Three Strikes” sentencing policies and practices; and 4) efforts to reduce drug possession offenses from felonies to misdemeanors.

Update on Current Political Conditions related to Reform Efforts

I noted in prior memos that as part of his effort to close a \$26 billion budget deficit Gov. Brown had proposed a “realignment” plan that would, over three years, reduce state corrections costs and imprisonment levels by shifting responsibility to the counties for the jailing or community supervision (probation/parole) of individuals accused of certain non-violent offenses, including provisions prohibiting state prison sentencing for parole or probation revocations based on technical violations. This proposal, which projects reducing the prison population by 38,000 over three years, was approved by the legislature and signed by the governor, but its implementation was conditioned on the extension of certain tax surcharges that would provide additional funding to the counties to assist them in meeting the costs associated with these new responsibilities. However, the tax extension requires voter approval, and the legislature blocked the governor’s attempt to present the issue in a special election in June, thus putting the realignment plan on hold. The Brown administration has now indicated that it will attempt to put the issue before voters in November, but the dominant opinion among political analysts in the state is that Californians will reject the effort. The administration has also signaled that it is developing a plan to implement realignment even if the tax extension is denied, but has not yet disclosed the particulars of how that would be done.

Separate from the budgetary pressures driving the need to reduce correction costs, the state is awaiting a decision of the U.S. Supreme Court in its appeal from a federal court ruling ordering California to reduce its prison population by 40,000 to address extreme overcrowding and related deficiencies in the provision of medical services. It is expected that the court will render its

opinion within the next month or so, and most legal observers believe that the decision will largely uphold the order, with a remand of the case to the trial court for further findings that could further protract the litigation, with the potential of direct federal court intervention to address the overcrowding issue.

It is in this context that we conducted a series of very productive meetings with researchers and advocates working on these issues in California. Because we believe that is important to coordinate our investments with potential local and national funding partners and because our foundation colleagues in California are important on-the-ground sources of intelligence for OSF, we invited Rosenberg Foundation, Fund For Nonviolence, and Public Welfare Foundation to participate in the the series of meetings. As a result of these meeting, these foundation partners are considering investments that will complement those we recommend, below.

Below, I summarize these meetings and identify, for possible OSF investment, several 501 (c)(3) activities that we believe would help support efforts to achieve favorable reforms.

In my capacity as an OSPC-enabled staff member, I also outline for possible OSPC investment several 501 (c)(4) activities that would take advantage of the favorable climate and advance the legislative changes necessary for sustaining reforms over the long-term.

1. Researchers/Criminologists

We met with leading researchers/criminologists who have long been involved in efforts to assess how to safely and effectively reduce levels of imprisonment in California:

- Jim Austin, JFA Institute
- Joan Petersilia, Stanford Law School
- Barry Krisberg, Berkeley Center for Criminal Justice
- Alex Busansky, National Council on Crime and Delinquency

We were joined at this meeting by Don Specter, of Prison Law Office, who was lead counsel for the plaintiff in the prison overcrowding litigation, *Schwarzenegger v. Plata*.

This group fully briefed us on some of the specific recommendations included in the governor's realignment measure, addressed some of the positive aspects and limitations of the proposal, and more generally identified some of the drivers of the levels of incarceration and the various potential changes in practice that could more effectively address these drivers long-term. For example, while participants supported the provisions related to eliminating state prison sentences for technical violations of probation or parole, they expressed concerns about the extent to which local communities would have discretion to use local jail sentences as well as alternatives, and the lack of financial incentives to encourage alternatives to incarceration.

Through this discussion we identified the following needs:

- Development of a comprehensive plan, endorsed by a bi-partisan group of criminal justice experts, which would propose how to implement portions of the realignment plan

plus additional measures to achieve significant reductions in incarceration without the need for increased revenues and expenditures; and

- Development and implementation of a communications plan in anticipation of the Supreme Court ruling in *Plata* that would include the ability to point to the detailed plan for addressing overcrowding/reducing incarceration in a way that does not threaten public safety.

2. California Corrections Reform Coalition

A coalition of advocates, led by current OSF grantees, has for three years been working together to improve their advocacy efforts around a number of criminal justice issues, including death penalty reform, sentencing reform, and juvenile justice reform. We met with the following representatives of the coalition:

- **ACLU of Northern California** - Kelli M. Evans, Associate Director; Allen Hopper, Police Practices Director;
- **Ella Baker Center** - Jakada Imani, Executive Director; Kris Lev-Twombly, Director of Programs; and
- **Drug Policy Alliance** - Margaret Dooley-Sammuli, California Deputy State Director; Dan Abrahamson, Director of Legal Affairs

In addition to traditional criminal justice/social justice advocacy groups, the coalition has begun to expand to include groups who are also impacted by the budgetary impacts of excessive correctional spending, including public health professionals, the California Teachers Association, and higher education advocates, including student activists.

This group collectively has an expertise and long history of involvement in criminal and juvenile justice reform efforts, has been involved in a number of significant victories over the past decade, and has good understanding of the challenges local governments will face if some of the proposed aspects of realignment are put into effect. Jakada Imani of Ella Baker Center, a long-time advocate for juvenile justice reform, acknowledged, for example, the legitimate concerns about whether continued advocacy for the closing of the state department of juvenile justice (a proposal the Brown administration has recently withdrawn) would put young people more at risk of being held under harsh circumstances with limited services, or increase the likelihood that they would be prosecuted as adults. Nonetheless, he felt that detaining and/or supervising youth locally was a preferred approach, and that the concerns should be addressed by ensuring there is vigorous advocacy for adequate and appropriate facilities and services within the counties.¹

The coalition has developed a platform of reform measures, some short-term to take advantage of the realignment discussion and current budgetary pressures, and others more long-term, for

¹ We also met with James Bell of the Haywood Burns Institute, another long-time juvenile justice reform advocate, who shared these views, and stressed the need for technical assistance in those counties where high populations of youth would be likely to return and which had limited service capacity to meet their needs.

which they believe the changes included in realignment and related policy reforms will “soften the ground.” Short-term (6 months) objectives include:

- Identifying the handful of counties that would be most affected by realignment, at both the adult and juvenile system levels, and targeting public education and advocacy for effective implementation of local control, parole and probation supervision, and provision of services; and
- Public education and advocacy for sentencing reform to reduce low level, non-violent offenses from felonies to misdemeanors, thereby allowing for local jail or non-jail sentences.

The coalition’s long-term objectives (18 months to 2 years) include:

- Public education and advocacy for broader sentencing reform, including reducing drug felonies to misdemeanors; and
- Supporting efforts to reform Three Strikes practices.

Among the needs we identified in this meeting were:

- Resources to support immediate public education and advocacy efforts related to the priorities that should shape the upcoming budget revision process;
- Convenings/meetings of key stakeholders—policy experts, legislative analysts, county officials, etc., including some of the researchers we met with—to enable the coalition to become more fully informed about the specific provisions included in the realignment legislation and the implications for local implementation; and
- Strengthening the capacity of advocacy groups in Southern California and expanding participation of such groups in the coalition, given the direct impact that realignment would have on the large counties in that region of the state.

3. Stanford Three Strikes Project

We met with Lawrence Marshall, Associate Dean for Clinical Education and Director of the Mills Legal Clinic at Stanford Law School; Michael S. Romano, Director of the, Three Strikes Project; and David Mills, who is the primary donor supporting the clinic and who has committed to funding a Three Strikes ballot initiative. These representatives shared their efforts to date related to:

- Public opinion polling to gauge public receptivity to reform of current practices to exclude individuals with no history of past or current violent crimes from potential life sentences, as well as the possibility of applying such changes retroactively;

- Plans to analyze data they recently received from the Department of Corrections on all individuals currently serving “Second Strike” or “Third Strike” sentences to precisely identify the number and personal profiles of individuals who would potentially be impacted by any proposed changes. They estimated that as many as 4,600 individuals were currently serving life sentences for non-violent Third Strikes, and approximately 1,900 people were serving enhanced sentences for non-violent Second Strikes.
- Assessment of the support for or opposition to proposed changes among key stakeholders, and the efforts to identify spokespersons and champions among mainstream law enforcement; and
- Current stage of development of a campaign plan, including identification of a consultant with experience in leading ballot initiatives.

David Mills discussed the financial needs associated with the campaign, noting that the total projected costs were estimated to be approximately \$10 million, \$8 million of which would be (c)(4) expenditures. Mills said he was committed to providing substantial support, believed that both through his foundation and other private foundations he could raise much of the (c)(3) funding needed, and that he was looking for a handful of additional donors to contribute \$3-4 million in additional (c)(4) funding.

Michael Romano noted that immediate needs included resources to allow him to direct the development of the campaign; professional statisticians to assist in the analysis of the Department of Corrections data; and additional polling.

Grantmaking Recommendations

Below, we list time sensitive grants that we recommend be made as soon as possible. We expect to consider and recommend additional time-sensitive grants as opportunities emerge and grants for medium- and longer-term efforts that will be required to successfully implement and protect positive reforms that this first round of grantmaking supports.

I. OSF (c)(3) Grantmaking: Approximately \$900,000

A. Research/Population Reduction Plan—Grantee JFA Institute

\$50,000-\$75,000 to provide analyses of potential population reductions of the various proposals and the fiscal savings that would be achieved. (Proposal expected by May 13)

B. Communications Support—Grantee National Center on Crime and Delinquency

\$150,000 to develop and implement a campaign strategy that will be used in the near-term to support favorable messaging around the Supreme Court decision in the *Plata* case, as well as long-term to develop and shape messages and identify appropriate

messengers in support of broader reform efforts to reduce the prison population longer term. (Currently reviewing proposal)

C. California Corrections Reform Coalition—Grantee Ella Baker Center

\$150,000 to provide additional capacity and support related public education efforts to influence and inform the setting of priorities in the budget revision process over the next six months. Would include some re-granting to coalition partner organizations. (Proposal expected by May 6)

\$450,000 to provide support for expanding coalition and strengthening coalition efforts, development of a communications and messaging plan, and providing local advocacy related to implementation of reforms. Would include some re-granting to coalition partner organizations. (Proposal expected by May 20)

D. Stanford Three Strikes Project

\$50,000-\$75,000 over 18 months to support development and management of the campaign, including fundraising, research and data analysis, polling and expanding coalition of supporters. (Proposal expected by May 13)

II. OSPC (c)(4) Funding: Approximately 200,000 Plus TBD Investment In A Three-Strikes Ballot Initiative

There are a number of short-term and longer-term needs for (c)(4) funding to support reform efforts. Advocates developing the strategic effort for sentencing reform have conceived of the campaign in phases. Phase One is focused on immediate efforts related to Gov. Brown's realignment proposals, sentencing reforms related to those proposals, and the immediate discussions related to the development of a revised budget plan. Phase Two would be a multi-year campaign, and would include strengthening capacity for work in the state capitol, Sacramento, and to enhance public education and policy work. Efforts would include a range of (c)(4) activities, including the development of targeted television and radio campaigns aimed at more conservative counties in support of particular legislative reforms. (Estimated funding need: **\$150,000-\$200,000**).

As discussed above, while the development of the ballot initiative for reform of the current Three Strikes law has significant committed financial support, additional funding is needed. The initiative is an important one that I recommend supporting for a number of reasons. It has the potential to effect some thousands of individuals by making them eligible for resentencing; it is aligned with other sentencing reform efforts gaining momentum by its focus on the wasteful spending of scarce public dollars on incarcerating individuals convicted for low level, non-violent crimes; and by challenging the very premise that there is a set individuals whose repeated infractions of the law, however minor, should be incarcerated forever, the reform effort has the

potential to change the entire debate about crime and punishment. I don't presume to suggest at what level such substantial support should be made, but encourage serious consideration of doing so, including potentially further conversation with David Mills and staff at the Three Strikes clinic.

Note: This memo describes certain possible investments for the Open Society Policy Center, a 501(c)(4) organization affiliated with, but separate from, the Open Society Foundations. Certain U.S. Program staff members are legally enabled to work on behalf of OSPC, but the U.S. Programs Board of OSF is not associated with OSPC.