

## MEMORANDUM

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**To:** U.S. Programs Board  
**From:** Diana Morris  
**Date:** May 7, 2012  
**Re:** U.S. Programs Highlights

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The last three months have been an extraordinarily busy time as staff have worked closely with the Board on the five Working Groups to conceptualize our goals and interests going forward and have continued to implement the final year of their three-year strategic plans. With each docket review meeting nearing our last with Aryeh, staff has lingered at them, taking the opportunity to benefit from his views and broad experience. During the last four months, staff has balanced their responsibilities of grant explorations, negotiations and recommendations with discussions to inform certain grantees that they will be receiving tie-off grants this year, in accordance with the Board's mid-term review. And, staff have recommended grants, now approved, using the Board/Chair Discretionary Fund allocation (of \$3.85 million) to support a national campaign to protect voting rights, with in-depth work in three key states.

The questions, reading list and lively discussion of the Working Groups have carried over to meetings of the Senior Management Team as well as to bi-weekly meetings with the entire staff, to ensure that all have a means to contribute and benefit from these rich conversations. While the compressed schedule and press of regular business meant that senior staff could not participate as fully in the Working Groups as they would have liked, they greatly appreciated the chance to work side by side with Board members to identify the most critical open society challenges ahead of us—and the issues that OSF is well placed to address. These conversations will continue over the summer, including with Board members, as the staff converts Board recommendations into concrete programmatic goals and strategies.

Staff has continued to reach out to field experts, including grantees, not only in conjunction with the Working Group explorations, but also to advance USP's ongoing work. As the program highlights (listed below) report, these range from meetings to convene leading legal scholars, advocates and social scientists to develop strategies to address money in politics post *Citizens United* to efforts to engage small businesses in progressive reforms. Throughout our work, whether focused on voter protection, building the field of black male achievement or designing strategies to re-engage alienated members of the white working class in progressive issues, staff spend considerable time enlisting the interest and support of other donors, so that our work will be sustainable and benefit from a range of perspectives.

Even as we look to improve the impact of our grantmaking and our internal procedures to encourage innovation and deep thinking, it is worthwhile to note what is working well. The use of USP funds to address the tragic killing of Trayvon Martin provides an example. Staff from the Campaign for Black Male Achievement, the Democracy Fund, the Criminal Justice Fund, Communications and OSI-DC quickly came together to assess the different dimensions presented by the killing and how best to proceed. We noted that we had already provided

flexible and significant general support to some of the most effective advocates working to protect basic rights (e.g., the Color of Change, Center for Media and Democracy, Center for American Progress, and People for the American Way), which was allowing them, without any delay, to engage key constituencies and the media in contesting the discriminatory impact of “Stand Your Ground” legislation. More broadly, they were beginning to reveal the invidious role of the American Legislative Exchange Council (ALEC), which has promoted the legislation in states beyond Florida.

With funds that we have reserved for “rapid response” and after consultation with Aryeh, we decided to add to the capacity of Color of Change, a multi-issue African American advocacy organization with 900,000 online members, which previously had played a lead role in ousting Glenn Beck from CNN. Additional support from USP, now approved, is allowing Color of Change to mobilize the public to monitor and demand an end to “Stand Your Ground” statutes, expose more broadly the destructive efforts of ALEC—including the promotion of voter identification legislation in dozens of states as well as the privatization of prisons—and to call for corporate donors to pull their membership from ALEC. Staff is also exploring whether other grantmaking could strengthen this campaign; and, Aryeh has asked Avaaz, which mobilizes online campaigns internationally, to join forces with Color of Change. To date, 13 corporations have withdrawn their membership, ALEC has disbanded its Public Safety and Elections Committee, and, importantly, the general public is becoming aware of ALEC’s conservative, secretive role and the corporations who have bankrolled it. We also considered whether the Criminal Justice Fund should expand its focus to work specifically on combating “Stand Your Ground” laws. Generally, we decided that it would be more important to keep sustained attention on revealing the broad role of ALEC; nevertheless, the Criminal Justice Fund and its key grantees are watching the Florida case carefully and parallel efforts in other states.

On a broader set of issues, USP staff and OSI-DC staff have begun key discussions with the White House Office of Public Engagement, which expressed interest in learning more about our work in the areas of criminal justice, immigration, naturalization, responses to *Citizens United*, and engagement of small business owners. We will have follow-up conversations on these matters as well as on the issues raised by our Washington colleagues, including the Senate Intelligence Committee report on torture. OSI-Baltimore and OSI-DC staff also met with staff from Senator Mikulski’s office to familiarize her with successful re-entry, parole and probation programs that the Baltimore office is supporting to underscore their value.

Internally, we continue to convene and participate in meetings with our OSF international colleagues to share our respective priorities and strategies and consider the extent to which they may have applicability in other countries. Recent meetings have focused on immigration, anti-Muslim bias and building inclusive societies, civic engagement of various constituencies in the U.S. and Roma engagement, and the relevance of USP white working class research to conversations in Europe on “threatened majorities.” Criminal Justice and National Security & Human Rights staff presented to the board of the Justice Initiative in March, where there was a lively discussion about the transferability of U.S. strategies. Finally, staff participated in the Youth Exchange 2012, hosted by the OSF Youth Initiative in Budapest, and in the Istanbul

meeting convened by the Center on Rights and Justice. These discussions are building the foundation for broader programmatic integration going forward.

## **PROGRAM HIGHLIGHTS (February through April)**

### **Criminal Justice Fund**

Connecticut became the fifth state in the past five years to abolish the death penalty and the 17<sup>th</sup> state overall. The legislation is prospective and would not impact the 11 men on the state's death row. It would replace capital punishment with life in prison without the possibility of parole. The death penalty movement, including the **Campaign to End the Death Penalty by 2025**, which OSF helped to launch in 2007, continues to gain momentum as states build solid repeal campaigns in concert with a national abolition strategy employing litigation, grassroots organizing, research, and targeted communications and media work. Many OSF grantees played a major role in Connecticut's campaign, including **Equal Justice USA**, a national grassroots organization that works intensively with local state-based campaigns to support death penalty repeal. U.S. Programs anchor grantee **NAACP** played an active role in the Connecticut effort as well.

The **Soros Justice Fellowship Program** recently completed its selection process for the 2012 cohort of Fellows. This successful group of candidates contains a mix of emerging and established leaders, investigative journalists, lawyers, grassroots organizers, policy advocates, and filmmakers. Collectively, the recommended Fellows will be working on a range of issues at the local, state and national levels. While we have notified candidates of our decision, we have not yet made a public announcement. We expect to issue a formal press release near the end of the month. We can provide full descriptions of the fellowship projects upon request.

A North Carolina judge recently ruled in a precedent-setting case that, since race played a significant factor in his sentence, death row inmate Marcus Robinson's sentence should be vacated. The ruling was the first application of North Carolina's 2009 Racial Justice Act, which allows death row prisoners and capital murder defendants to use statistics and other evidence to demonstrate that racial bias played a significant role in prosecutors' decisions or their sentences. A CJF-funded **Michigan State University study of jury selection** practices in North Carolina capital cases between 1990 and 2010 was introduced as evidence in the hearing. The establishment of the Racial Justice Act was a hotly contested fight in the North Carolina legislature and remains a target for conservatives who seek to repeal the law.

### **Campaign for Black Male Achievement**

To advance the campaign's goal to match 15,000 black boys with mentors by 2014, CBMA hosted the second **Rumble Young Man, Rumble** convening at the Muhammad Ali Center in Louisville, KY in March. Bringing together local and national leaders of the mentoring field, the meeting created a space to inspire ideas and generate strategies to close the national mentoring gap. It included a panel with local youth to explore mentoring relationships and a panel with leaders from across the country to speak about innovative practices and lessons learned. CBMA

used the gathering to help mentoring organizations in CBMA's target regions and beyond address their capacity-building and resource development needs.

CBMA is partnering with **Root Cause** to start the **Leadership & Sustainability Institute (LSI)** which seeks to strengthen the capacity and leadership of CBMA grantees and the broader field of black male achievement. The planning for LSI has : brought together working group members for all-day meetings to build the LSI plan; interviewed 32 leaders in the field; conducted three stakeholder surveys geared toward CBMA grantees, funders, and other leaders in the black male achievement field; and launched the LSI website. A meeting in May will bring together field leaders and donors to consider next steps to establish the institute, which seeks to build the capacity of organizations to provide direct services and conduct advocacy to advance black male achievement as well as increase philanthropic and government resources devoted to the field. CBMA partnered with **Echoing Green** to launch the **Black Male Achievement Fellowship** in late 2011, the first fellowship program of its kind. The program targets social entrepreneurs who are starting up new and innovative organizations in the field of black male achievement. From the initial 1,100 individuals who applied, the process is now down to 16 finalists from nine states. The final selection event is set to take place in New York City on May 15 and will result in eight Fellows for the first class.

### **Campaign for a New Drug Policy**

To encourage interest in alternatives to punitive enforcement of drug laws, the Campaign made a grant to the **Center for Health and Justice of Treatment Alternatives for Safe Communities** in Chicago to conduct a national survey of pre-arrest, pre-booking and pre-trial diversion programs. Anecdotally, there appear to be a number of localized programs to prevent drug addicted and dual-diagnosed people from entering the criminal justice system. A comprehensive picture of these programs is an important step in establishing a national framework for non-punitive drug policy.

The Campaign is partnering with **Soros Justice Fellow Eugene Jarecki** and his Charlotte Street Films team around the rollout of their film *The House I Live In*, which won the 2012 Grand Jury Prize for documentary filmmaking at the Sundance Film Festival. In addition to facilitating use of the film by grantees and other reform advocates, OSF will host three screenings in New York, Baltimore and the District of Columbia. We are considering a proposal for a two-year communications campaign, which would use the film in support of drug policy and criminal justice reform.

The Campaign participated in a two-day meeting, organized by the OSF International Advocacy Program, with the Global Drug Policy program, the Latin America Program, the International Harm Reduction Development program, OSI-DC and other OSF colleagues regarding options for coordinated drug policy work across the OSF network. Some of the key areas of interest that the group identified include the extreme levels of drug economy related violence in Latin America, the emergence of major drug trafficking in the destabilized nations of western Africa, and the damaging influence of U.S. drug policy and American drug consumption.

## **Democracy Fund**

The Democracy Fund's economic and fiscal policy grantees, including the **Center on Budget and Policy Priorities** and **Faith in Public Life**, have provided hard hitting analysis and media work on the federal budget, spotlighting Rep. Paul Ryan's budget proposal as "Robin Hood in Reverse." Finding that 62% of Ryan's proposed budget cuts would come from low-income programs, the groups kicked a high impact strategic communications campaign into gear. Grantees organized Catholic leaders – including the ever-controversial bishops – to refute Ryan's assertion that his plan was congruent with Catholic social teaching, setting in motion news cycle to poke holes in the Ryan plan. The Economic Policy Institute has also had a prolific spring, releasing significant research on future workforce trends, challenges for low-wage workers, and executive pay and income inequality. It showed how women and African Americans are hardest hit by public employment cuts and the rough labor market that college graduates will face this year.

Individual leaders have also received recent high profile recognition, including the Rev. Dr. William Barber, president of the **North Carolina NAACP**. Barber was spotlighted in a *New York Times* editorial for his visionary work to inspire African Americans to oppose an anti-marriage equality ballot initiative. Another leader, Ai-jen Poo, founder of the **National Domestic Workers Alliance** (supported by the Democracy and Equality and Opportunity Funds), was named one of *Time* magazine's "100 Most Influential People in the World," in recognition of her visionary advocacy for low-wage, immigrant women workers.

Democracy Fund staff continue to explore ways to expand open society support from non-traditional constituencies, including small business owners and the white working class. The Fund hosted a funder briefing to spotlight the dynamic work of the **Main Street Alliance**, a network of thousands of state-based small business owners that counters conservative business lobbies on fiscal policy, health care, immigrants' rights, and money in politics issues. The Fund's ongoing exploration of the **white working class's** rightward drift has expanded beyond its convening and public opinion research stages, now supporting field-based research in several suburban and rural communities nationwide.

Bill Vandenberg, Democracy Fund director, is co-chairing the upcoming convening for the **Funders' Committee for Civic Participation**, a network of 80 funding institutions that make more than \$150 million annually in grants for voter protection and engagement, money in politics, and redistricting. The convening will be the best attended in the organization's history, featuring sessions on the 2012 election, *Citizens United*, connecting criminal justice reform to civic engagement, and black/brown alliance building.

## **Equality and Opportunity Fund**

The Equality and Opportunity Fund (EOF) and its colleagues in the immigrant rights and racial justice fields are paying close attention to the Supreme Court case challenging the constitutionality of Arizona's SB 1070 on federal preemption grounds. The oral arguments on April 25 did not inspire confidence that the Court would agree to strike down the most offensive parts of Arizona's law. Whatever the outcome, EOF has recommended grants to the **National**

**Immigration Law Center** and **America's Voice** to coordinate communications and advocacy strategies related to the case. Before the Court issues its decision in late June, groups will use paid and earned media to highlight the harmful effects of the law. After the decision is reached, groups will engage in a series of small strategy sessions to coordinate next steps on the litigation, grassroots mobilization, and policy advocacy fronts.

Earlier this year, the Obama administration and attorneys general from 49 states and the District of Columbia announced an unprecedented \$26 billion settlement with the nation's largest banks to address widespread fraud and abuse in mortgage servicing, which led to hundreds of thousands of homes being wrongfully foreclosed over the past several years. A recent study by EOF grantee **Enterprise Community Partners** show that at least seven states are not using their settlement funds for housing-related programs and an additional nine states only plan to use a portion of the funds for housing-related programs, with the rest being diverted millions to cover budget shortfalls. Through a combination of grantmaking, convening and philanthropic organizing, EOF is attempting to set up an effective civil society infrastructure that can monitor and make transparent the public uses of settlement funds, hold banks accountable for compliance, and press for a full investigation into the origination abuses and fair lending violations that contributed to the housing collapse.

April proved to be bittersweet for those seeking the most basic employment protections for lesbian, gay, bisexual, and transgender (LGBT) people. On April 11, the White House announced that President Obama would not sign an executive order banning anti-LGBT discrimination by businesses that contract with the federal government, despite polls showing that a large majority of Americans support nondiscrimination protections for LGBT workers. EOF grantees, including the **National Gay and Lesbian Taskforce** and the **National Center for Transgender Equality**, were among the advocates working on the order and have seized this opportunity to highlight the lack of employment discrimination protections for LGBTQ employees. In 29 states, it is legal to fire an employee simply for being LGBT. This public education work was bolstered by a victory by EOF grantee, the **Transgender Law Center**. In *Macy v. EEOC*, the full five-member Equal Employment Opportunity Commission (EEOC) held that transgender people are protected from discrimination by federal law under Title VII. This is binding on EEOC offices across the country. With 90 percent of transgender people reporting discrimination or harassment on the job or hiding who they are to avoid it, this ruling extending employment discrimination protections to transgender people is a significant victory.

### **National Security and Human Rights Campaign**

After seven years at the Open Society Foundations, Nancy Chang stepped down as the National Security and Human Rights Campaign Manager on April 30th. Nancy's sharp analysis and tireless commitment to civil liberties were fundamental to advancing the open society values at the heart of the Campaign and to forging critical new relationships between the civil liberties community and allies in the Muslim, Arab, and South Asian, national security, counterterrorism, interfaith, health care, civic engagement and arts communities. Human rights lawyer Sara Greenberg has become the temporary manager of the NSHR Campaign while a search for a permanent campaign manager is underway.

In the past two months, 200 individuals from a broad array of civil liberties, human rights, American Muslim, interfaith, media and arts organizations have attended trainings in New York City and D.C., as well as by webinar, at which **Hattaway Communications** (through Campaign support to a donor-advised fund at **Rockefeller Philanthropy**) has presented the findings of its messaging research under the first phase of the Improving Perceptions of American Muslims Project. This initiative has developed messaging guidance designed to help the American public view American Muslims not as potential foreign terrorists but as neighbors with shared values and an equal stake in keeping America safe. One of these trainings was tailored to the special needs of New York City-based organizations on the frontlines of the battle to impose oversight on the mapping by the New York City Police Department Intelligence Division of Muslim communities.

The NSHR Campaign hosted a well-attended public forum on April 4th, *National Security Secrecy and Surveillance: Defending the Public's Right to Know*, which featured a distinguished panel of whistleblowers, litigators and journalists. Secrecy expert Steven Aftergood of the **Federation of American Scientists** moderated the discussion. Jameel Jaffer, **ACLU** Deputy Legal Director, whose Freedom of Information Act litigation has exposed much of what we know about post-9/11 civil liberties and human rights abuses, spoke of the government's use of secrecy in the name of national security to hide unconstitutional activity. Thomas Drake, a whistleblower and former National Security Agency official, recounted how he was prosecuted under the Espionage Act for allegedly revealing classified information to a journalist until the government backed down before trial and dropped all felony charges. Drake's attorney, Jesselyn Radack, National Security and Human Rights Director at the **Government Accountability Project**, decried the fact that, to date, the only individuals who have been prosecuted for torture and warrantless wiretapping are whistleblowers, and not those responsible for these abuses. Lastly, Tim Shorrock, author of *Spies for Hire: The Secret World of Intelligence Outsourcing*, described the government's escalating use of private contractors in intelligence collection operations and the conflicts of interest that have arisen as high level government officials have moved into private industry and back into government. The evening offered cautionary perspectives on the disturbing rise of government secrecy and surveillance in post-9/11 America.

### **Strategic Opportunities Fund**

To further its goal to support culturally rooted Advocacy in Native American communities, the Strategic Opportunities Fund hosted an April roundtable on *Advancing Racial Justice and Economic Equity in Native American Communities*. This gathering convened Native leaders, program staff from USP, and funding and advocacy partners to consider community-rooted and Native-led initiatives that cultivate innovation and emerge from points of strength. The roundtable built upon the *Learning Visit to the Cheyenne River and Pine Ridge Communities in South Dakota* for funders and advocates hosted by SOF in partnership with **First Peoples Fund** and **Four Bands Community Fund** in September of 2011. Consensus amongst the 35 participants on the visit was that there is a rich range of work being led by Native peoples related to racial and economic disparity, which has much to contribute to open society thinking in

regards to economic empowerment and social justice for communities that have been disenfranchised over time and by design.

At the April session, featured guests included current grantee partners and other Native advocates. Roundtable participants reflected upon the September visit and invited OSF staff – including about a dozen U.S. Programs colleagues and Board Chair Sherrilyn Ifill – to move into deeper dialogue guided by a framework for racial and economic justice that is rooted within the concepts of political sovereignty and cultural self-determination; takes a strength-based rather than deficit-based view of Native communities; and acknowledges that a clear, positive vision of the future must emerge from and affirm cultural strength.

In March, **New York State Permanent Judicial Commission on Justice for Children**, with SOF support, convened a National Leadership Summit on School-Justice Partnerships titled: *Keeping Kids in Schools and Out of Courts*. The Commission, established in 1988 to improve the lives and life chances of children involved with New York courts, is chaired by former Chief Judge Judith Kaye. The Leadership Summit convened leaders from the courts, school administration, law enforcement and community stakeholders from 48 states, including each state's chief justice, senior education officials and juvenile court judges. The goal of the Summit was to engage participants in a discussion about policies and practices to reduce the number of children entering the justice system from schools by promoting positive student behavior, safe learning environments, and respectful and supportive school communities and by reserving the use of punitive measures – including school suspension and mandatory arrest – for the most egregious cases while still holding children accountable for their behaviors.

Related to this convening, SOF has provided grant support to the **National Council of Juvenile and Family Court Judges**, which provides training, technical assistance, and research to support a membership of approximately 20,000 judges, court administrators, social and mental health workers, police, probation officers, and others working in the juvenile and family courts. The Council will draw upon judicial leaders and allied professionals active in reducing unnecessary school referrals to the juvenile justice system to develop training materials for the field. It will then support jurisdictions to implement recommended changes in practice. The proposed activities are aligned with the training and technical assistance component of the Department of Justice/Department of Education Supportive School Discipline Initiative, with which the Council is coordinating closely.

### **Transparency Fund**

In April 2012, **The New America Foundation** announced a major expansion of Open Technology Institute [OTI], a Transparency Fund grantee, whose mission is to convene the nation's best thinking about Internet freedom and open technology. Building on New America's work in this field, OTI will serve as a hub of impartial research, open discourse, innovative fieldwork, and new tech development. OTI believes that everyone has the right to receive and impart information and ideas through any media and regardless of frontiers. In the 21st Century, this universal human right must extend to the Internet and include access to open technologies and platforms. The need to think across borders and disciplines to defend the free and open



public square has never been greater. Much like economics, OTI will inform and advance work throughout the public policy sphere, including national security, education, diplomacy, and economic competitiveness.

On Friday, the Federal Communications Commission ruled that television stations must enter the 21st century and put the information in their public and political files online. Now anyone with an Internet connection will be able to access information about who is spending money on political advertising. The files will also allow the public to see how stations are serving — or failing to serve — community needs. Transparency Fund grantees, including **Free Press, Public Knowledge**, the **Center for Media Justice**, and many others have led this effort. After years of debate, hundreds of pages in legal filings and thousands of activists speaking out, the FCC recognized the importance of making this information easily accessible. This is a major victory for the public interest and a critical breakthrough for transparency in an election year. At a time when wealthy special interests are trying to buy elections, we now have a means to figure out how much they are spending on these ads, and where.

<http://www.savethenews.org/blog/12/04/27/political-files-meet-internet>

On May 1, the Transparency Fund convened a group of the nation's top legal scholars, social scientists, and electoral reform lawyers to examine the need for social science research to test the assumptions underlying Supreme Court (and lower court) decisions on money in politics. The participants first examined the state of campaign finance jurisprudence in the wake of *Citizens United*. They then identified areas where new or deeper research could be done that could improve reforms (by assuring that reforms reflect the current realities of campaigns and governing) and/or challenge assumptions underlying existing jurisprudence. There was wide agreement that a long-term strategy was needed in this area that did not simply work within the constraints of the current Supreme Court and its decisions, but encouraged cross-disciplinary collaboration on research. At the same time, participants agreed that any scholarly work must be accompanied by focused efforts to assure that such research is used to change public understanding and discussions of the role of money in our electoral system.

### **OSI-Baltimore**

OSI-Baltimore and the advocacy organizations it supports are celebrating the adoption of an open market health benefit exchange in Maryland, which will ensure addiction treatment for people who are unable to afford it. These exchanges and expanded Medicaid will offer insurance coverage options to the more than 700,000 Marylanders who are currently uninsured, removing financial barriers to addiction treatment and good health.

OSI-Baltimore's campaign to end the automatic prosecution of youth as adults has achieved an interim victory. Staff and its grantees have successfully delayed, for almost two years, the construction of a \$100 million jail for youth charged as adults arguing that the juvenile justice system is designed for youth accused of crimes and is the better alternative, and that funding for the new jail should instead support schools, youth jobs and recreational centers. Last month, OSI-Baltimore's grantees successfully urged policy makers to withhold funding for the proposed jail until the Department of Public Safety provides to the state legislature a report that evaluates

the option of renovating a vacant adult correctional facility, in Baltimore City, to house temporarily youth charged as adults. Also, the Department of Juvenile Services must submit a report to the legislature detailing steps it should take to limit the utilization of secure juvenile detention facilities to youth who pose a public safety risk, thereby making room for youth charged as adults over the long term.